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PART I

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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Treasury Department

Section 213.3305 is amended to show that one position of Secretary to the Assistant to the Secretary for Legislative Affairs is excepted under Schedule C.

Effective on January 11, 1973, subparagraph (36) of paragraph (a) of § 213.3305 is added as set out below.

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.* * * *

(36) One Secretary to the Assistant to the Secretary for Legislative Affairs.

* * * * *

(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.73-630 Filed 1-10-73;8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that the position of Public Information Officer is no longer excepted under Schedule C.

Effective on January 11, 1973, § 213.-3318(c)(3) 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.73-631 Filed 1-10-73;8:45 am]

PART 213—EXCEPTED SERVICE

Occupational Safety and Health Review Commission

Section 213.3344 is amended to show that one position of Confidential Assistant to the Chief Counsel to the Chairman is excepted under Schedule C.

Effective on January 11, 1973, paragraph (d) is added to § 213.3344 as set out below.

§ 213.3344 Occupational Safety and Health Review Commission.

* * * * *

(d) One Confidential Assistant to the Chief Counsel to the Chairman.

(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.73-632 Filed 1-10-73;8:45 am]

PART 213—EXCEPTED SERVICE

Agency for International Development

Section 213.3368 is amended to show that the following two positions are no longer excepted under Schedule C: Congressional Liaison Officer and Confidential Assistant to the Assistant Administrator for Administration.

Effective on January 11, 1972, subparagraph (5) of paragraph (e) is amended and paragraph (f) is revoked under § 213.3368 as set out below.

§ 213.3368 Agency for International Development.

* * * * *

(e) *Office of the Assistant Administrator for Legislative Affairs.* * * *

(5) One Congressional Liaison Officer.

(f) [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.73-633 Filed 1-10-73;8:45 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Reporting Profit Margin Overages

The purpose of this amendment to Appendix II to Part 300 of the Price Commission's regulations (6 CFR Part 300), is to clarify the profit margin reporting requirements as they apply to firms whose accounting procedures call for the establishment of a liability or contingent liability to reflect profit margin overages.

Section 300.54 of the Price Commission's regulations sets forth rules with respect to remedial orders which the Commission may issue in cases of profit margin violations by manufacturers, service organizations, retailers, wholesalers, and providers of health services.

The Price Commission has consistently interpreted its regulations to require that the amount of the profit margin overage is to be determined before any adjustment is made in the accounts of a firm by entering the amount of the overage as a liability or contingent liability.

The Price Commission has received inquiries concerning the method by which profit margin overages are to be reflected in the reports (Form PC–51) required by §§ 300.51 and 300.52 of the Commission's regulations.

It is understood that, in some cases, the use of generally accepted accounting principles would require a firm which has determined that its profits had exceeded its base period profit margin to make adjustments in its accounts after its fiscal period has closed to reflect the liability for that overage and a corresponding reduction in net sales. In those cases, the profit margin stated on the firm's Form PC–51 would not fairly state the amount of the overage as a result of its being eliminated by the adjustment.

Accordingly, the establishment of a liability or contingent liability in the accounts of a firm (including any Price Category III firm) will not eliminate the possible imposition of the sanctions described in § 300.54 for a violation of the firm's base period profit margin. Instructions on future editions of Form PC–51 will be modified to more clearly provide for the reporting of these profit margin overages by Price Category I or II firms. Pending the republication of modified Form PC–51, an addition to the existing instructions for preparation of Form PC–51 is being prescribed.

Since this amendment provides clarification and immediate guidance and information for the effective implementation of the price stabilization program, further notice and procedure thereon is impracticable and good cause exists for making it effective in less than 30 days after publication in the FEDERAL REGISTER.

(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; Economic Stabilization Act Amendments of 1971, Public Law 92–210, 85 Stat. 743; E.O. No. 11640, 37 FR 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 46 FR 20202, Oct. 16, 1971)

In consideration of the foregoing, Appendix II to Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth below effective January 9, 1973.

Issued in Washington, D.C., on January 9, 1973.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

Appendix II to Part 300 of Title 6 of the Code of Federal Regulations is amended by inserting the following clause at the end of the "Addendum to instructions for preparation of Form PC-51".

ADDENDUM TO INSTRUCTIONS FOR THE PREPARATION OF FORM PC-51

* * * * *

PROFIT MARGIN OVERAGE

If, except for the fact that the firm's accounting procedures call for profit margin overages to be treated as a liability or contingent liability, Part II (Summary Income Report) would reflect a profit margin overage, the firm shall attach a schedule to Form PC-51 showing (a) the amount of that overage; (b) the detail computation of that overage; and (c) the item in Part II to which that overage was charged.

[FR Doc.73-730 Filed 1-10-73;8:45 am]

Rulings—Internal Revenue Service, Department of the Treasury

[Pay Board Ruling 1973-1]

ESCALATOR CLAUSES

Pay Board Ruling

Facts. An independent local union has negotiated with several employers a labor contract the terms of which provide that there will not be an initial wage increase but wages will increase as the cost of living rises. More specifically, the terms provide for a raise of 15 cents per hour for each rise of 1 point in the Labor Department's Consumer Price Index. The amount of the increase in the index, and thus wages, is to be determined every 6 months. Presently, the average salary of a covered employee is $5.60 per hour. A 1-point rise in the Consumer Price Index will result in a 2.7-percent increase in salary pursuant to the terms of the negotiated contract.

Issue. Does the above cost-of-living adjustment formula constitute a generally acceptable escalator clause for purposes of Economic Stabilization Regulations, § 201.64(a), 37 FR 24979 (1972), in which case it will be entitled to the special computational rules contained in such section?

Ruling. No. To qualify as a generally accepted escalator clause, such clause must meet, inter alia, the following requirements:

(1) Be directly related to a rise in the cost of living as measured by the Bureau of Labor Statistics Consumer Price Index for either the locale of the work force or for some broader area which includes that locale;

(2) Provide for a periodic review of movement in the CPI and appropriate wage adjustments in response thereto, in accordance with a previously stated formula (downward adjustments do not have to be specified to fulfill this criterion);

(3) Cause a percentage rise in average straight-time hourly pay which does not exceed the percentage rise in the Consumer Price Index;

(4) In those instances where the escalator is adopted after November 14, 1971, be implemented prospectively. Thus, for example, a formula initially adopted in the 10th month of a control year which provided for an increase to reflect the CPI rise in the first 9 months of the control year would not meet this last requirement. The formula would have to be geared to CPI increases occurring after the 10th month of the control year.

The escalator clause negotiated in the above factual situation provides for a 2.7 percent increase in salary for each one point rise in the Consumer Price Index; at its level in October 1972 (126.6; 1967=100), a 1-point rise in the CPI would be a percentage rise of 0.78 percent, or substantially less than 2.7 percent. Therefore, the formula does not meet requirement No. 3 indicated above and will not qualify as a generally accepted escalator clause for purposes of § 201.64(a).

The agreement reached represents a general wage and salary increase which is subject to the 5.5 percent general wage and salary standard and the standard sum of the percentage increases method will be used to determine the appropriateness of each raise under the formula without the time weighting allowed in § 201.64(a).

This ruling has been approved by the General Counsel of the Pay Board.

Dated: January 9, 1973.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: January 9, 1973.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.73-741 Filed 1-10-73;10:00 am]

Title 7—AGRICULTURE

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

[Navel Orange Reg. 283]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period January 12-18, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.583 Navel Orange Regulation 283.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) (i) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(ii) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges has weakened because of poor quality shipments. However, there is a demand for good quality fruit which is in short supply in the markets. Prices f.o.b. the week ended January 4, 1973, average $3.59 a carton on 638 carloads compared to $3.71 on 682 carloads the previous week. Track and rolling supplies at 375 cars were down 48 cars from last week.

(iii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective

time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 9, 1973.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period January 12, 1973, through January 18, 1973, are hereby fixed as follows:

(i) District 1: 810,000 cartons;

(ii) District 2: 150,000 cartons;

(iii) District 3: 40,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: January 10, 1973.

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

[FR Doc.73–786 Filed 1–10–73;12:50 pm]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 0—CONDUCT OF EMPLOYEES

Solicitations and Indebtedness

The Atomic Energy Commission is amending Part 0 of its regulations concerning the credit affairs of its employees.

Because these amendments relate to a matter of agency management and personnel, notice of proposed rule making and public procedure thereon are unnecessary. These amendments are effective on January 11, 1973.

Part 0 is amended as set out below:

1. Section 0.735–42(d) of Subpart D, Chapter I, Title 10 of the Code of Federal Regulations is amended to read as follows:

§ 0.735–42 Gifts, entertainment, and favors.

* * * * *

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351), nor shall an employee directly or indirectly solicit from, accept from, offer to, or grant to an official superior or subordinate employee a loan of more than a nominal amount. However, this paragraph does not prohibit (1) a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement, or (2) a loan as described above of more than a nominal amount where a special personal or business relationship is involved, with prior approval of the higher-ranking employee's supervisor, after consultation with the counselor for AEC, or a deputy counselor, as provided in § 0.735–3(h). A copy of such approval shall be filed as provided for in § 0.735–28(e)(11).

* * * * *

2. Section 0.735–45 of Subpart D, Chapter I, Title 10 of the Code of Federal Regulations is amended to read as follows:

§ 0.735–45 Employee indebtedness.

Except as provided in § 0.735–42(d), the AEC considers the credit affairs of its employees essentially their own concern. However, employees are expected to conduct their credit affairs in a manner which does not reflect adversely on the Government as their employer. The AEC will not be placed in the position of acting as a collection agency or of determining the validity or amount of contested debts. An employee is expected to pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. Failure on the part of an employee without good reason to honor just financial obligations or to make or adhere to satisfactory arrangements for settlement may be cause for disciplinary action. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which AEC determines does not, under the circumstances, reflect adversely on the Government as his employer.

Dated this 4th day of January 1973.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73–575 Filed 1–10–73;8:45 am]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The Atomic Energy Commission in early 1972 announced major organizational changes in the regulatory staff. Commission regulations contain numerous references to the previous organizational units with respect to the filing of applications and reports.

The amendments of Commission regulations set forth below change the names of the former regulatory divisions, Regional Compliance Offices, and District Safeguards Offices to conform with the names of the new regulatory units.

Because these amendments relate solely to agency management, and minor matters, good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary, and for making the amendments effective upon publication in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 20, 30, 31, 32, 34, 35, 36, 40, 50, 55, 70, 71, 73, 100, 115, 140, and 150, are published as a document subject to codification to be effective on January 11, 1973.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. Sections 20.402 (a) and (b), 20.403 (a) and (b), and 20.405(a) are amended by substituting "Regulatory Operations Regional Office" for "Regional Compliance Office" and substituting "Director of Regulatory Operations" for "Director, Division of Compliance."

2. The heading of Appendix D is amended by substituting "Regulatory Operations Regional Offices" for "Compliance Offices."

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

3. Section 30.32(a) is amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing."

4. Section 30.55(c) is amended by substituting "Director of Regulatory Operations" for "Director, Division of Nuclear Materials Safeguards" and for "Division of Nuclear Materials Safeguards."

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

5. Sections 31.5(d) (1) and (5) are amended by substituting "Regulatory Operations Regional Office" for "Regional Compliance Office."

6. Sections 31.6(a) and 31.11 (b) and (e) are amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing."

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT EXEMPTED AND GENERALLY LICENSED ITEMS CONTAINING BYPRODUCT MATERIAL

7. Sections 32.12, 32.16, 32.20, 32.25 (c), 32.29(c), 32.52(a), 32.56, 32.60, and 32.63 are amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing."

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

8. Section 34.25(d) is amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing" and substituting "Regulatory Operations

Regional Office" for "Regional Compliance Office."

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

9. Sections 35.31(b) and (d) are amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing."

PART 36—EXPORT AND IMPORT OF BYPRODUCT MATERIAL

10. Sections 36.2 (a) and (b), 36.11, 36.22(c), and 36.24(c) are amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing" and for "Director, Division of State and Licensee Relations."

PART 40—LICENSING OF SOURCE MATERIAL

11. Sections 40.5 and 40.23 (a) and (e) are amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing" and for "Director, Division of State and Licensee Relations".

12. The first sentence of § 40.31(a) is amended to read as follows:

§ 40.31 Applications for specific licenses.

(a) Applications for specific licenses should be filed in quadruplicate on Form AEC–2, "Application for Source Material License," or on Form AEC–7, "Application for License to Export Byproduct or Source Material," as appropriate, with the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. * * *

* * * * *

13. Section 40.64(c) is amended by substituting "Director of Regulatory Operations" for "Director, Division of Nuclear Materials Safeguards".

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

14. Sections 50.4, 50.30(c), and 50.59 are amended by substituting "Director of Licensing" for "Director, Division of Reactor Licensing".

15. The first sentence of § 50.30(a) is amended to read as follows:

§ 50.30 Filing of applications for licenses; oath or affirmation.

(a) *Place of filing.* Each application for a license, including whenever appropriate a construction permit or amendment thereof, should be filed with the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. * * *

* * * * *

16. Footnote 1 of Appendix E is amended to read as follows:

[1] The guide is available for inspection at the Commission's Public Document Room, 1717 H Street NW., and copies may be obtained by addressing a request to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

17. In § 50.55(e), subparagraphs (2) and (3) are amended by substituting "Regulatory Operations Regional Office" for "Regional Compliance Office" and substituting "Director of Regulatory Operations" for "Director, Division of Compliance", and subparagraph (4) is amended by substituting "Director of Regulatory Operations" for "Division of Compliance".

PART 55—OPERATORS' LICENSES

18. Sections 55.5, 55.10(a), 55.60, and the note which follows 55.60 are amended by substituting "Director of Licensing" for "Director, Division of Reactor Licensing."

PART 70—SPECIAL NUCLEAR MATERIAL

19. Section 70.5 is amended to read as follows:

§ 70.5 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, DC; 7920 Norfolk Avenue, Bethesda, MD; or at Germantown, Md.

20. The first sentence of § 70.21(a) is amended to read as follows:

§ 70.21 Filing.

(a) Applications for licenses should be filed in sextuplicate, provided that 25 copies of an application for a license to possess and use special nuclear material in a plutonium processing and fuel fabrication plant shall be filed with the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. * * *

* * * * *

21. Footnote 1., which follows § 70.22 (b)(1) is amended by substituting "Director of Licensing" for "Director, Division of Nuclear Materials Safeguards".

22. Section 70.39(d) is amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing".

23. Footnote 4., which follows § 70.51 (c)(1) is amended by substituting "Director of Licensing" for "Director, Division of Nuclear Materials Safeguards".

24. Section 70.52 is amended to read as follows:

§ 70.52 Reports of accidental criticality or loss of special nuclear material.

Each licensee shall report immediately to the Director of the appropriate Atomic Energy Commission Regulatory Operations Regional Office listed in Appendix A, by telephone, telegram, or teletype, any case of accidental criticality and any loss, other than normal operating loss, of special nuclear material.

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

25. Section 71.10 is amended by substituting "Director of Licensing" for "Director, Division of Materials Licensing".

26. Section 71.61 is amended by substituting "Director of Licensing" for "Division of Materials Licensing".

PART 73—PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

27. Sections 73.5, 73.31(d), and 73.42 are amended by substituting "Director of Regulatory Operations" for "Director, Division of Nuclear Materials Safeguards" and for "Division of Nuclear Materials Safeguards" and substituting "Regulatory Operations Regional Office" for "District Safeguards Offices."

28. Appendix A of Part 73 is revised to read as follows:

APPENDIX A

U.S. ATOMIC ENERGY COMMISSION REGULATORY OPERATIONS REGIONAL OFFICES

Region and address	Telephone	
	Daytime	Nights and Holidays
Region I, Directorate of Regulatory, Operations, USAEC, 970 Broad St., Newark, NJ 07102	201—645-3960	201—645-3960
Region II, Directorate of Regulatory, Operations, USAEC, Suite 818, 230 Peachtree St. NW., Atlanta, GA 30303	404—526-4503	404—526-4503
Region III, Directorate of Regulatory, Operations, USAEC, 799 Roosevelt Rd., Glen Ellyn, IL 60137	312—858-2660	312—739-7711
Region V, Directorate of Regulatory, Operations, USAEC, 2111 Bancroft Way, Berkeley, CA 94704	415—841-5121 (Ext. 655)	415—841-9244

For the purposes of this regulation, the geographical areas assigned to the Regional Offices are as follows:

REGION I

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

REGION II

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, and West Virginia.

REGION III

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and Wisconsin.

REGION V

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming.

PART 100—REACTOR SITE CRITERIA

29. The note at the end of § 100.11 is amended by substituting the words "Director of Licensing" for "Director, Division of Reactor Licensing".

PART 115—PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

30. Sections 115.6, 115.20 (a) and (c), and 115.47(d) are amended by substituting the words "Director of Licensing" for "Director, Division of Reactor Licensing".

31. Section 115.43(c) is amended by substituting the words "Regulatory Operations Regional Office" for "Regional Compliance Office" and substituting "Director of Regulatory Operations" for "Director, Division of Compliance" and for "Division of Compliance".

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

32. Section 140.5 is amended by substituting "Director of Licensing" for "Director, Division of State and Licensee Relations".

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

33. Sections 150.17(c), 150.19(c), and 150.20(b) are amended by substituting "Director of Regulatory Operations" for "Director, Division of Nuclear Materials Safeguards" and for "Division of Nuclear Materials Safeguards" and substituting "Regulatory Operations Regional Office" for "Regional Compliance Office".

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Bethesda, Md., this 27th day of December 1972.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.73-577 Filed 1-10-73;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-GL-49]

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

Alteration of Transition Area

On pages 20953 and 20954 of the FEDERAL REGISTER dated October 5, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Macomb, Ill.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., March 1, 1973.

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

Issued in Des Moines, Ill., on December 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (38 FR 435), the following transition area is amended to read:

MACOMB, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Macomb Municipal Airport (latitude 40°31'11" N., longitude 90°39'17" W.); and within 3 miles each side of the 084° bearing from the airport extending from the 5-mile-radius area to 8 miles east of the airport.

[FR Doc.73-545 Filed 1-10-73;8:45 am]

[Airspace Docket No. 72-WA-64]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the using agency of the Sailor Creek, Idaho, Restricted Area R-3202. This change was requested by the Department of the Air Force.

This amendment is minor in nature and effects no substantive change in the regulation; therefore, notice and public procedure thereon are deemed unnecessary, and good cause exists to make this amendment effective without regard to the 30-day period preceding effectiveness.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective on January 11, 1973, as hereinafter set forth.

In § 73.32 (38 FR 648) the Sailor Creek, Idaho, Restricted Area R-3202 is amended by changing the using agency from "Commander, 347th Tactical Fighter Wing, Mountain Home AFB, Idaho." to "Commander, 366th Tactical Fighter Wing, Mountain Home AFB, Idaho."

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

Issued in Washington, D.C., on January 3, 1973.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-544 Filed 1-10-73;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8863-c]

PART 13—PROHIBITED TRADE PRACTICES

Brown Auto Stabilizer Co., and Charles R. Brown

Correction

In FR Doc. 72-22116 appearing on page 28504 of the issue for Wednesday, December 27, 1972, in the ninth line of the first paragraph the reference to "§ 13.70" should read "§ 13.1740".

[Docket No. C-2320]

PART 13—PROHIBITED TRADE PRACTICES

Stark, Roschelle & Alchas, Inc., et al.

Correction

In FR Doc. 72-21969 appearing on page 28281 of the issue for Friday, December 22, 1972, the following should be inserted after the fourth line of the first ordering paragraph: "Alchas, individually and as officers of".

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Ethylisobutrazine Hydrochloride Injection, Veterinary, and Ethylisobutrazine Hydrochloride Tablets, Veterinary

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications for ethylisobutrazine hydrochloride injection, veterinary (35-265V), and ethylisobutrazine hydrochloride tablets, veterinary (11-222V), filed by Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., Kansas City, Mo. 64141, proposing the safe and effective use of the drugs as tranquilizers in dogs. The supplemental applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135b and 135c are amended as follows:

1. Part 135b is amended by adding the following new section:

§ 135b.73 Ethylisobutrazine hydrochloride injection, veterinary.

(a) *Specifications.* The drug is a sterile aqueous solution. Each milliliter contains 50 milligrams of ethylisobutrazine hydrochloride.

(b) *Sponsor.* See code No. 062 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used in dogs as a tranquilizer.

(2) It is administered intramuscularly at a dosage level of 2 to 5 milligrams of ethylisobutrazine hydrochloride per pound of body weight for profound tranquilization. It is administered intravenously at a dosage level of 1 to 2 milligrams of ethylisobutrazine hydrochloride per pound of body weight to effect.

(3) It is not to be used in conjunction with organophosphates and/or procaine hydrochloride because phenothiazines may potentiate the toxicity of organophosphates and the activity of procaine hydrochloride.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

2. Part 135c is amended by adding the following new section:

§ 135c.89 Ethylisobutrazine hydrochloride tablets, veterinary.

(a) *Specifications.* Each tablet contains either 10 milligrams or 50 milligrams of ethylisobutrazine hydrochloride.

(b) *Sponsor.* See code No. 062 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is administered orally to dogs as a tranquilizer.

(2) It is administered once daily at a dosage level of 2 to 5 milligrams of ethylisobutrazine hydrochloride per pound of body weight.

(3) It is not to be used in conjunction with organophosphates and/or procaine hydrochloride because phenothiazine may potentiate the toxicity of organophosphates and the activity of procaine hydrochloride.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective on January 11, 1973.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: January 4, 1973.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.73-562 Filed 1-10-73;8:45 am]

BAMBERMYCINS

The Commissioner of Food and Drugs has evaluated a new animal drug application (44-759V) filed by Hoechst Pharmaceuticals, Inc., Route 202-206, Somerville, N.J. 08876, proposing the safe and effective use of bambermycins in broiler chicken feed. The application is approved.

The Commissioner concludes that to assure that edible tissues are safe for human consumption the regulations should be amended to provide safe tolerances for residues of the drug in edible tissues of chickens.

To facilitate referencing, Hoechst Pharmaceuticals, Inc., is being assigned a code number and is placed in the list of firms in § 135.501 (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b (i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135, 135e, and 135g are amended as follows:

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

1. Part 135 is amended in § 135.501(c) by adding a new code No. 090 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
090	Hoechst Pharmaceuticals, Inc., Route 202-206, Somerville, N.J. 08876.

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. Part 135e is amended by adding a new § 135e.65 as follows:

§ 135e.65 Bambermycins.

(a) *Specifications.* Bambermycins are the dried fermentation residues produced by the fermentation of *Streptomyces bambergiensis, Streptomyces ghanaensis, Streptomyces ederensis, Streptomyces geysiriensis,* and mutants and variants of these organisms.

(b) *Approvals.* Premix level of 2 grams of bambermycin activity per pound of premix has been granted; for sponsor see Code No. 090 in § 135.501(c) of this chapter.

(c) *Assay limits.* Premix must contain not less than 90 percent nor more than 110 percent of labeled amount of bambermycin activity. Finished feed must contain not less than 70 percent nor more than 130 percent of the labeled amount of bambermycin activity.

(d) *Related tolerances.* See § 135g.84 of this chapter.

(e) *Conditions of use.* It is used as follows:

	Grams per ton	Limitations	Indications for use
Bambermycins.	1-2	For broiler chickens; feed continuously as the sole ration.	For increased rate of weight gain and improved feed efficiency.

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. Part 135g is amended by adding a new § 135g.84 as follows:

§ 135g.84 Bambermycins.

Tolerances are established for residues of bambermycins in uncooked edible tissues of chickens as follows:

(a) In muscle tissues: 0.75 part per million.

(b) In liver: 0.50 part per million.

(c) In kidney, skin, and fat of chickens: 1.00 part per million.

Effective date. This order shall be effective on January 11, 1973.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: January 4, 1973.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.73-563 Filed 1-10-73;8:45 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

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

[Oil Import Reg. 1 (Rev. 5), Amdt. 50]

OI REG. 1—OIL IMPORT REGULATION

Fuel Oil Imports From the Virgin Islands

The President's Proclamation of December 18, 1972, "Modifying Proclamation 3279, Relating to Imports of Petroleum and Petroleum Products", among other changes, added the following sentence at the end of subparagraph (4) of paragraph (b) of section 3:

Whenever the Secretary, upon recommendation of the Director of the Office of Emergency Preparedness finds that there may be shortages in the supply of any finished product or products in Districts I-IV which products are deemed by the Director of the Office of Emergency Preparedness to be important to the national security, the Secretary may allocate imports of any such product or products manufactured in the Virgin Islands in excess of the limitation in the preceding sentence for such product or products, for such time and under such conditions as he may deem consistent with the purposes of this proclamation.

The substantially colder than normal weather experienced this year to date, particularly in the midwest, has resulted in an unexpectedly high level of natural gas curtailments and local propane and No. 2 fuel oil shortages.

In view of the complex interrelationships of these fuels and estimates of the increasingly tight demand-supply situation with respect to distillates in Districts I-IV and upon the recommendation of the Director of the Office of Emergency Preparedness, I find that there may be shortages this heating season in

Districts I–IV of No. 2 fuel oil, a product which the Director of the Office of Emergency Preparedness has deemed to be important to the national security.

In order to contribute to the alleviation of potential supply dislocations as rapidly as possible, it is not considered necessary to give notice of proposed rule making respecting this amendment, and it shall become effective immediately.

Accordingly, a new section 13A is added to Oil Import Regulation 1 (Revision 5), as amended.

ROGERS C. B. MORTON,
Secretary of the Interior.

I concur: January 5, 1973.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

§ 13A Emergency finished products allocation.

(a) For the purpose of this section, (1) the term "No. 2 fuel oil" means a finished product which has the physical and chemical characteristics as set forth in subparagraph (1), paragraph (a) of section 30 of this regulation. (2) The term "eligible applicant" means any person in the business of selling No. 2 fuel oil in Districts I–IV.

(b)(1) For the period January 1, 1973 through April 30, 1973, hereafter referred to as the "period" within the allocation period which begins January 1, 1973, No. 2 fuel oil which has been or is to be manufactured in the Virgin Islands may be imported by eligible applicants who comply with the provisions of this section.

(2) For the "period," the Director shall make an allocation of imports of No. 2 fuel oil into Districts I–IV to any eligible applicant who certifies that such imports are required to meet obligations under contracts with, or purchase orders from, customers in Districts I–IV, and that such eligible applicant, through contract of purchase or otherwise, has the right to take delivery of such No. 2 fuel oil in the Virgin Islands or elsewhere.

(3) An application for allocations under this section may be filed in letter or telegraphic form during the "period."

(c)(1) The Director shall process applications in the sequence in which they are received and make allocations in the quantity which the applicant has certified in accordance with paragraph (b)(2) of this section. Any person making application based upon the certification in this section is cautioned against making false statements in, or in connection with application filed with the Director or in connection with any stated contractual commitment with his buyers, and is guilty of a crime, and upon conviction may be punished by fine or imprisonment or both.

(2) When an allocation has been made to a person under this section, the Director shall issue a license or licenses based on the allocation specifying the amount of No. 2 fuel oil which may be imported from the Virgin Islands into Districts I–IV. All licenses issued under allocations made pursuant to this section shall be valid only during the period January 1, 1973 through May 15, 1973. No licenses issued pursuant to this section may be sold, assigned, or otherwise transferred. No. 2 fuel oil imported pursuant to an allocation and license issued under this section must not be further processed in any manner, including blending or mixing with other petroleum products, by mechanical means. It is intended that No. 2 burner fuel oil which is imported pursuant to an allocation and license under this section be for use in fuel oil burning equipment for the generation of heat in furnaces for heating buildings or the generation of steam. Importers are urged to verify its ultimate use to the best of their ability.

(d) Shipments of No. 2 fuel oil made pursuant to this section 13A will not be credited as shipments of product to meet any other written or exising contractual or allocation agreements made with the Department of the Interior.

[FR Doc.73–604 Filed 1–8–73;2:00 pm]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

INCORPORATION BY REFERENCE OF REGULATIONS GOVERNING "MAIL TRANSPORTATION CONTRACTING"

Part 601 sets forth the regulations of the Postal Service relating to the incorporation by reference of the Postal Contracting Manual. Section 601.102(a) of that part provides as follows: "The Postal Contracting Manual applies to all Postal Service procurements of property services, except the purchase of mail transportation and related services by contract (see Part 619 of this subchapter). Provisions relating to the purchase of mail transportation and related services by contract may, however, be incorporated at a later date into the Postal Contracting Manual and may be subject to later incorporation by reference in the Code of Federal Regulations."

The Postal Service has now amended its Postal Contracting Manual to include therein provisions relating to the purchase of mail transportation and related services by contract. (Notice of the amendment to the Postal Contracting Manual will be published separately in accordance with the provisions of 39 CFR 601.105.) The purpose of this document is to delete those provisions of Title 39 which duplicate or are inconsistent with the provisions included within the Postal Contracting Manual.

Accordingly Chapter I of Title 39 is amended as follows:

PARTS 510–570—[DELETED]

1. Delete all of Subchapter G consisting of Parts 510, 520, 530, 540, 550, 560, and 570.

PART 601—PROCUREMENT OF PROPERTY AND SERVICES

2. Revise the heading of Part 601 to read as set forth above.

3. Revise the authority citations to read as follows:

AUTHORITY: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008, 5001–5605.

4. Revise § 601.102(a) to read as follows:

§ 601.102 Applicability and coverage.

(a) The Postal Contracting Manual applies to all Postal Service procurements of property and services.

* * * * *

PART 619—[DELETED]

5. Delete Part 619.

Effective date. This document is effective January 15, 1973.

(39 U.S.C. 401, 404, 2008, 5001–5605)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.73–574 Filed 1–10–73;8:45 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Xylene

A notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of October 20, 1972 (37 FR 22627), proposing that § 180.1001 *Exemptions from the requirements of a tolerance* of the pesticide regulations be amended in paragraph (c) to provide for the use of xylene as an inert ingredient in pesticide formulations applied to stored grain only. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), § 180.1001 is amended by alphabetically inserting a new item in the table in paragraph (c) as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
• • •	• • •	• • •
Xylene meeting the specifications listed in § 121.1182(b)(4) of Chapter I, Title 21, Code of Federal Regulations.	In pesticide formulations for grain storage only.	Solvent, cosolvent.
• • •	• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on January 11, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: January 4, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-550 Filed 1-10-73;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5B—Public Buildings Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following revisions delete the requirement for Central Office approval on amendments issued for projects released by the Central Office for bidding purposes, and prescribe and illustrate the revised editions of GSA Forms 1467-A, 1468, and 1903 and Standard Form 21 (GSA Overprint).

PART 5B-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5B-2.2—Solicitation of Bids

Section 5B-2.207 is revised as follows:

§ 5B-2.207 Amendment of invitations for bids.

Amendments regarding questions raised by prospective bidders shall not be issued later than 10 days before the date set for receipt of bids. Amendments involving wage determinations shall be issued as provided in §§ 1-12.404-2 and 5B-12.404-2.

PART 5B-16—PROCUREMENT FORMS

The table of contents of Part 5B-16 is amended to include the following new entries:

Sec.
5B-16.901-21 Standard Form 21 (GSA Overprint, May 1971), Bid Form (Construction Contract).
5B-16.950-1903 GSA Form 1903, May 1971, Notice to Bidder (Construction Contract).

Subpart 5B-16.70—Forms for Building Service Contracts

Section 5B-16.7001 is revised as follows:

§ 5B-16.7001 Forms prescribed.

The following GSA forms are prescribed for use in procuring building services:

(a) GSA Form 1467, December 1966 edition, Invitation, Bid, and Award (Contract for Building Services).

(b) GSA Form 1467-A, September 1970 edition, Bidding Instructions, Terms, and Conditions (Contract for Building Services).

(c) GSA Form 1468, July 1969 edition, General Provisions (Contract for Building Services).

NOTE: Copies of the forms listed in §§ 5B-16.901-21 and 5B-16.950-1903 are filed with the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. This amendment is effective on January 11, 1973.

Dated: January 3, 1973.

JOHN F. GALUARDI,
Acting Commissioner, Public Buildings Service.

[FR Doc.73-407 Filed 1-10-73;8:45 am]

Chapter 9—Atomic Energy Commission

PART 9-7—CONTRACT CLAUSES

Subpart 9-7.50—Use of Standard Clauses

PART 9-59—ADMINISTRATION OF COST-TYPE CONTRACTOR PROCUREMENT ACTIVITIES

Miscellaneous Amendments

These changes are being made to (1) revise the language in § 9-7.5004-7(b) to clarify the policy that the clause regarding payment of interest on contractors' claims, as set forth in FPR 1-1.322(b), is to be included in all subcontracts containing the Disputes clause set forth in § 9-7.5004-3(b); and (2) revise the language in § 9-59.003(j) to clarify the policy that the Disputes clause may be included in lower-tier subcontracts provided all subcontracts of a higher tier are cost type.

1. In Subpart 9-7.50, Use of Standard Clauses, § 9-7.5004-7, *Payment of interest on contractors' claims*, paragraph (b) is revised to read as follows:

Subpart 9-7.50—Use of Standard Clauses

§ 9-7.5004 Standard AEC clauses which are mandatory as to text.

§ 9-7.5004-7 Payment of interest on contractors' claims.

• • • • •

(b) The clause referenced in paragraph (a) of this section applies to subcontracts under cost-type contracts in the manner the Disputes clause applies to such subcontracts pursuant to § 9-59.003(j).

• • • • •

2. In Part 9-59, Administration of cost-type Contractor Procurement Activities, § 9-59.003, *Policies for cost-type contractor procurement*, paragraph (j) is revised to read as follows:

§ 9-59.003 Policies for cost-type contractor procurement.

• • • • •

(j) (1) First-tier subcontracts and purchase orders for supplies and services for the AEC work normally should include provisions for resolving disputes to the same extent and in the same manner as in similar AEC direct contracts.

(2) The disputes provision referred to in paragraph (j) (1) of this section may be applied to lower-tier subcontracts and purchase orders provided all subcontracts and purchase orders of a higher tier are cost type.

(3) A Disputes clause which can be used to carry out the policy in paragraph (j) (1) and (2) of this section is set forth in § 9-7.5004-3(b).

• • • • •

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments are effective on January 11, 1973.

Dated at Germantown, Md., this 4th day of January 1973.

For the U.S. Atomic Energy Commission.

ROBERT A. KOHLER,
Acting Director, Division of Contracts.

[FR Doc.73-576 Filed 1-10-73;8:45 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGD 71-12D]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Prohibition of Motor Vehicles Containing Gasoline in Closed Containers

This amendment is to prohibit the carriage of motor vehicles and mechanized equipment with fuel in their tanks

in closed containers. Also the reference in § 146.21–45 dealing with gas tight holds will be deleted.

Both these amendments are outstanding issues that have not been finalized subsequent to their publication in a notice of proposed rule making in the March 20, 1971 FEDERAL REGISTER (36 FR 5400). Previous amendments based on this notice were published in the July 21, 1972 FEDERAL REGISTER (37 FR 14586).

One comment was received on each of these issues. The comment on the stowage of motor vehicles containing gasoline in closed containers was from a major U.S. containership operator. It was pointed out by this particular operator that they had been carrying vehicles safely in this manner for 10 years, they were reasonably sure other container operators were doing it the same way, and they had been unable to document any incidents aboard vessels or ashore to justify this change. Subsequent to commenting to the U.S. Coast Guard on this proposal this company carried out tests to indicate that the atmosphere in a closed container containing vehicles with gasoline did not contain detectable explosive vapors.

The Coast Guard agrees with the comment and the test results; however, there is one overriding consideration in this issue. There is no control over the condition of an automobile fuel system when it is shipped; therefore, the likelihood of a leak in a motor vehicle fuel system is an unknown factor. Leaking gasoline within a closed container would be an unacceptable situation. The Coast Guard considers the effort required to empty the fuel tank in order to carry vehicles in this manner is not an undue hardship considering the added safety it provides.

The comment on gas tight holds asked that the Coast Guard consider allowing these holds for the stowage of flammable liquids. This comment is being studied by the Coast Guard at the present time and a decision on this will be published at a later date. For the present the reference to gas tight holds in § 146.21–45 will be deleted.

In consideration of the foregoing Title 46 CFR Part 146 is amended as follows:

1. By revising § 146.21–45 to read as follows:

§ 146.21–45 Ventilation.

All cargo holds in which flammable liquids are to be stowed and which are provided with means for ventilating shall, before any flammable liquid cargo in a quantity in excess of 1 ton be stowed in such hold, have fire screens fitted at the weather end of the vent ducts. This fire screen shall consist of two layers of fine brass wire screen of at least a 20 x 20 mesh spaced not less than ½ inch or more than 1½ inches apart. This screen may be removable, and if so fitted, means for effectively securing the same in place when in service shall be provided. Mushroom type heads shall have similar fire screens so fitted as to completely and efficiently cover the open area. Stowage of flammable liquids in a quantity in excess of 1 ton shall not be permitted in holds or compartments that are fitted with gooseneck type vent trunk heads.

2. By revising § 146.27 as follows:

a. By adding to § 146.27–30(c) the following:

§ 146.27–30 Motor vehicles and mechanized equipment powered by internal combustion engines and fueled by flammable liquids or flammable compressed gases.

* * * * *

(c) *Conditions of acceptance and stowage.* * * *

(11) Vehicles with fuel in their tanks may not be stowed in closed containers.

* * * * *

b. By adding to § 146.27–31(c) the following:

§ 146.27–31 Motor vehicles and mechanized equipment powered by internal combustion engines and fueled by combustible liquids.

* * * * *

(c) *Conditions of acceptance and stowage.* * * *

(9) Vehicles with fuel in their tanks may not be stowed in closed containers.

* * * * *

This amendment becomes effective on April 13, 1973.

(R.S. 4472, as amended; R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: January 2, 1973.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.73–602 Filed 1–10–73;8:45 am]

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 116, Rev. (Amdt. 1)]

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Miscellaneous Amendments

The following additional regulations have been adopted by the Maritime Subsidy Board to govern the operating-differential subsidy program with respect to bulk cargo vessels engaged in carrying export bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics. These regulations are in addition to those appearing in the FEDERAL REGISTER on November 16, 1972 (37 FR 24349) as corrected on December 14, 1972 (37 FR 26601).

Rule making involving the operating-differential subsidy program is exempt from the requirements of section 553 of title 5, United States Code. A new definition, "(7) Subsidized voyage days," is added to existing § 294.5(c), a revision of existing § 294.10 accommodates the effective date of these amendments and new § 294.11, "Voyage Reporting Requirements," and § 294.12 *Partial payment billings,"* are hereby added to Part 294, Title 46, Chapter II, Code of Federal Regulations, as follows:

§ 294.5 Definitions.

* * * * *

(c) *Subsidized voyage.* * * *

(7) *Subsdized voyage days.* For subsidy payment purposes subsidized voyage days are divided into two categories: Port days and sea days. Port days are those subsidized days (i) from commencement of a voyage to time of departure from the first loading port, (ii) from time of arrival to time of departure from any subsequent port or ports of call, and (iii) if the vessel is engaged in the bulk carriage of inbound cargo, from the time of arrival at the final discharge port until termination of the voyage. Port days are computed for the voyage on the basis of accumulated days and hours per voyage to the nearest full day. Sea days are those subsidized days within the voyage exclusive of port days and are computed for the voyage on the basis of accumulated days and hours per voyage to the nearest full day. Cumulatively port days and sea days may not exceed total approved voyage days.

§ 294.11 Voyage reporting requirements.

(a) *In general.* In order to determine compliance with the requirements of the operating-differential subsidy contract and this part, a voyage report is required to be submitted to the Office of Subsidy Administration, Maritime Administration, Washington, D.C. 20235, after termination of each approved voyage but prior to or sumultaneously with the first billing for the partial payment as specified in §§ 294.8(a)(2) and 294.12.

(b) *Contents of report.* The report shall include the following items to the extent they are applicable to the approved voyage:

(1) Name of vessel.

(2) Contract number.

(3) Attach a copy of the Certificate of Readiness issued by the National Cargo Bureau.

(4) U.S. loading port(s): Following information by port:

(i) Date and time of arrival.

(ii) Date and time of commencement of loading.

(iii) Date and time of completion of loading.

(iv) Date and time of departure.

(v) Quantity, commodity and freight rate of cargo loaded.

(5) Foreign discharge port(s): Following information by port:
(i) Date and time of arrival.
(ii) Date and time of commencement of discharge.
(iii) Date and time of completion of discharge.
(iv) Date and time of departure.
(v) Quantity and commodity discharged.
(6) Foreign loading port(s): Following information by port, if applicable:
(i) Date and time of arrival.
(ii) Date and time of commencement of loading.
(iii) Date and time of completion of loading.
(iv) Date and time of departure.
(v) Quantity and commodity loaded by port(s) of destination.
(7) U.S. discharge port(s): Following information regarding discharge of U.S. import cargo by port, if applicable:
(i) Date and time of arrival.
(ii) Date and time of commencement of discharge.
(iii) Date and time of completion of discharge.
(iv) Quantity and commodity discharged.
(8) U.S. port of arrival in ballast:
(i) If port of arrival is the same as that at which vessel loaded outbound cargo: Date and time of arrival.
(ii) If port of arrival is different from that at which vessel loaded outbound cargo: Estimated date and time vessel would have arrived at U.S. port at which outbound cargo was loaded.
(9) If the vessel engaged in the carriage of U.S. import cargo during the subsidized voyage, the operator's calculation of the number of days and hours that the steaming time of the inbound voyage exceeded the normal steaming time required for a ballast return voyage from the last port of discharge of the U.S. export cargo to the first port of discharge of the U.S. import cargo. (A maximum of 3 days and 12 hours excess is allowed for subsidy purposes.)
(10) If the vessel engaged in the carriage of foreign-to-foreign trade, the date and hour that the vessel deviated from the general track of the normal ballast return voyage.
(11) Number of subsidized days:
(i) Days at sea.
(ii) Days in port.
(iii) Total subsidized days.
(12) Pursuant to § 294.5(c)(4), the report must contain a detailed explanation of (i) any period of idleness or delay in excess of 2 days more than the normal operating time in port or (ii) any excessive delay at sea.

The Voyage Report shall be submitted in duplicate and certified as correct by an official of the subsidized company.

(c) *Approval of voyage days.* After review, the operator will be notified by letter of the approved voyage days, in port and at sea, for use in preparing subsequent billings with respect to the subsidized voyage.

§ 294.12 Partial payment billings.

(a) *In general.* Upon termination of an approved voyage a partial payment billing may be submitted for payment of an amount not to exceed 90 percent of the estimated operating-differential subsidy due in accordance with § 294.8(a)(2). The partial payment billing is to be prepared using the voyage days reported on, or approved based upon, the Voyage Report submitted pursuant to § 294.11, and the tentative per diem subsidy amounts and differential percentages incorporated in the operating-differential subsidy contract.

(b) *Partial payments of subsidy applicable to maintenance and repairs and stores, supplies and expendable equipment*—(1) *Negative differentials.* If the tentative per diem subsidy amounts incorporated in the contract for maintenance and repairs and/or stores, supplies and expendable equipment are negative, the partial payment will be reduced by 90 percent of the product of such negative per diem amount times the number of subsidized voyage days.

(2) *Positive differentials.* Where the tentative per diem subsidy amounts incorporated in the contract for maintenance and repairs and/or stores, supplies and expendable equipment are positive, the partial payment will be limited to the lesser of (i) an amount determined by multiplying the differential percentage for such category of expense by the costs incurred for such items by the operator in any of the United States or the Commonwealth of Puerto Rico subsequent to commencement of the subsidized voyage or (ii) 90 percent of the tentative per diem amounts for such category of expense times the number of subsidized voyage days.

(c) *Reduction in subsidy payments due to deviations, idleness, or delays.* In accordance with § 294.5(c)(4) a subsidized vessel is allowed a maximum of 3½-days steaming time in excess of the normal total steaming time for a ballast return voyage when engaging in the bulk carriage of U.S. import commerce. Any time in exess of the allowable 3½-days steaming time will result in a reduction of subsidy. Similarly, any time that is disallowed by the Maritime Subsidy Board applicable to periods of idleness or delay pursuant to § 294.5(c)(5) will result in a reduction in subsidy. The required reduction in subsidy will be accomplished by reducing the "total voyage days" on schedule A of the billing format by the excess deviation time or unallowable period of idleness or delay.

(d) *Reduction in subsidy payments applicable to abatements.* The total subsidy determined as above will be reduced by the amount of the abatement calculated pursuant to § 294.6(e).

(e) *Forms.* The partial payment billing is to be prepared on a public voucher, standard forms 1034 and 1034a which can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 and is to be submitted in five copies, made up of an original supported copy (SF 1034), three supported copies and one unsupported copy (SF 1034a). The unsupported copy will be returned to the payee by the Treasury Department. The following schedules are to be used for computing the operating-differential subsidy due and as support of the public voucher. Each operator shall furnish his own required supply of these schedules.

Schedule A—MA/MSB

(Company)

Calculation of Operating-Differential Subsidy Due for Operations in Connection with the Carriage of Bulk Agricultural Commodities from the United States to the Union of Soviet Socialist Republics

Vessel name .....
Voyage number .....
Voyage dates—From ..... To .....
Total voyage days .....
Nonsubsidized voyage days:
Deviation in excess of 3½ days .....
Idle and delays .....
Other (describe) .....
Subsidized voyage days .....

Subsidy payable Tentative ( ) Final ( )	Per diem	Subsidized voyage days	Total subsidy
Wages	$		$
Subsistence			
Vessel insurance			
Fuel:			
At sea			
In port			
Other vessel expenses			
Vessel depreciation			
Interest expense on vessel indebtedness			

1. Gross subsidy before M. & R. and S. S. & E. subsidy ..... $.....
2. Partial payment—90 percent of item 1 .....
Final payment—100 percent of item 1 .....
3. Add:
a. Maintenance and repairs subsidy (schedule A-1) .....
b. Stores, supplies and expendable equipment subsidy (schedule A-2) .....
4. Subsidy payable before abatement .....
5. Abatement (schedule A-3) .....
6. Subsidy payable after abatement .....
7. Less subsidy previously paid for this voyage .....
8. Subsidy payable this voucher .....

NOTE: Show all negative amounts in brackets.

Schedule A-1

(Company)

Computation of Maintenance and Repairs Subsidy

Vessel ..... Voyage .....

	Total
I. M. & R. subsidy based on expenses paid:	
a. Total M. & R. expenses (see note)	$
b. M. & R. subsidy percentage	
c. M. & R. subsidy (a×b)	
II. M. & R. subsidy based on per diem amount:	
a. M. & R. per diem amount [1]	
b. Subsidized voyage days (schedule A)	
c. M. & R. subsidy (a×b)	
d. 90 percent of IIc	
III. M. & R. subsidy payable:	
Partial—Limited to the lesser amount on Ic or IId	
Final—Limited to the lesser amount on Ic or IIc	A[2]

[1] Show negative per diem amounts in brackets.
[2] Enter on line 3a Schedule A.

NOTE: For purpose of supplemental partial payment or final payment of ODS on M. & R. expenses covering the 5-year period following the commencement of this voyage (§ 294.8(b)(2)(ii)) the cumulative M. & R. expenses should be shown on line Ia.

Schedule A-2

(Company)

Computation of Stores, Supplies and Expendable Equipment Subsidy

Vessel..... Voyage.....

	Total
I. S.S. & E. subsidy based on expenses paid:	
a. Total S.S. & E. expenses (see note)	$.....
b. S.S. & E. subsidy percentage	
c. S.S. & E. subsidy (a×b)	$.....
II. S.S. & E. subsidy based on per diem amount:	
a. S.S. & E. per diem amount [1]	$.....
b. Subsidized voyage days (schedule A)	
c. S.S. & E. subsidy (a×b)	
d. 90 percent of IIc	$.....
III. S.S. & E. subsidy payable:	
Partial—Limited to the lesser amount on Ic or IId	
Final—Limited to the lesser amount on Ic or IIc	$[2].....

[1] Show negative per diem amounts in brackets.
[2] Enter on line 3b Schedule A.

NOTE: For purpose of supplemental partial payment or final payment of ODS on S.S. & E. expenses covering the 5 year period following the commencement of this voyage (§ 294.8(b)(2)(ii)) the cumulative S.S. & E. expenses should be shown on line Ia.

Schedule A-3

(Company)

Computation of Abatement

Vessel..... Voyage.....

Current market charter rate per ton	$.....
Add 10 percent premium	
Fixture rate	
Less average of market charter rates (for the last 3 years)	[1] 8.05
Difference	$.....
Abatement of subsidy per ton of cargo carried:	
Abatement attributable to the premium:	
Gross premium per ton	
Less commissions at—	
Net revenue per ton	
Abatement percentage	100
Abatement per ton	$.....
Abatement attributable to the excess of the current market charter rate over the average of market charter rates for the last 3 years:	
Excess of $0.95 or less	
Less commissions at —	
Net revenue per ton	
Abatement percentage	0
Abatement per ton	$ -0-
Excess between $0.95 and $1.95	
Less commissions at —	
Net revenue per ton	
Abatement percentage	50
Abatement per ton	$.....
Excess over $1.95	
Less commissions at—	
Net revenue per ton	
Abatement percentage	75
Abatement per ton	$.....
Total abatement of subsidy per ton of cargo carried	$ (a)
Abatement of Subsidy:	
Total tons of grain carried	
Abatement, per ton	$ (a)
Abatement of subsidy	$ (?)

[1] For U.S. Gulf port to Soviet Bloc sea port.
[2] Enter on line 5 of Schedule A.

(f) *Operator's affidavit.* An operator's affidavit, substantially in the form shown below is to be submitted with each billing.

AFFIDAVIT

State of.....,
City of.....,
County/Parish of.....,

I, ..., being duly sworn, depose and say, that I am ..... of ..... (herein referred to as the "Operator"), and as such am familiar with (a) the provisions of the Operating-Differential Subsidy Agreement, Contract No. ....., dated as of ....., to which the Operator is a party; and (b) the operation of the vessel(s) covered by said Agreement; and (c) the accounts, books, records, and disbursements of the Operator relating to such operation.

Referring to the public voucher dated ..... covering (vessel name) ....., on a voyage which commenced ..... and terminated ....., and attached, submitted by said Operator concurrently herewith for a payment on account in the sum of ....., under said Agreement, I further depose and say that to the best of my knowledge and belief, the Operator has fully complied with the terms and conditions of said Agreement and applicable orders, regulations, rulings and provisions of the Merchant Marine Act, 1936, as amended, and is entitled under the provisions of said Agreement and orders, regulations and rulings applicable thereto, to the amount of the payment on account requested; and further depose and say that the vessel named in the attached schedules was in authorized service for the voyage on which the payment on account is requested and has not included in the calculations of the amount of subsidy claimed in the attached voucher any costs of a character that the Maritime Administration, or Secretary of Commerce, acting by and through the Maritime Subsidy Board, or any predecessor or successor, had advised the Operator to be ineligible to be so included, or any costs collectible from insurance, or from any other source; and further depose and say that during the course of this voyage the vessel named did not carry (1) any cargo in the domestic commerce of the United States; or (2) any U.S. preference cargo, including that covered by 10 U.S.C. 2631, 46 U.S.C. 1241 and 15 U.S.C. 616a; or (3) any other commercial cargo simultaneously with the export bulk raw and processed agricultural commodities being carried to the U.S.S.R., except equipment which may be needed to facilitate unloading of such agricultural commodities.

Payment by the Maritime Administration of all or part of the amount claimed herein shall not be construed as approval as the correctness of the amount stated to have been due, nor a waiver of any right or remedy the Maritime Administration, or Secretary of Commerce, acting by and through the Maritime Subsidy Board, or any predecessor or successor, may have under the terms of said Agreement, or otherwise.

I further depose and say that this affidavit is made for and on behalf and at the direction of the Operator for the purpose of inducing the Maritime Administration to make a payment on account pursuant to the provisions of the aforesaid Operating-Differential Subsidy Agreement.

.....

Subscribed and sworn to before me, a Notary Public, in and for the aforesaid County and State, this ..... day of ....., 19.... My commission expires .....

.....

Notary Public

(g) *Submission of partial payment billing.* The partial payment billing is to be submitted to the Maritime Administration, Office of Budget and Accounts, Washington, D.C. 20235 for processing and payment.

(h) *Supplemental partial payment billing.* Supplemental partial payment billings for maintenance and repairs and store supplies and expendable equipment costs incurred by the operator in any of the United States or the Commonwealth of Puerto Rico subsequent to the preparation of the initial partial payment billing may be submitted not more frequently than once every 30 calendar days. Supplemental partial payment billings will be prepared and submitted in the same manner as the initial partial payment billing.

In order to accommodate the effective date of the foregoing amendments, § 294.10 is revised to read as follows:

§ 294.10 **Effective period.**

The provisions of this part, except §§ 294.5(c)(7), 294.11, and 294.12 shall be effective on October 21, 1972. The provisions of §§ 294.5(c)(7), 294.11, and 294.12 shall be effective January 2, 1973. The provisions of this part shall terminate on June 30, 1973, except that they shall continue in effect for (a) the subsidized voyages in progress on that date, and (b) the purposes of § 294.8(b).

To conform with the foregoing amendments, the section headings index is amended to add the following:

294.11 Voyage reporting requirements.
294.12 Partial payment billings.

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: January 3, 1973.

By order of the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc.73-416 Filed 1-10-73;8:45 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Tamarac National Wildlife Refuge, Minn.

The following special regulations are issued and are effective on January 11, 1973.

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

MINNESOTA

TAMARAC NATIONAL WILDLIFE REFUGE

Sport fishing on the Tamarac National Wildlife Refuge, Rochert, Minn., is permited from January 1, 1973, through December 31, 1973, and shall be in accordance with all applicable State fishing laws and refuge regulations. Areas open for fishing comprise 13,675 acres and are designated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Refuge waters open to fishing include Wauboose, Two Island, Lost and Upper Egg Lakes plus all lakes south of the "Governor's Consent Line." Fishing in

the Ottertail River at the bridge on County Road 26 is limited, as posted by signs, to 50 yards upstream and 100 yards downstream from the bridge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Part 33, and are effective through December 31, 1973.

OMER N. SWENSON,
Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn.

JANUARY 4, 1973.

[FR Doc.73-595 Filed 1-10-73;8:45 am]

PART 33—SPORT FISHING

Carolina Sandhills National Wildlife Refuge, S.C.

The following special regulations are furnished and are effective on January 1, 1973.

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

SOUTH CAROLINA

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Sport fishing on the Carolina Sandhills National Wildlife Refuge, McBee, S.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 135 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from January 1, 1973 through December 31, 1973 on Lake Bee; from March 15, 1973 through October 15, 1973 on Martin's Lake, Lake 16, Pools A, B, C, D, G, and H; and from March 15, 1973 through September 14, 1973 on Lake 17, Pool J, and the Black Creek Bridge areas on Wire Road, State Road 33, State Road 145, and U.S. Highway 1, as posted.

(2) Fishing permited from official local sunrise until one-half hour after official local sunset.

(3) Boats with electric motors permitted only in Lake Bee, Lake 16, Lake 17, and Martin's Lake. Other type motors prohibited. The other areas are open only for bank fishing.

(4) Alcoholic beverages prohibited.

(5) All boats and fishermen must remain at least 30 feet away from wood duck nesting boxes or goose nesting areas. Nesting areas in Martin's Lake are closed and posted with closed area signs.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 3, 1973.

[FR Doc.73-557 Filed 1-10-73;8:45 am]

PART 33—SPORT FISHING

Lacreek National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on January 11, 1973.

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

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Public sport fishing on South Dakota Lacreek National Wildlife Refuge, Martin, S. Dak. 57551 is permitted only on the Little White River Recreation Area, that portion of Water Management Unit No. 10, designated by signs as open to fishing and those portions of Cedar Creek Dams 1 and 2 designated by signs as open to fishing. These open areas comprising a total of about 265 acres are delineated on maps available at the Refuge Headquarters and from the office of the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Pierre, S. Dak. 57501.

Sport fishing shall be in accordance with all applicable State regulations, subject to the following special conditions:

(1) The open season for sport fishing on the Little White River Recreation Area extends from January 1 through December 31, 1973, inclusive; daylight hours only.

(2) The open season for winter sport fishing on Water Management Unit No. 10 extends from January 1 through February 28, 1973 inclusive; daylight hours only.

(3) The open season for sport fishing on Cedar Creek Dams No. 1 and 2 extends from July 1 through September 15, 1973.

(4) The use of motorized vehicles on ice is prohibited.

(5) The use of boats on Water Management Unit No. 10 and on Cedar Creek is prohibited.

(6) The use of live minnows as bait on Cedar Creek Dams is prohibited.

(7) Public fishing on Lacreek National Wildlife Refuge may be closed whenever the access roads are temporarily closed or whenever refuge wildlife needs further protection.

The provision of these special regulations supplement the regulations which govern fishing on Wildlife Refuge Areas, generally, which are set forth in Title SD, Part 33 and are effective through December 31, 1973.

HAROLD H. BURGESS,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

[FR Doc.73-594 Filed 1-10-73;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3110]

SIMULTANEOUS OFFERS

Noncompetitive Leases; Oil and Gas Leasing

Pursuant to the authority vested in the Secretary of the Interior by the Act of February 25, 1920, as amended (43 U.S.C. 181 et seq.), and Revised Statute 2478 (43 U.S.C. 1201), it is proposed to amend 43 CFR Subpart 3112 as set forth below.

The purpose of the amendment is (a) to clarify the regulation by specifying that an applicant may file only one lease application on any parcel offered under the simultaneous oil and gas leasing procedures and (b) to eliminate the requirement that advance rental must be submitted with simultaneous lease offers.

In accordance with the Department's policy on public participation in rule making (36 FR 8336), interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until February 9, 1973.

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

Subpart 3112—Simultaneous Offers

Subpart 3112 of Chapter II is amended as follows:

1. Subparagraphs (1), (2), and (3) of paragraph (a) of § 3112.2–1 are deleted and a new paragraph (b) is added as follows:

§ 3112.2–1 Offer to lease.

(a) * * *

(1)–(3) [Deleted]

(b) Only one complete leasing unit, identified by parcel number, may be included in one entry card. Lands not on the posted list may not be included. An offeror (applicant) is permitted to file only one offer to lease (entry card) for each numbered parcel on the posted list. Submission of more than one entry card by or on behalf of the offeror for any parcel on the posted list will result in the disqualification of all offers submitted by that applicant for the drawing to be held for that particular parcel. Only one entry card will be drawn for each unit.

2. Section 3112.4–1 is revised to read as follows:

§ 3112.4–1 Rental payment.

A lease will be issued in the name of the successful drawee shall have fifteen (15) days from the date of receipt of notification of the issuance of the lease to tender the first year's rental. Failure to tender the rental within the time allowed will result in the automatic cancellation of the lease. The unpaid rental will remain a debt owed to the United States and may be collected by any means available to the United States for the collection of unpaid debts.

ROGERS C. B. MORTON,
Secretary of the Interior.

JANUARY 4, 1973.

[FR Doc.73-596 Filed 1-10-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1062]

[Docket No. AO 10-A46]

MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the St. Louis-Ozarks marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by January 26, 1973. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Bridgeton, Mo., on November 1, 1972, pursuant to notice thereof which was issued October 10, 1972 (37 FR 21641).

The material issue on the record of the hearing relates to reducing the location adjustment in Zone II of the marketing area.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

The plus location adjustment applicable to the Class I price and uniform price at a plant in Zone II (the southeastern Missouri counties of Cape Girardeau, Bollinger, St. Francois, Perry, and Ste. Genevieve) should be reduced from 15 cents to 7 cents.

The hearing notice proposal was submitted by a handler at Cape Girardeau who operates the only regulated plant in Zone II. He proposed to eliminate the present plus 15-cent location adjustment, claiming that it places him at a disadvantage in competing for sales with those handlers under the St. Louis-Ozarks order whose Class I price is not subject to a plus location adjustment. Also, he testified that his producers, even without the plus 15-cent location adjustment, still would realize a better return than they could obtain by delivering their milk a greater distance to plants in St. Louis.

There was significant opposition at the hearing to removing the 15-cent location adjustment. Operators of regulated plants under the Memphis and Central Arkansas orders, who compete for sales with the Cape Girardeau handler in southeastern Missouri and in the Memphis area, claimed that removal of the plus 15-cent adjustment in Zone II would misalign the Class I price applicable at the Cape Girardeau location with the Class I prices under other orders.

Spokesmen for a cooperative representing a majority of the producers under the Memphis and Central Arkansas orders contended that removal of the plus 15-cent location adjustment would jeopardize the supply of the Cape Girardeau handler, because Cape Girardeau area producers would ship instead to nearby plants under the other orders where they could realize a higher return for their deliveries.

A Paducah order handler and the principal cooperative under that order also opposed removing the plus 15-cent location adjustment at Cape Girdardeau. They claimed that it would give the Cape Girardeau handler an advantage over Paducah handlers in their common sales areas and would cause an inappropriate alignment of prices between the two orders.

A major cooperative under the St. Louis-Ozarks order represents all but

one of the producers supplying the Cape Girardeau handler. It took the position that any change in location pricing resulting from the hearing should be directed to achieving comparable Class I prices at Cape Girardeau under both the St. Louis-Ozarks and Memphis orders. Its spokesman also stated that the Class I price applicable in Zone II should be at a level that would price neither the Cape Girardeau handler nor handlers under the other nearby orders at a competitive disadvantage with the other.

A cooperative whose members ship to St. Louis-Ozarks regulated plants, and that also operates a distributing plant regulated by the southern Illinois order, similarly opposed eliminating the plus 15-cent location adjustment. Its spokesman proposed, however, to reduce the location adjustment 7 or 8 cents, stating that such a reduction would more appropriately align the Class I price at Cape Girardeau with the Southern Illinois order Class I price.

Besides his distribution in Zone II of the St. Louis-Ozarks marketing area, the Cape Girardeau handler proposing the price reduction sells in the Memphis marketing area, in the Missouri portion of the Paducah marketing area, and in several counties in southeastern Missouri that are not in any Federal order marketing area. His sales in the Paducah marketing area are, however, not a significant proportion of his total Class I distribution or of the total Class I sales in that marketing area.

Currently, Class I distribution from the Cape Girardeau plant in the Memphis marketing area is only slightly less than its sales in the St. Louis-Ozarks marketing area. In fact, in some months (but not for 3 consecutive months) the plant's sales in the Memphis marketing area have been more than in the St. Louis-Ozarks marketing area. Both orders specify that a plant's distribution in an other order marketing area must exceed those in the order under which it is currently regulated for 3 consecutive months before it may be regulated by the other order.

The Cape Girardeau plant has been a fully regulated plant under the St. Louis-Ozarks order (or its predecessor, the St. Louis order) since February 1, 1965. The plus 15-cent location adjustment at Cape Girardeau has been effective since February 1, 1965, when the five counties in Zone II were added to the marketing area of the St. Louis order (which became the St. Louis-Ozarks order October 1, 1968). The decision of the Assistant Secretary on November 5, 1964 (28 FR 15130), concluded that the plus 15-cent adjustment in Zone II was necessary to insure an adequate supply for plants in such area and to improve the alignment of prices among orders regulating competing handlers.

The St. Louis-Ozarks Class I price and those in the nearby Federal order markets are computed by adding stated amounts, commonly referred to as Class I differentials, to the basic formula price (Minnesota-Wisconsin manufacturing milk price). The St. Louis-Ozarks Class I differential of $1.60 is applicable in the St. Louis metropolitan area, the principal population center under the order. With the plus 15-cent location adjustment, the applicable Class I differential at Cape Girardeau is $1.75. Under both the Memphis and Central Arkansas orders the Class I differential (over the same basic formula price) is $1.94.

The Class I differential applicable at the Cape Girardeau plant, if regulated by the Memphis order, would be $1.67. This results from subtracting from the $1.94 Class I differential the 27-cent location adjustment that applies at a plant 175 miles from Memphis. In effect, if the Cape Girardeau plant were regulated by the Memphis order, its Class I price would be 8 cents less ($1.67 versus $1.75) than is now provided under the St. Louis-Ozarks order.

Cape Girardeau, which is near the main north-south highway between St. Louis and Memphis, is about 175 miles from Memphis. In view of relatively small differences between the plant's volumes of sales under the two orders in recent months, there is the possibility that at least at times it could become a fully regulated plant under the Memphis order.

Paragould is about 85 miles northwest of Memphis and 148 miles south of Cape Girardeau. The Class I price differential at the Paragould location under the Central Arkansas order is $1.805, or 15 cents higher than the price that would be applicable under such order for a plant regulated thereby and located at Cape Girardeau. A principal competitor of the Cape Girardeau handler for sales in southeastern Missouri is a handler at Paragould, Arkansas, regulated by the Central Arkansas order.

The Class I price in the Paducah marketing area is 10 cents higher than at Cape Girardeau. Paducah, the principal city in the Paducah marketing area, is about 70 miles southeast of Cape Girardeau. While the Cape Girardeau handler has no Class I distribution in the city of Paducah, he has limited competition for sales with handlers under that order in the southeastern Missouri counties of the Paducah marketing area.

Although the Cape Girardeau handler competes for sales with St. Louis handlers in the Cape Girardeau vicinity, he has no distribution of his own in the St. Louis metropolitan area. Neither does he compete for sales with handlers regulated under the nearby Southern Illinois marketing area, in or outside such area.

The alternatives available to producers delivering their milk to the Cape Girardeau plant are not limited to plants located in St. Louis. The economic value of their milk may be expected to be more affected by the best of their opportunities pricewise than by their lowest-priced alternative outlets. The Paragould, Ark., plant is an outlet for additional quantities of milk on a direct-delivery basis. The Cape Girardeau producers are situated to take advantage of this outlet. The return to such producers after the haul to Paragould would be significantly more than if the milk were delivered to St. Louis. Also, the higher blend price under the Central Arkansas order at the Paragould plant could reasonably be expected to return to such producers more than they would realize at Cape Girardeau after a 15-cent reduction, as was proposed. Consequently, there can be no strong presumption that such producers would gravitate to the lowest-priced outlets in the region.

It was concluded in a previous decision on the St. Louis-Ozarks order that price alignment among regulated markets where intermarket handler competition occurs is an important factor to be considered by the Secretary in his efforts to achieve market stability for producers under a given order and reasonable market allocation of available milk supplies where market milksheds tend to overlap. These intermarket relationships involving St. Louis-Ozarks with Memphis, Central Arkansas and Paducah have been referred to herein above.

The primary problem of market price alignment on this record relates to the St. Louis-Ozarks-Memphis relationship. The Cape Girardeau handler, as previously indicated, sells approximately as much milk in the Memphis marketing area as in his home market at Cape Girardeau.

The Class I price relationship between this order and the Memphis order has changed significantly since Zone II was added to the marketing area. From February 1965 through July 1968 the Memphis Class I price exceeded the St. Louis Zone II Class I price an average of 61 cents. Since July 1968 the Memphis Class I price has been 19 cents more than the Zone II Class I price in each month.

When Zone II was added to the marketing area, the existing differences between the monthly Class I price under the St. Louis and Memphis orders was a matter considered in establishing the plus 15-cent location adjustment. The revised basis of pricing at Cape Girardeau herein provided gives recognition to the current relationship of prices in the St. Louis-Ozarks and Memphis orders.

The handler competition between these markets calls for a close price alinement for the purposes described above. The plus location adjustment of 7 cents proposed herein for Cape Girardeau will promote orderly marketing by providing a Class I price at Cape Girardeau equivalent to that prevailing for the same location under the Memphis order.

It was found further in a prior decision on the St. Louis-Ozarks order that the greater the distance that an order market is situated geographically from the heavy production region of the country, the higher the Class I price tends to be. For the St. Louis-Ozarks market and other markets to the south of St. Louis-Ozarks, the Chicago milkshed is an important alternative source of supply when outside milk is needed for fluid use.

A basic reason for this is that local supplies for those markets farther removed from the Chicago milkshed tend to be less adequate for their year-round needs than those nearer the Chicago production area. In 1971, for example, the Class I utilization of producer deliveries under the Memphis, central Arkansas and Paducah orders was 85 percent, 89 percent, and 74 percent, respectively. Under the St. Louis-Ozarks and Southern Illinois orders, Class I utilization of producer receipts was 64 percent and 60 percent, respectively, for the same period. These conditions are reflected in the relative prices of the Memphis, central Arkansas and Paducah markets. The Memphis, central Arkansas, and Paducah Class I prices are 34 cents, 34 cents, and 25 cents, respectively, more than the Zone I Class I price in the St. Louis-Ozarks order.

Since Cape Girardeau is about 65 miles farther from Chicago than St. Louis proper, the 7-cent plus adjustment adopted is reasonable in respect of the greater distance, and consequent cost of delivery, to such location from the basic source of alternative supplies.

Both the proponent Cape Girardeau handler and a Paducah order handler contended that there is misalignment of prices between the Paducah order and St. Louis-Ozarks order at Cape Girardeau, primarily because the Paducah Class I price is too high relative to the Class I price under the St. Louis-Ozarks order. The level of the Paducah price was not, of course, an issue at this hearing. However, a proposal to reduce the Paducah Class I price 15 cents was considered at a hearing held in Paducah December 12, 1972 (37 FR 24760). Official notice is here taken of the fact of that hearing. If an adjustment in the Class I price differential of the Paducah order is warranted, the appropriate action can be taken on the basis of that hearing.

The available supply of milk relative to local Class I needs at Cape Girardeau approximates that for total deliveries and total Class I utilization under the St. Louis-Ozarks order. That is, about 65 percent of producer deliveries are utilized in Class I. Consequently, the 8-cent reduction in the location adjustment at Cape Girardeau adopted in this decision should not impair the maintenance of an adequate supply of milk at that location, but will tend to promote orderly marketing by assisting producers delivering to Cape Girardeau to maintain this nearby outlet for their milk.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the St. Louis-Ozarks marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

In § 1062.53, paragraph (b) is revised as follows:

§ 1062.53 Location differentials to handlers.

* * * * *

(b) In Zone II of the marketing area, shall be the Zone I price plus a location adjustment of 7 cents;

* * * * *

Signed at Washington, D.C., on January 8, 1973.

John C. Blum,
Deputy Administrator,
Regulatory Programs.

[FR Doc.73-638 Filed 1-10-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 73]

[Airspace Docket No. 72-SW-80]

TEMPORARY RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations which would designate a temporary joint-use restricted area near Killeen, Tex.

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received by February 12, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Air Force has requested the establishment of a temporary joint-use restricted area in the vicinity of Killeen, Tex. The proposed restricted area would be utilized for a 9-day period beginning April 23, 1973, for the Joint Training Exercise GALLANT HAND 73. The restricted airspace is required to effectively test participating tactical aircraft squadrons under the most realistic conditions.

The proposed area would overlie approximately 30 general aviation airports and a number of low altitude airways and jet routes. However, temporary rerouting procedures would be established to handle airways traffic during the exercise period. A reverse-charge telephone number would be made available by the Air Force for the use of general aviation pilots to request clearance to operate within the restricted area on an individual basis. Procedures would also be developed to permit unrestricted air carrier operations into and out of Brownwood, Tex.

The proposed amendment would designate the following temporary restricted area:

R-6314 Killeen, Tex.

Subarea A

Boundaries.—Beginning at Lat. 32°10'00" N., Long. 98°52'00" W.; to Lat. 32°10'00" N.,

Long. 99°30'00" W.; to Lat. 31°20'00" N., Long. 99°55'00" W.; to Lat. 31°02'00" N., Long. 99°00'00" W.; to Lat. 31°42'00" N., Long. 99°00'00" W.; to Lat. 31°46'00" N., Long. 98°52'00" W.; to point of beginning, excluding that airspace within a 3-nautical-mile radius of Lat. 31°11'00" N., Long. 99°19'27" W. from the surface to 2,500 feet AGL.

Designated altitudes. 1,500 feet AGL to FL 280 sunrise to sunset. Surface to FL 280 sunset to sunrise.

Time of designation. Continuous 0001 C.S.T., April 23, 1973, to 2359 C.S.T., May 1, 1973.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. USAF Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley AFB, Va.

SUBAREA B

Boundaries.—Beginning at Lat. 32°00'00" N., Long. 97°50'00" W.; to Lat. 32°10'00" N., Long. 98°32'00" W., to Lat. 32°10'00" N., Long. 98°52'00" W.; to Lat. 31°46'00" N., Long. 98°52'00" W.; to Lat. 31°42'00" N., Long. 99°00'00" W.; to Lat. 31°02'00" N., Long. 99°00'00" W.; to Lat. 30°47'00" N., Long. 98°03'00" W.; to Lat. 30°50'00" N., Long. 97°44'00" W.; to Lat. 31°06'06" N., Long. 97°32'42" W.; to Lat. 31°13'45" N., Long. 97°32'35" W.; to Lat. 31°19'37" N., Long. 97°40'32" W.; to Lat. 31°20'48" N., Long. 97°40'32" W.; to Lat. 31°22'33" N., Long. 97°42'45" W.; to point of beginning, excluding that airspace east of a line from Lat. 30°48'00" N., Long. 98°00'00" W.; to Lat. 31°05'00" N., Long. 97°47'00" W.; to Lat. 31°41'00" N., Long. 97°46'15" W.; above FL 200, and excluding that airspace from Lat. 31°00'00" N., Long. 97°37'00" W.; to Lat. 31°03'54" N., Long. 97°42'05" W.; to Lat. 31°09'03" N., Long. 97°41'18" W.; to Lat. 31°06'06" N., Long. 97°32'42" W.; from the surface to 4,000 feet MSL.

Designated altitudes. Surface to FL 280 except as excluded.

Time of designation. Continuous 0001 C.S.T., April 23, 1973, to 2359 C.S.T., May 1, 1973.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. USAF Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley AFB, Va.

SUBAREA C

Boundaries.—Beginning at Lat. 32°00'00" N., Long. 97°35'00" W.; to Lat. 31°32'00" N., Long. 97°28'00" W.; to Lat. 31°23'00" N., Long. 97°35'00" W.; to Lat. 31°13'45" N., Long. 97°32'45" W.; to Lat. 31°19'37" N., Long. 97°40'32" W.; to Lat. 31°20'48" N., Long. 97°40'32" W.; to Lat. 31°22'33" N., Long. 97°42'45" W.; to Lat. 32°00'00" N., Long. 97°50'00" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous 0001 C.S.T., April 23, 1973, to 2359 C.S.T., May 1, 1973.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. USAF Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley AFB, Va.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 3, 1973.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-546 Filed 1-10-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-7571, S7-467]

QUANTITY DISCOUNTS FOR CERTAIN GROUP PURCHASES OF MUTUAL FUND SHARES

Notice of Proposed Rule Making

In its recent announcement of hearings on mutual fund distribution and the potential impact of the repeal of section 22(d) of the Act (15 U.S.C. 80a-22(d)), (Investment Company Act Release No. 7475, Nov. 3, 1972 (37 FR 24449)) the Commission stated one of the issues to be a reconsideration of the provision of Rule 22d-1 (17 CFR 270.22d-1) which precludes quantity discounts for certain group purchases of redeemable securities issued by investment companies. The Commission believes that a specific proposal to amend the rule would provide a helpful focal point for comments of the public. Rather than simply reactivate a pending 1968 proposal (33 FR 15263), however, the Commission is hereby (1) withdrawing that proposal and (2) publishing a new proposal, significantly revised, for comments. The period for comments on this proposal has been set by the Commission to expire on March 30, 1973, a date estimated to be substantially after the projected close of the forthcoming hearings. The Commission hopes that this proposal will stimulate discussion at the hearings and that the discussion will lead to more informed comments on the rule itself.

PROPOSED AMENDMENT TO RULE 22d-1

(1) Notice is hereby given that the Securities and Exchange Commission has under consideration the amendment of Rule 22d-1 under the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a-1 et seq.) to permit under certain circumstances quantity discounts for certain group purchases of redeemable securities issued by investment companies. The proposed amendment to the rule would be adopted pursuant to the authority granted to the Commission in sections 6(c), 22(d), and 38(a) of the Act. (15 U.S.C. 80a-6(c), 80a-22(d), 80a-37(a).)

Section 22(d) of the Act prohibits a registered investment company, its principal underwriter, or a dealer in its redeemable securities from selling such securities to "any person" except "at a current public offering price described in the prospectus." The purpose of the section, as described in the congressional reports on the Act, is to prohibit investment companies from selling redeemable securities to any person other than a dealer or principal underwriter at a price less than that at which the security is sold to the public. Section 6(c) of the Act provides that the Commission by rule, regulation, or order may exempt any person or transaction or any class of persons or transactions from any provision of the Act 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. Section 38(a) of the Act authorizes the Commission to issue such rules as are necessary or appropriate to the exercise of the power conferred upon the Commission in the Act.

In 1958 the Commission adopted Rule 22d-1, which in most respects codified prior administrative interpretations of section 22(d) of the Act as well as exemptive orders granted under section 6(c) of the Act. The rule permits reductions in the sales loads charged upon the sale of mutual fund shares in connection with quantity purchases and in other specified circumstances. (Investment Company Act of 1940 Release No. 2798, Dec. 2, 1958 (23 FR 9601).) The provision in the last sentence of paragraph (a) of Rule 22d-1 that quantity discounts would not be available to "a group of individuals whose funds are combined, directly or indirectly, for the purchase of reedemable securities of a registered investment company jointly or through a trustee, agent, custodian, or other representative * * * of such a group of individuals," reflects Commission concern in 1958 that, if continued, quantity discounts in such circumstances could disrupt the orderly effective distribution of mutual fund shares.

In 1968 the Commission proposed the removal of the present restrictive definition of "person" in the rule so as to provide organized groups of small investors with the opportunity to purchase mutual fund shares at the lower sales charges presently available only to investors of large sums (Investment Company Act Release No. 5507, Oct. 7, 1968 (33 FR 15263)). Such proposed amendment of Rule 22d-1 would have deleted the proviso clause in the last sentence of paragraph (a) and made it clear that, as used in the rule, the term "person" shall have the meaning set forth in section 2(a)(28) of the Act,[1] but shall also include the other classes presently enumerated in the definition of "any person"

[1] This antigrouping provision defines "any person" more narrowly than sections 2(a)(28) and 2(a)(8) of the Act, taken together (15 U.S.C. 80a-2(a)(28), 80a-2(a)(8)). Section 2(a)(28) provides that "person" means a natural person or a company. Section 2(a)(8) provides (among other things) that "company" means a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not.

in the rule. However, the Commission has held that rule proposal in abeyance while the effects of the repeal of section 22(d) of the Act were being studied by its staff.

The staff has now completed the study and the Commission has determined to withdraw its earlier proposal (see (2) below) and to propose in its place a modified version which, in effect, gives each issuer a choice between (a) giving quantity discounts, but denying them to groups in the manner the present rule provides or (b) offering quantity discounts to certain "bona fide" groups as well as to purchasers presently eligible. This is accomplished by retaining paragraph (a) of the rule and inserting a new paragraph (b) which is for the most part similar to paragraph (a) except that paragraph (b) employs a new term "purchaser" with a broader definition than the term "any person" now used in paragraph (a). Thus, an investment company would have the option of distribution to "persons" in the manner specified in Rule 22d–1(a) or to "purchasers" in the manner specified in Rule 22d–1(b).

Proposed paragraph (b) has no anti-grouping clause but does include a narrower, more precise definition of group than the 1968 proposal. The definition includes any organized group of purchasers, whether incorporated or not, but excludes any group not in existence for at least 6 months or which has no other purpose than to purchase mutual fund shares at a discount. For example, these modifications in the 1968 proposal would make it clear that all customers of a single broker are not a "group" eligible for a quantity discount. These modifications would also make more certain the continued viability of any groups the fund and its distributor might deal with.

It should be noted that paragraph (a) of the present rule requires that any scale of reducing sales loads offered by a fund or its distributor "shall be applicable to sales to all persons." Therefore, an investment company offering a quantity discount to a "person", as defined in the present rule, is required also to offer it to any group of persons presently within the definition of "person" in the rule. For example, a pension trust accumulating shares for a number of beneficiaries is presently treated as a single person. Hence, if other groups were included within the definition of "any person" in present paragraph (a) the only choice of investment companies and their distributors would be to offer quantity discounts to all, including groups, or to no one. As noted above, the Commission's present proposal would give each issuer a choice between restricting quantity discounts to purchasers as provided in the present rule or affording such discounts to the kinds of groups specified in new paragraph (b).

If adopted, the amendment would not relax the obligation under the Securities Act of 1933 of broker-dealers and other distributors of investment company shares to provide prospectuses to all persons who are solicited. Thus, it is assumed that a prospectus would be furnished to each member of any group being solicited. Similarly, it is assumed that after purchases of investment company shares, all proxy soliciting material and reports to shareholders required by the Act and rules thereunder would be provided in some manner to each participating group member. In this connection the Commission staff is considering other rule changes which would result in lower administrative costs for group sales. The rules in question relate to the requirements that shareholders receive individual notices, confirmations, dividend statements, and shareholder reports. The staff is now exploring whether these rules can be revised without diminishing the basic shareholder protections they provide.

It should also be noted that in order to avoid problems under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 (15 U.S.C. 77a et seq., 78a et seq., 80a–1 et seq.), all group purchases would be required to be handled in a manner substantially similar to ordinary brokerage transactions. Thus, where limitations are imposed on the rights of an individual participant, or special charges are made, a separate security may be created which would be required to be registered under the Securities Act of 1933 and the issuer of which may be an investment company required to register under the Investment Company Act of 1940. For example, such problems would arise if: (1) Sums were accumulated for material periods of time before investment; (2) special fees or charges, such as a front-end load, were imposed;[2] (3) limitations were imposed on the right of participants to withdraw securities held in custody; or (4) limitations were imposed on the rights and privileges of participants as shareholders. (See Securities Act of 1933 Release No. 4790, July 13, 1965 (30 FR 9059).)

The text of the proposed Commission action is as follows:

Rule 22d–1 under the Investment Company Act of 1940 is amended as follows:

A new paragraph (b) is inserted. The first two paragraphs of new paragraph (b) are identical to the first two paragraphs of present paragraph (a) except that wherever the word "person(s)" appears, it is changed to read "purchaser(s)." The last paragraph of the proposed new paragraph (b) reads as follows:

As used in this paragraph (b), the term "purchaser" shall have the same meaning as the word "person" set forth in section 2(a)(28) of the Act but shall also include: (i) An individual, or an individual, his spouse and their children under the age of 21, purchasing securities for his or their own account, and (ii) a trustee or other fiduciary purchasing securities for a single trust estate or single fiduciary account (including a pension, profit-sharing, or other employee benefit trust created pursuant to a plan qualified under Section 401 of the Internal Revenue Code) although more than one beneficiary is involved: *Provided, however,* That the term "purchaser" shall not include any group of individuals which has not been in existence as an organized group for at least 6 months: *And further provided,* The term "organized group" shall not include a group which has no other purpose than to purchase investment company shares at a discount.

Commission action. The Securities and Exchange Commission, pursuant to authority in sections 6(c), 22(d), and 38(a) of the Investment Company Act, proposes to amend § 270.22d–1 of Chapter II of Title 17 of the Code of Federal Regulations (1) by redesignating paragraphs (b), (c), (d), (e), (f), (g), and (h) thereof as paragraphs (c), (d), (e), (f), (g), (h), and (i), respectively and (2) by adding thereunder a new paragraph (b) to read as follows:

§ 270.22d–1 Variations in sales load permitted for certain sales of redeemable securities.

* * * * *

(b) In accordance with a scale of reducing sales load varying with the quantity of securities purchased by any purchaser. The quantity entitling any purchaser to any such reduced sales load may be computed on any of the following bases, and may include redeemable securities of other registered investment companies having the same principal underwriter as the issuer of such securities: (1) The aggregate quantity of securities being purchased at any one time; (2) the aggregate quantity of securities previously purchased or acquired and then owned plus the securities being purchased; or (3) the aggregate quantity of securities purchased by any purchaser within a period of no more than 13 months from the date of and pursuant to a written statement of his intention, accepted by the underwriter, which provides that the purchaser intends, but is not obligated, to purchase securities within such period in a specified aggregate amount which would entitle the purchaser to a quantity discount if purchased at one time, and which further provides that each purchase made pursuant to the statement shall be made either (i) at the price applicable to the quantity of securities being purchased in each separate transaction until at least a sufficient quantity of securities has been purchased to qualify for a discount pursuant to the statement, or until the aggregate quantity specified therein has been purchased, whereupon a retroactive price adjustment for all purchases theretofore made under the statement to reflect the quantity discount to which the purchaser is then entitled pursuant to the statement shall be made by the underwriter and the dealer involved, if any, or (ii) at the price applicable to the intended aggregate quantity of securities specified by the purchaser: *Provided,* That an amount of

[2] In this connection, it should be borne in mind that any person who is paid any portion of a sales load or who receives other special compensation in connection with the purchase or sale of securities will probably be required to register as a broker-dealer pursuant to section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(a)).

the securities purchased shall be retained by the underwriter or held by a bank escrow agent pursuant to terms and conditions which will reasonably assure that the full applicable sales load will be charged if the purchaser does not complete the intended purchases. The statement of intention may also provide that, if the total purchases made within the period covered by the statement exceed the amount specified by the purchaser as his expected aggregate purchases, and equal an aggregate amount which would, if purchased at a single time, qualify for an additional quantity discount, a retroactive price adjustment shall be made by the underwriter and the dealer involved, if any, for all purchases made under the statement to reflect the quantity discount applicable to the aggregate amount of such purchases.

(A) The scale of reducing sales load and the method of computation utilized shall be specifically described in the prospectus and shall be applicable to sales to all purchasers.

(B) As used in this paragraph (b), the term "purchaser" shall have the same meaning as the word "person" set forth in section 2(a)(28) of the Act but shall also include (*1*) an individual, or an individual, his spouse and their children under the age of 21, purchasing securities for his or their own account, and (2) a trustee or other fiduciary purchasing securities for a single trust estate or single fiduciary account (including a pension, profit-sharing, or other employee benefit trust created pursuant to a plan qualified under section 401 of the Internal Revenue Code) although more than one beneficiary is involved: *Provided, however,* That the term "purchaser" shall not include any group of individuals which has not been in existence as an organized group for at least 6 months: *And further provided,* The term "organized group" shall not include a group which has no other purpose than to purchase investment company shares at a discount.

* * * * *

(Secs. 6(c), 22(d), 38(a), 54 Stat. 800, 823, 841, 15 U.S.C. 80a-6(c), 80a-22(d), 80a-37(a))

Withdrawal of prior proposal. (2) Notice is hereby given that the Commission hereby withdraws its proposal to adopt an amendment of Rule 22d-1 published in Investment Company Act Release No. 5507, October 7, 1968.

The Commission has announced that it will conduct public hearings on the subject of mutual fund distribution (Investment Company Act Release No. 7475, November 3, 1972). Group sales will be among the issues to be considered in those hearings. Although this proposal may serve as a reference point for those hearings, they are policy proceedings while this is a specific rule proposal which should be commented upon separately from the record in the hearings. Accordingly, all interested persons are invited to submit their views and comments on the above proposal in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before March 30, 1973, and reference should be made to File No. S7-467. All such communications will be considered available for public inspection.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

DECEMBER 21, 1972.

[FR Doc.73-597 Filed 1-10-73;8:45 am]

Notices

DEPARTMENT OF STATE

Agency for International Development

DIRECTOR AND DEPUTY DIRECTOR, OFFICE OF HOUSING

Redelegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 88, as amended, from the Administrator, AID, dated November 4, 1970 (35 FR 17675), I hereby amend further the redelegation of authority to the Director and Deputy Director, Office of Housing, dated November 5, 1970 (35 FR 17675), as follows:

1. Section 1,A is revised to read, as follows:

A. All of the authorities delegated to me by the above-mentioned Delegation of Authority No. 88, as amended, except for the following reserved authorities:

(1) The authority to execute guaranties;

(2) The authority to prescribe and amend interest rates provided in section 223(f) of the Foreign Assistance Act of 1961, as amended.

2. Section 2 is revised to read as follows:

2. The authorities redelegated herein may be further redelegated provided that redelegations under this section other than to officials in the Office of Housing or Regional Assistant Administrators, shall be subject to approval by the appropriate Regional Assistant Administrator or his designee.

This amendment to the redelegation of authority to the Director and Deputy Director, Office of Housing, shall be effective immediately.

Dated: January 4, 1973.

JAMES F. CAMPBELL,
Assistant Administrator for Program and Management Services.

[FR Doc.73-579 Filed 1-10-73;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1972 Rev., Supp. No. 11]

MOHAWK INSURANCE COMPANY

Surety Companies Acceptable on Federal Bonds; Change of Name

Jersey Insurance Company of New York, N.Y., a New York corporation, has formally changed its name to Mohawk Insurance Company. Documents evidencing the change of name are on file in the Treasury.

A new Certificate of Authority as an acceptable surety on Federal bonds, dated October 11, 1972, has been issued by the Secretary of the Treasury to Mohawk Insurance Company, Allentown, Pennsylvania, under sections 6 to 13 of Title 6 of the United States Code, to replace the Certificate issued July 1, 1972 (37 FR 13597, July 11, 1972) to the Company under its former name, Jersey Insurance Company of New York. The underwriting limitation of $1,126,000 previously established for the Company remains unchanged.

The change in name of Jersey Insurance Company of New York does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the Certificate of Authority issued by the Secretary of the Treasury.

Certificates of Authority expire on June 30 each year, unless sooner revoked and new Certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, DC 20226.

Dated: January 8, 1973.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.73-643 Filed 1-10-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

CONARC ADVISORY COMMITTEE TO U.S. ARMY INSTITUTE FOR MILITARY ASSISTANCE

Notice of Public Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Committee meeting:

The CONARC Advisory Committee to the U.S. Army Institute for Military Assistance will meet at Fort Bragg, N.C., from January 30 to February 1, 1973. The meeting will be held in Room 103, Bryant Hall, U.S. Army Institute for Military Assistance. Sessions will convene at 0830 on January 31 and February 1, 1973. The theme of the conference will be "Security Assistance Training in the 1970's."

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

E. W. GANNON,
Lieutenant Colonel, U.S. Army,
Chief, Plans Office, TAGO.

[FR Doc.73-580 Filed 1-10-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-3743]

IDAHO

Order Providing for Opening of Public Lands

JANUARY 4, 1973.

1. By order dated December 6, 1972, and published at pages 26547-8 in the FEDERAL REGISTER, December 13, 1972, the Federal Power Commission ordered that (a) "The land withdrawal pursuant to the filing for Project No. 885 is hereby vacated insofar as it may pertain to lands described in the attached land list." That land list appears below; and, (b) "The land withdrawals pursuant to the filings for Project Nos. 1379, 1854, 2141, are hereby vacated in their entirety." No specific lands are identified for these projects:

LAND LIST

BOISE MERIDIAN

KANIKSU NATIONAL FOREST

T. 60 N., R. 4 W.,
Sec. 3, Lots 3, 6, 7;
Sec. 5, Lots 1, 2;
Sec. 6, Lots 1, 6, 7, 12;
Sec. 7, Lots 1, 2, 3, 4, 5;
Sec. 8, Lots 1, 2, 3;
Sec. 16, Lots 1, 2;
Sec. 17, Lots 1, 2, 3, 4, 5;
Sec. 19, Lots 1, 2, 3, 4, 7, NE¼SE¼SE¼;
Sec. 20, Lots 1, 2, 3, 4;
Sec. 21, Lot 1;
Sec. 28, Lot 2;
Sec. 29, Lots 1, 2, 3, 4;
Sec. 30, Lot 6;
Sec. 32, Lots 1, 2, 3, 4.

T. 61 N., R. 4 W.,
Sec. 4, Lots 1, 2;
Sec. 5, Lots 1, 4;
Sec. 8, Lots 1, 2;
Sec. 9, Lots 2, 3;
Sec. 17, Lot 2;
Sec. 19, unpatented parts of Lots 3 and 6;
Sec. 20, Lots 1, 2, 3, 4, 5;
Sec. 21, Lot 2;
Sec. 28, Lot 3;
Sec. 29, Lots 2, 3, 4;
Sec. 30, unpatented part of Lot 1;
Sec. 32, Lots 1, 2, 3, 4.

T. 62 N., R. 4 W.,
Sec. 4, Lots 4, 5, 8, 9;
Sec. 9, Lots 4, 5, 6, 9;
Sec. 16, Lots 1, 2, 3, 4;
Sec. 21, Lots 1, 2, 3, 4, 5;
Sec. 28, Lots 1, 2, 3;
Sec. 29, Lots 1, 2;
Sec. 32, Lots 1, 2, 3, 4.

T. 63 N., R. 4 W.,
Sec. 19, Lots 4, 5, 6, 7;
Sec. 29, Lot 4;
Sec. 30, Lots 1, 2, 5, 6, 7;
Sec. 32, Lots 1, 2, 3, 4, 6;
Sec. 33, Lots 1, 4, 5.
T. 60 N., R. 5 W.,
Sec. 12, Lot 5;
Sec. 13, Lots 1, 2, 3, 4;
Sec. 24, Lots 1, 2, 3, 4.

The areas described aggregate approximately 2,918 acres in Bonner County, Idaho.

2. These lands are all within the Kaniksu National Forest and in addition are withdrawn from mineral entry and location for the Priest Lake Recreation Area by Public Land Order 1479. All of the lands are located in Bonner County.

3. Beginning at 10 a.m. on February 1, 1973, the national forest lands shall be open to such form of disposition as may by law be made of such lands.

4. Inquiries concerning the land should be addressed to the Chief Branch of L&M Operations, Idaho State Office, 550 West Fort Street, Post Office Box 042, Boise, ID 83702.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.73-615 Filed 1-10-73;8:45 am]

[Montana 23941]

MONTANA

Proposed Withdrawal and Reservation of Lands

JANUARY 2, 1973.

The Department of Transportation, on behalf of the Montana Highway Commission, has filed application, M 23941, for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for proposed highway construction.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, MT 59101.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

DEER LODGE NATIONAL FOREST

T. 5 N., R. 3 W.,
Sec. 30, Lots 1, 2, 3, and 4, E½W½; and
Sec. 31, Lots 1, 2, 3, and 4, E½, E½W½.
T. 5 N., R. 4 W.,
Sec. 15, Lot 1, NE¼, W½, NE¼SE¼, W½SE¼;
Sec. 22, Lots 1 and 2, S½NE¼;
Sec. 23, all;
Sec. 24, Lots 3 and 4, S½NW¼, SW¼; and
Sec. 25, Lots 1, 2, 3, and 4, W½E½.

The areas described aggregate 2,991.16 acres in Jefferson County, Mont.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.73-614 Filed 1-10-73;8:45 am]

[Montana 23948]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 3, 1973.

The Department of Transportation, on behalf of the Montana Highway Commission, has filed application, M 23948, for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for proposed highway construction.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, MT 59101.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

T. 3 N., R. 2 W.,
Sec. 8, SW¼.
T. 2 N., R. 3 W.,
Sec. 4, Lots 1 and 2, S½NE¼ and S½; and
Sec. 24, NE¼.
T. 3 N., R. 3 W.,
Sec. 2, Lots 2, 3, and 4, S½NW¼, SW¼, NE¼SE¼, and S½SE¼; and
Sec. 24, N½.
T. 5 N., R. 3 W.,
Sec. 19, Lot 4;
Sec. 30, SE¼; and
Sec. 32, W½NE¼, SE¼NE¼, and NW¼.
T. 5 N., R. 4 W.,
Sec. 13, Lot 3; and
Sec. 14, Lots 1, 2, 3, and 4, SW¼NW¼, N½SW¼, and NW¼SE¼.

The areas described aggregate 2,409.25 acres in Jefferson County, Mont.

ROLAND F. LEE,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.73-613 Filed 1-10-73;8:45 am]

[Nev. 054565]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 3, 1973.

The Forest Service, U.S. Department of Agriculture has filed the above application for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, but not the mining and mineral leasing laws.

The applicant desires the lands for inclusion in the Toiyabe National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 3008 Federal Building, 300 Booth Street, Reno, NV 89502.

The Department's regulations (43 CFR 2351.4(c)), provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands

and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The public lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 14 N., R. 18 E.,
Sec. 34, N½NE¼, E½SW¼NE¼, N½NW¼SW¼NE¼, SE¼NE¼.

containing 145 acres.

RALPH S. DUNN,
Acting Chief,
Division of Technical Services.

[FR Doc.73-616 Filed 1-10-73;8:45 am]

Geological Survey

[Power Site Cancellation 316]

COLUMBIA RIVER BASIN, WASH.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 426 of July 25, 1952, is hereby canceled to the extent that it affects the following described land:

WILLAMETTE MERIDIAN

T. 5 N., R. 24 E.,
Sec. 32, N½NE¼SE¼.

The area described aggregates 20 acres.

The effective date of this cancellation is May 3, 1973.

HENRY W. COULTER,
Acting Director.

JANUARY 3, 1973.

[FR Doc.73-559 Filed 1-10-73;8:45 am]

[Power Site Cancellation 258]

STANISLAUS RIVER BASIN, CALIF.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 220 of May 13, 1919, is hereby canceled to the extent that it affects the following described land:

MOUNT DIABLO MERIDIAN

T. 3 N., R. 14 E.,
Sec. 36, SW¼NE¼ and SE¼NW¼.

T. 3 N., R. 15 E.,
Sec. 6, NW¼NE¼ (lot 4), N½SW¼NE¼, and SW¼SW¼NE¼;
Sec. 24, SE¼SW¼ and SE¼;
Sec. 25, lot 1, N½NE¼, and NW¼;
Sec. 26, NE¼NE¼, S½NE¼, SE¼NW¼, and S½;
Sec. 27, NE¼SW¼, S½SW¼, and SE¼;
Sec. 28, SE¼SW¼ and S½SE¼;
Sec. 31, lots 2, 3, and 4, SE¼NW¼, E½SW¼, and SE¼;
Sec. 32, S½N½ and S½;
Sec. 33, NE¼ and N½SW¼;
Sec. 34, N½N½ and SW¼NW¼;
Sec. 35, N½NW¼.

T. 4 N., R. 15 E.,
Sec. 15, E½;
Sec. 22, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 28, NW¼NE¼, E½NW¼, and NW¼SW¼;
Sec. 29, SW¼SE¼ and SE¼SE¼;
Sec. 32, SE¼NW¼ (unsurveyed).

T. 3 N., R. 16 E.,
Sec. 27, S½SW¼;
Sec. 29, lots 9, 10, and 11, and SW¼SW¼;
Sec. 30, lots 3, 4, 5, 6, and 7, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 31, lot 1, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 32, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 33, lots 1, 2, 3, 4, 5, and 6, NE¼, and NW¼SE¼;
Sec. 34, NW¼NE¼, N½NW¼, and SW¼NW¼.

T. 4 N., R. 16 E.,
Sec. 19, lots 2, 3, and 4, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 20, S½N½ and S½;
Sec. 21, S½N½ and S½;
Sec. 22, S½N½ and N½S½;
Sec. 23, NW¼NE¼, S½NE¼, NW¼, and N½S½;
Sec. 24, S½NW¼ and N½SW¼.

T. 4 N., R. 17 E.,
Sec. 1, NE¼ (fractional), N½SE¼, and SW¼SE¼;
Sec. 12, NE¼NW¼;
Sec. 14, SW¼NW¼ and SE¼SW¼;
Sec. 19, SE¼SW¼ and S½SE¼;
Sec. 20, S½SW¼ and SW¼SE¼;
Sec. 22, S½NE¼, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 23, N½NW¼ and SW¼NW¼.

T. 6 N., R. 17 E.,
Sec. 2, S½SE¼;
Sec. 8, SE¼NE¼;
Sec. 9, NE¼NW¼ and W½NW¼;
Sec. 10, N½NE¼;
Sec. 11, N½;
Sec. 12, N½, NE¼SW¼, and N½SE¼.

T. 7 N., R. 17 E. (unsurveyed).
All lands within one-fourth mile of Stanislaus River and Bloods Creek. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 24, 25, 34, 35, and 36.

T. 5 N., R. 18 E.,
Sec. 3, lots 2, 3, and 4, S½NW¼, and NW¼SW¼;
Sec. 4, lot 8, S½NE¼, and S½;
Sec. 8, E½E½;
Sec. 9, W½NE¼, NW¼, and W½SW¼;
Sec. 16, W½NW¼ and NW¼SW¼;
Sec. 17, NE¼NE¼, S½NE¼, and SE¼;
Sec. 20, E½ and E½W½;
Sec. 29, N½, SW¼, and NW¼SE¼;
Sec. 30, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 31, lot 1, SE¼SW¼, and NW¼SE¼.

T. 6 N., R. 18 E.,
Sec. 7, lots 1 and 2, NE¼SW¼, and N½SE¼.
All lands within one-fourth mile of Middle Fork Stanislaus River in unsurveyed portion of township. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 25, 26, 34, 35, and 36.
All lands within one-fourth mile of Highland Creek in unsurveyed portion of township, not withdrawn in a Federal waterpower project. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 5, 7, 8, and 9.

T. 7 N., R. 18 E.,
All unsurveyed lands adjacent to North Fork Stanislaus River, below the 6,900-foot contour as shown on U.S. Geological Survey topographic map of Big Trees and Dardanelles quadrangles. Protraction of public land surveys indicates that the lands described above, when surveyed, will be wholly within secs. 15, 19, 20, 21, 22, 27, 28, 29, 30, 31, and 32.

T. 6 N., R. 19 E.,
Sec. 12, E½ and E½SW¼;
Sec. 13, NW¼NE¼ and NW¼;
Sec. 14, NE¼, SE¼NW¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 15, S½SW¼ and SE¼;
Sec. 19, S½S½;
Sec. 20, SE¼NE¼ and S½;
Sec. 21, NE¼, S½NW¼, SW¼, and N½SE¼;
Sec. 22, N½ and NE¼SE¼;
Sec. 23, N½ and N½S½;
Sec. 24, SW¼NE¼, S½NW¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 25, NE¼ and N½SE¼;
Sec. 29, NW¼NE¼ and N½NW¼;
Sec. 30, N½ and N½SW¼.

T. 5 N., R. 20 E.,
Sec. 11, S½SE¼;
Sec. 12, SW¼NE¼ and E½SE¼;
Sec. 13, N½NE¼.

T. 6 N., R. 20 E.,
Sec. 26, SW¼SW¼ (unsurveyed);
Sec. 27, SW¼NW¼ (unsurveyed), SW¼, W½SE¼, and SE¼SE¼;
Sec. 28, SE¼NE¼, S½NW¼, and NE¼SE¼;
Sec. 29, S½N½ (unsurveyed) and N½S½;
Sec. 30, lots 1 and 2, S½NE¼, E½NW¼, and N½SE¼;
Sec. 34, N½NE¼;
Sec. 35, W½NW¼, SE¼NW¼ (unsurveyed), SW¼, and SW¼SE¼.

The area described aggregates about 24,650 acres.

The effective date of this cancellation is May 3, 1973.

HENRY W. COULTER,
Acting Director.

JANUARY 3, 1973.

[FR Doc.73-560 Filed 1-10-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Exchange Authority

MIDAMERICA COMMODITY EXCHANGE

New Name for Board of Trade Designated as Contract Market

Notice is hereby given that under the authorization and direction contained in the Commodity Exchange Act, as

amended (7 U.S.C. 1–17a), the order of the Secretary of Agriculture of October 24, 1922, designating the Chicago Open Board of Trade as a contract market for wheat, corn, oats, and rye, and the order of December 8, 1940, designating the Chicago Open Board of Trade as a contract market for soybeans, have been amended to show the name Midamerica Commodity Exchange instead of Chicago Open Board of Trade, effective on November 22, 1972. Headquarters of the exchange are in Chicago, Ill.

Done at Washington, D.C., this the 8th day of January 1973.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.73-635 Filed 1-10-73;8:45 am]

SOIL CONSERVATION SERVICE

BIG RUNNING WATER DITCH WATERSHED PROJECT, ARKANSAS

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Big Running Water Ditch Watershed Project, Lawrence and Randolph Counties, Ark., USDA–SCS–ES–WS–(ADM)–73–33(D).

The environmental statement concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include conservation land treatment measures and 82 miles of channel modification with mitigation features.

This draft environmental statement was transmitted to CEQ on December 19, 1972.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, DC 20250.
Soil Conservation Service, USDA, Post Office Box 2323, Little Rock, AR 72203.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please use name and number of statement above when ordering. The estimated cost is $3.75.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Einer L. Roget, State Conservationist, Soil Conservation Service, Post Office Box 2323, Little Rock, AR 72203.

Comments must be received within 60 days of the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

Dated: January 4, 1973.

W. B. DAVEY,
Deputy Administrator for Watersheds, Soil Conservation Service.

[FR Doc.73-636 Filed 1-10-73;8:45 am]

MUD CREEK WATERSHED PROJECT, S. DAK.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Mud Creek Watershed Project, Grant and Deuel Counties, S. Dak. USDA–SCS–ES–WS–(ADM)–73–37(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, one floodwater retarding structure, 1.7 miles of channel improvement, and 9.5 miles of clearing and snagging.

This draft environmental statement was transmitted to CEQ on December 18, 1972.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, DC 20250.
Soil Conservation Service, USDA, 239 Wisconsin Avenue SW., Huron, SD 57350.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please use name and number of statement above when ordering. The estimated cost is $3.15.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to V. W. Shally, State Conservationist, Soil Conservation Service, 239 Wisconsin Avenue SW., Huron, SD 57350.

Comments must be received within 60 days of the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

Dated: January 4, 1973.

W. B. DAVEY,
Deputy Administrator for Watersheds, Soil Conservation Service.

[FR Doc.73-637 Filed 1-10-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-323]

ALBANY RIVER TRANSPORT, INC. ET AL.

Notice of Multiple Applications

Notice is hereby given that applications have 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 applicants, 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 applicants have requested permission involving the domestic intercoastal or coastwise services described below:

Name of applicants: Albany River Transport, Inc. (Albany River); Empire Transport, Inc., (Empire); Meadowbrook Transport, Inc. (Meadowbrook); Ogden Merrimac Transport, Inc. (Ogden Merrimac); Platte Transport, Inc. (Platte); Rio Grande Transport, Inc. (Rio Grande); Mohawk Shipping Co., Inc. (Mohawk); Ogden Sacramento Trans., Inc. (Ogden Sacramento); Ogden Sea Transport, Inc. (Ogden Sea); James River Transport, Inc. (James River).

Description of domestic service and vessels. Albany River, Empire, Meadowbrook, Ogden Merrimac, Platte, Rio Grande, Mohawk, Ogden Sacramento, Ogden Sea, and James River, all affiliates of one another and of the other owning companies listed hereafter, have each requested written permission to continue employment in the domestic intercoastal and/or coastwise service for the below-listed vessels owned by each or their affiliates: *Provided, however,* The vessel(s) are not then currently receiving operating-differential subsidy.

Ship	*Owning Company*
Albany	Albany River.
Connecticut	Connecticut Transport, Inc.
James	James River.

Missouri	Meadowbrook.
Mohawk	Mohawk.
Ogden Wabash	Wabash Transport, Inc.
Ogden Willamette	Willamette Transport, Inc.
Ogden Yukon	Ogden Sea.
Yellowstone	Rio Grande.

Written permission is now required by the applicants 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 these applications in the Office of The Secretary Maritime Administration, Department of Commerce Building, 14th and E Streets NW, Washington, DC 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 17, 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 19, 1973, Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 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.

Dated: January 5, 1973.

By order of the Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-642 Filed 1-10-73;8:45 am]

[Docket No. S-325]

MONTPELIER TANKER CO.

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. Montpelier Tanker Co. (Montpelier).

Description of Domestic Service and Vessels. The applicant, Montpelier, a subsidiary of Victory Carriers, Inc., owns the *Montpelier Victory* and *American Victory*, and has requested written permission to, directly or indirectly, own, operate or charter one or more vessels in the domestic intercoastal or coastwise service, and to own a pecuniary interest, directly or indirectly, in any person or concern that owns, charters or operates any vessels in the domestic intercoastal or coastwise service. The applicant is also affiliated with Monticello Tanker Co., Mount Vernon Tanker Co. and Mount Washington Tanker Co. who each own and operate a tanker operating in worldwide trading.

Written permission is now required by the applicant, Montpelier, 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, DC 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 18, 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 23, 1973 in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 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.

Dated: January 8, 1973.

By order of the Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-641 Filed 1-10-73;8:45 am]

[Docket No. S-324]

MOORE-McCORMACK LINES, INC.

Notice of Application

Notice is hereby given that Moore-McCormack Lines, Inc. (Lines) has filed an application requesting written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, (1) for Lines and Moore and McCormack Co., Inc. (Co., Inc.) (a) to own, charter out, and operate dry bulk cargo ships as contract carriers in the domestic trade between U.S. ports on the Great Lakes, and (b) to own a pecuniary interest, directly or indirectly, in a person or concern that owns or charters, and operates dry bulk cargo ships as contract carriers in the domestic trade between U.S. ports on the Great Lakes, and (2) for Messrs. Barker and Tregurtha to be directors, and Messrs. Hoyt and McInnes to be officers and directors of a proposed subsidiary, probably named Interlake Steamship Co. Lines has requested this permission in connection with Lines and Co., Inc.'s intention to acquire the assets and properties of Pickands Mather & Co. (PM), including 13 dry bulk cargo ships, listed hereafter, operating as contract carriers between U.S. ports on the Great Lakes. Upon acquisition it is proposed that the ships continue to be operated as contract carriers between U.S. ports on the Great Lakes.

Frank Armstrong.	Samuel Mather.
Charles M. Beeghly.	J. L. Mauthe.
Harry Coulby.	Colonel James Pickands.
E. G. Grace.	Charles M. Schwab.
Robert Hobson.	John Sherwin.
Elton Hoyt 2d.	Walter E. Watson.
Herbert C. Jackson.	

Lines has requested the aforementioned written permission for domestic operation without prejudice to the claimed existence of a bona fide operation by PM or its predecessors as a contract carrier in domestic trade between U.S. ports on the Great Lakes in 1935 and continuous operations since that time, thereby establishing rights under section 805(a).

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 such 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 18, 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 22, 1973, in Room 4896, Department of Commerce Building, 14th 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 subjects and policy of the Act.

Dated: January 8, 1973.

By order of the Maritime Administration.

JAMES S. DAWSON,
Secretary.

[FR Doc.73-639 Filed 1-10-73;8:45 am]

[Docket No. S-326]

OGDEN SEA TRANSPORT, INC., ET AL.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are also presented. The address of each of the applicants is the same, i.e., Two Pennsylvania Plaza, New York, NY 10001.

Applicant's Name	Type of Ship	Name of Ship
Ogden Sea Transport, Inc.	Bulk carrier	SS Columbia.
Do	Tanker	SS Ogden Yukon.
James River Transport, Inc.	General carrier.	SS James.
Ogden Sacramento Transport, Inc.	Bulk carrier	SS Sacramento.
Mohawk Shipping Co., Inc.	General carrier.	SS Mohawk.
Rio Grande Transport, Inc.	Bulk carrier.	SS Yellowstone.
Platte Transport, Inc.	do	SS Platte.
Ogden Merrimac Transport, Inc.	do	SS Merrimac.
Meadowbrook Transport, Inc.	do	SS Missouri.
Albany River Transport, Inc.	General carrier.	SS Albany.
Empire Transport, Inc.	Bulk carrier.	SS Potomac.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C. during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on November 16, 1972 (37 FR 24349).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before January 18, 1973, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: January 8, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-640 Filed 1-10-73;8:45 am]

Office of Import Programs

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket Number: 72-00545-01-74600. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Digital correlator and probability analysis system, Type K7023. Manufacturer: Precision Devices and Systems, Ltd., United Kingdom. Intended use of article: The article will be used initially in an investigation of the variation of the relaxation time of local fluctuations in the order parameter of nematic, smetic, and cholesteric liquid crystals in their isotropic phases very near the phase transition between the isotropic phase and a liquid crystal phase. The materials to be studied include p-methoxy benzylidene, p-n-butyl aniline and p-ethoxy benzylidene, p-amino benezonitrile (nematic liquid) and several p-alkoxybenzylidene-p aminoacetophenons (smetic liquid).

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The Department of Health, Education, and Welfare (HEW) advises in its memorandum

dated December 8, 1972, that the combination of speed of data collection and time resolution of input pulses that the foreign article provides is pertinent to the applicant's study which involves measurement of relaxation times of nematic and smetic liquid crystals. The most closely comparable domestic instrument is the Model SAI–43 correlation and probability analyzer manufactured by Salcor Analysis Industries Corp. HEW further advises that it knows of no comparable domestic instrument (including the SAI–43) which matches the pertinent combination provided by the foreign article. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73–623 Filed 1–10–73;8:45 am]

MERCY CATHOLIC MEDICAL CENTER ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73–00087–33–46040. Applicant: Mercy Catholic Medical Center, Lansdowne Avenue and Baily Road, Darby, Pa. 19023. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in studying the evolution of pulmonary edema in dogs. Specifically the article will be used for analysis of the fractional volume of interalveolar tissue. The article will also be used for training in pathology of electron microscope operation and electron micrograph interpretation. Application received by Commissioner of Customs: August 4, 1972. Advice submitted by Department of Health, Education, and Welfare on: December 8, 1972.

Docket No. 73–00100–33–46040. Applicant: St. Joseph Hospital, 1919 LaBranch, Houston, TX 77002. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the elucidation of pathological entities to be reported in medical literature, and the study of more basic research problems, such as the fine structure of tissue cultures, and experimentally produced neoplasms in mice. In addition the article will be used in a formal training program in electron microscopy. Application received by Commissioner of Customs: August 10, 1972. Advice submitted by Department of Health, Education, and Welfare on: December 8, 1972.

Docket No. 73–00106–33–46040. Applicant: Beekman Downtown Hospital, 170 William Street, New York, NY 10038. Article: Electron Microscope, Model HS–8. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for training of medical technologists and residents in the principles of electron microscopy and application of electron microscopy to tissues sections. In addition, the article will be used in research directed largely to the cardiovascular system in man and animals to improve the understanding of cardiac disease and diagnosis and provision of a rational basis for therapy. Application received by Commissioner of Customs: August 11, 1972. Advice submitted by Department of Health, Education, and Welfare on: December 8, 1972.

Docket Number: 73–00110–33–46040. Applicant: Shippensburg State College, Shippensburg, Pa. 17257. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used to observe and photograph the various cellular organelles and membrane systems of animal and plant cells in order to establish relationships between structural properties of the organelles and functioning or metabolic state of the cell or organism from which they have been extracted. Specifically, the experiments to be conducted involve (1) ultrastructure of lysosomes in carrot embryoids, and their possible role in control of cell division and (2) the study of cellular components of certain flagellate protozoa, namely the kinetoplast and flagellar structures in trypanosomatids. The article will also be used in various graduate and undergraduate courses as a research tool to examine various cellular components; and as a training tool to teach techniques of specimen preparation, use of the electron microscope, and interpretation of electron micrographs. Application received by Commissioner of Customs: August 15, 1972. Advice submitted by Department of Health, Education, and Welfare on: December 8, 1972.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope which is a relatively complex instrument designed primarily for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its respectively cited memoranda, that the relative simplicity of design and ease of operation of the foreign articles described above are pertinent to the applicants' educational purposes. We, therefore, find that the Forgflo Model EMU–4C electron microscope is not of equivalent scientific value to any of the foreign articles described above for such purposes as these articles are intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73–626 Filed 1–10–73;8:45 am]

RUTGERS MEDICAL SCHOOL ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73–00092–33–46040. Applicant: Rutgers Medical School, New Brunswick, N.J. 08903. Article: Electron Microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the biosynthesis and degradation of collagen, the major protein found in tissues such as skin, bone, and small blood vessels. Sections of tissues and cells which are either synthesizing or degrading collagen and molecules such as enzymes which are involved in either the biosynthesis or degradation of collagen will be examined with the article. The article will also be used to teach students who are candidates for M.D. degree, students who are candidates for Ph. D. degrees in biochemistry and postdoctoral fellows who seek further research training. Application received by Commissioner of Customs:

August 3, 1972. Advice submitted by Department of Health, Education, and Welfare on: December 8, 1972.

Docket No. 73-00104-33-46040. Applicant: University of Iowa, Ultrastructure Division, College of Dentisty, Dental Science Building, Iowa City, Iowa 52240. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for biological research projects in the academic discipline of dentistry which include, among others, the following:

A. Computerization of electron densitometric data obtained from Faraday cage of electron microscope in quantitative and three-dimensional studies of the nervous system.

B. Comparative quantitative studies between light microscopy and low magnification electron microscopic technics, specifically with regard to nerve fiber size spectra.

C. High resolution electron microscopy of nerve twig myelin and axoplams with different functions.

D. Three-dimensional reconstructions of millimeter-long mammalian muscle spindles.

E. High resolution negative staining technic in characterization of protein-polysaccharide-complexes of unknown size and composition in embryonic connective tissue from mice. Also students completing the course Electron Microscopy will use the instrument for training in three-dimensional ultrastructure, high-resolution electron microscopy, and maintenance of different makes of a modern electron microscope. Application received by Commissioner of Customs: August 11, 1972. Advice submitted by Department of Health, Education, and Welfare on: December 8, 1972.

Docket No. 73-00108-33-46040. Applicant: Veterans' Administration Hospital, General Medical Research Service, 3495 Bailey Avenue, Buffalo, NY 14215. Article: Electron microscope, Model Elmiskop 1A and accessories. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in studies of tight junction of the proximal tubule of rabbit for determination of fine structure and modification of fine structure by hormones such as antidiuretic hormone. Other experiments to be conducted include: (1) Localization of lactic dehydrogenase isoenzymes in the heart muscle of experimental animals subjected to periods of hypoxia, and (2) identification of the components of amyloid in organs of experimental animals and human beings afflicted with the disease, and (3) identification of isolated and purified components prior to chemical characterization. Application received by Commissioner of Customs: August 15, 1972. Advice submitted by Department of Health, Education, and Welfare on: December 8, 1972.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article has a specified resolving capability equal to or better than 3.5 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C has a specified resolving capability of 5 Angstroms. (Resolving capability bears an inverse relationship to its numerical rating in Angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-624 Filed 1-10-73;8:45 am]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00182-01-77030. Applicant: Yale University, Department of Chemistry, 225 Prospect Street, New Haven, CT 06520. Article: Nuclear Magnetic Resonance, Spectrometer, Model JNM-MH-100. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used in several areas of research including the following representative samples: (1) Structural investigations of sparingly soluble natural, products; (2) High sensitivity studies of ^{13}C sidebands to follow incorporation of labeled compounds in the elucidation of biosynthetic pathways; (3) Kinetic and mechanistic studies using accurate nmr line shape analysis of nonrigid organic, organometallic and inorganic complex compounds; (4) Studies of binding of small molecules to oligonucleotides; (5) Studies of isotope exchange; (6) Studies of rearrangement mechanisms in Vitamin B_{12} analogs; (7) NOE and high resolution studies of stereo-chemistry about the glycosidic linkage in nucleosides; (8) Studies involving relationships between electronic and molecular structure and nmr parameters in small ring and bicyclic alkanes and alkenes; (9) Kinetic and mechanistic studies of rearrangements of carbonium ions; and (10) Structural investigations of aqueous dispersions of lecithins and other model membrane systems. The article will also be used in the following courses: (1) Chemistry 42 (a,b), Research Problems in Chemistry; and (2) Chemistry 144, Organic Laboratory Techniques.

Comments: Comments were received from Varian Associates which allege inter alia that an NMR Spectrometer of equivalent scientific value (the Varian XL-100-15) for the purposes for which the article is intended to be used is being manufactured in the United States. (Comments dated January 28, 1972.) Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant institution without excessive delay at the time the foreign article was ordered (Sept. 2, 1970). Reasons: The foreign article is of the category that is customarily "produced on order" which is defined in § 701.2(j) of the Department's regulations as "an instrument, apparatus, or accessory which a manufacturer lists in a current catalog and is able and willing to produce and have available without unreasonable delay to the applicant." Section 701.11(b) of the regulations provides in pertinent part that "in determining whether a U.S. manufacturer is able and willing to produce a product on order, or custom-made instrument, apparatus, or accessory and have it available without unreasonable delay to the applicant, the Deputy Assistant Secretary shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category."

The question of availability without unreasonable delay is associated with the issue of excessive delivery time which is explained in § 701.11(c) of the regulations as follows:

(c) *Excessive delivery time.* Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described in response to question 7 of the application form, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated by the difference between the delivery times quoted by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the

difference in delivery times is excessive, the Deputy Assistant Secretary shall take into account the relevancy of the applicant's program to other research programs with respect to timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

The foreign article was ordered September 2, 1970. The applicant alleges that the Varian XL–100–15, the most closely comparable domestic instrument, was not available "within a reasonable delivery period from the time of our purchase." In a letter dated August 5, 1970, to the Department of Commerce regarding the availability of the Varian XL–100–15 system, Varian advised that the delivery time for the XL–100–15 system, was 6 to 8 months. The delivery time for the foreign article was quoted as 90 days from the receipt of order. The National Bureau of Standards (NBS) advises in its memorandum dated October 7, 1972, that the difference in delivery time is significant for the applicant's requirement for use of the article during the 1970–71 academic year.

Accordingly, we find the difference in delivery time between the foreign article and the Varian XL–100–15 to be excessive within the meaning of § 701.11(c) as it would seriously impair the accomplishment of the applicant's program.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73–625 Filed 1–10–73;8:45 am]

YESHIVA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73–00052–01–10100. Applicant: Yeshiva University, Belfer Graduate School of Science, Amsterdam Avenue and 185th Street, New York, N.Y. 10033. Article: Temperature-jump instrument. Manufacturer: Hartley Measurements, Ltd., United Kingdom. Intended use of article: The article is intended to be used to determine the rates of extremely fast reactions in aqueous solutions. The temperature-jump technique consists of perturbing an equilibrium system with rapid change in temperature and observing the rapid exponential relaxation to the new equilibrium conditions. The relaxation times of the reactions to be studied are as fast as 1 or 2 microseconds. Particular emphasis will be placed on reactions of biochemical importance, differences between diastereoisomeric pairs, and differences between isotopic pairs.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article can be used to measure reactions taking place in as little as 1 microsecond. The most closely comparable domestic temperature-jump apparatus, the Model D–150, manufactured by the Durrum Instrument Corp. cannot be used to measure reaction times faster than 20 microseconds. The Department of Health, Education, and Welfare (HEW) in its memorandum dated December 8, 1972 advises that the capability of the article for measuring reactions occurring in a minimum time is pertinent to the purposes for which the article is intended to be used. HEW also advises that it knows of no comparable domestic instrument which matches the pertinent specification of the article.

For these reasons we find the Model D–150 is not of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73–627 Filed 1–10–73;8:45 am]

Office of Minority Business Enterprise

ADVISORY COUNCIL FOR MINORITY ENTERPRISE—EDUCATION COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776) notice is hereby given that a public meeting of the Education Committee of the Advisory Council for Minority Enterprise will be held on January 19 and 20, 1973 in Room Executive IV of the Ramada Inn, 6060 Central Expressway, Dallas, Tex. The meeting will be held from 1 p.m. to 5 p.m. on January 19 and from 9 a.m. to 12 noon on January 20, and will be open to the public. Any member of the public who wishes to do so may file a written statement with the Committee, before or after the meeting. Such statements may be filed at 1000 Vermont Avenue, Washington, D.C. (202/967–3922). Interested persons may make oral statements at the meeting to the extent that the time available for the meeting permits.

The purpose of the meeting is to formulate plans and priorities for the Education Committee for the forthcoming year.

Dated: January 8, 1973.

CHARLES STEIN,
Executive Secretary of the Advisory Council for Minority Enterprise.

[FR Doc.73–669 Filed 1–10–73;8:45 am]

Office of Textiles

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Notice of Closed Meeting

A. Management-Labor Textile Advisory Committee (the Committee).

B. The meeting is scheduled for January 17, 1973, at 2 p.m., Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

C. The purpose of the meeting is to provide advice and information to Department officials on conditions in the textile industry and on trade in textiles and apparel.

D. The Acting Assistant Secretary of Commerce for Administration, pursuant to section 10(d) of Public Law 92–463, determined on January 8, 1973, that the Committee meeting scheduled for January 17, 1973, shall be exempt from the provisions of section 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in section 552(b)(5) of title 5, United States Code.

E. Further information may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

ARTHUR GAREL,
Director, Office of Textiles, Bureau of Resources and Trade Assistance.

[FR Doc.73–751 Filed 1–10–73;10:25 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9542; Docket No. FDC–D–535; NDA 9–542, etc.]

CERTAIN COMBINATION DRUGS CONTAINING RAUWOLFIA ALKALOIDS

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications; Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study

Group, on the following drugs for oral administration:

1. Reserpine with Pyrilamine Maleate Tablets containing pyrilamine maleate and reserpine; Nysco Laboratories, Inc., 34-24 Vernon Boulevard, Long Island City, NY 11106 (NDA 10-934).

2. Belserp Tablets containing reserpine, hyoscyamine sulfate, atropine sulfate, and scopolamine hydrobromide; Nysco Laboratories, Inc. (NDA 10-254).

3. Raudonna Tablets containing reserpine, hyoscyamine sulfate, atropine sulfate, and scopolamine hydrobromide; Mallinckrodt Pharmaceuticals, Division Mallinckrodt Chemical Works, Second and Mallinckrodt Street, St. Louis, Mo. 63160 (NDA 10-127).

4. Renir Tablets containing reserpine and ephedrine sulfate; The S. E. Massengill Co., 527 Fifth Street, Bristol, TN 37620 (NDA 10-407).

5. Pedresin Tablets containing rescinnamine, thiamine mononitrate, and cobalamin concentrate; Nysco Laboratories, Inc. (NDA 11-291).

6. Aminoserp Tablets containing aminophylline and reserpine; Nysco Laboratories, Inc. (NDA 10-164).

7. Solfo-Serpine Tablets and Capsules containing reserpine, phenobarbital, and colloidal sulfur; Wm. P. Poythress & Co., Inc., 16 North Street, Richmond, VA 23217 (NDA 11-139).

8. Sandril with Pyronil Tablets, containing reserpine and pyrrobutamine phosphate; Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 9-542).

The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that combination drugs of the kinds described above will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or that each ingredient of the combination preparations contributes to the total effects claimed for the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto, including those providing for other oral dosage forms, on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: January 2, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-566 Filed 1-10-73;8:45 am]

[DESI 6257; Docket No. FDC-D-540; NDA 6-257]

COMBINATION CONTAINING AMINOPHYLLINE, DIPHENHYDRAMINE, AND AMMONIUM CHLORIDE

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Hydryllin Compound, containing aminophylline, diphenhydramine, and ammonium chloride; G. D. Searle & Co., Post Office Box 5110, Chicago, Ill. 60680 (NDA 6-257).

The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each component of such drug contributes to the total effects claimed.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of pertinent parts of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of pertinent parts of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: December 27, 1972.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.73-567 Filed 1-10-73;8:45 am]

MANUFACTURERS AND DISTRIBUTORS

Notice of Prescription Drugs for Human Use Affected by Drug Efficacy Study Implementation; Correction

The Commissioner of Food and Drugs issued a notice to manufacturers and distributors regarding prescription drugs for human use affected by Drug Efficacy Study Implementation, which was published in the FEDERAL REGISTER of Thursday, December 14, 1972 (37 FR 26623). The third sentence in the second paragraph of the first column on page 26625 reading "If infections with the gram-negative organisms are impetigo-like and not deep and spreading, they may be treated with topical antibiotics because systemically administered agents for these organisms would be used for most skin infections since they are usually due to staphylococci and streptococci." should be corrected to make two sentences that will read "If infections with the gram-negative organisms are impetigo-like and not deep and spreading, they may be treated with topical antibiotics because systemically administered agents for these organisms may produce serious side effects. Bacitracin (or gramicidin) and neomycin would be used for most skin infections since they are usually due to staphylococci and streptococci."

Dated: December 26, 1972.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.73-564 Filed 1-10-73;8:45 am]

[DESI 9036]

OXYTETRACYCLINE HYDROCHLORIDE AND POLYMYXIN B SULFATE VAGINAL TABLETS

Drugs for Human Use; Drug Efficacy Study Implementation Followup Notice

In a notice (DESI 9036) published in the FEDERAL REGISTER of April 4, 1972 (37 FR 6773), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

Terramycin Vaginal Tablets with Polymyxin B Sulfate, containing oxytetracycline hydrochloride and polymyxin B sulfate; Pfizer Inc., 235 East 42d Street, New York, NY 10017 (NDA 61-009).

The notice stated that the drug was regarded as effective and possibly effective for the various labeled indications.

The possibly effective indications have been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of the drug has been submitted pursuant to the notice of April 4, 1972.

Pfizer Inc. has supplemented their antibiotic application to delete the possibly effective indications from the drug's labeling.

Batches of such drugs with labeling bearing indications for which substantial evidence of effectiveness is lacking are no longer acceptable for certification or release or eligible for exemption from certification.

Any person who will be adversely affected by the deletion from labeling of the indications for which the drug has been reclassified from possibly effective to lacking substantial evidence of effectiveness may, within 30 days after the date of publication of this notice in the FEDERAL REGISTER, petition for the issuance of a regulation providing for other certification of the drug for such indications. The petition must be supported by a full factual and well documented medical analysis which shows reasonable grounds for the issuance of such regulation.

A petition for issuance of said regulation should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: December 26, 1972.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.73-565 Filed 1-10-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Management

[Docket No. D-73-213]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority With Respect to Loan and Contract Servicing

The Redelegation of Authority to Regional Administrators et al., with respect to Loan and Contract Servicing published at 35 FR 16104, October 14, 1970, and amended at 36 FR 1488, January 30, 1971, 36 FR 21539, November 10, 1971, 37 FR 104, January 5, 1972, and 37 FR 14427, July 20, 1972, is further amended as follows:

1. In section A a new paragraph 2 is added to read as follows:

2. In addition to the authority redelegated in section A,1, the Regional Administrator and Deputy Regional Administrator, San Francisco Regional Office, Region IX, and the Area Director, Deputy Area Director, and Director, Housing Management Division, San Francisco Area Office, Region IX, each is authorized to exercise within the jurisdiction of the San Francisco Area Office the following authority:

a. To approve and execute the modification in the terms of insured project mortgages subsequent to final insurance endorsement or HUD-held mortgages; *Provided*, That such authority is limited to deferment of principal not to exceed 1 year and only so long as the mortgagor continues to pay full interest, escrow requirements, and, as applicable, service charges on HUD-held mortgages.

b. To approve and execute Provisional Work-Out Arrangements with respect to HUD-held project mortgages even though in default: *Provided*, That such work-out arrangements shall not exceed 1 year and that the mortgagor continues to pay a monthly installment equal to the service charge, escrow requirements and not less than one-half (½) of the interest requirement.

2. In section A, paragraph 2 is renumbered 3 and is revised to read:

3. Each Director, Housing Management Division, Area Office and Insuring Office, is authorized to exercise the power and authority under section A,1, and each Chief, Management and Mortgage Servicing Section, Insuring Office, is authorized to exercise the power and authority under section A,1, paragraphs d-s.

(Secretary's delegation of authority published at 36 FR 5005, Mar. 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of December 15, 1972.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.73-605 Filed 1-10-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX 72-2; Notice 2]

GENERAL MOTORS CORP.

Temporary Exemption From Federal Motor Vehicle Safety Standard

The National Highway Traffic Safety Administration has decided to grant General Motors Corp. an exemption from compliance with Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, from January 8, 1973 to January 1, 1974, covering up to 1,000 Chevrolet passenger cars. The ground for the exemption is that it would facilitate the development and field evaluation of an innovational safety feature.

Notice of petition for the exemption was published in the FEDERAL REGISTER on December 13, 1972 (37 FR 26539) and an opportunity afforded for comment. Section 123(e) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410(e)) requires General Motors to "include in the application research, development, and testing documentation establishing the innovational nature of the safety features and a detailed analysis establishing that the level of safety of the new safety feature is equivalent to or exceeds the level of safety established in the standard from which the exemption is sought." The salient points of the petition in support of these factors may be summarized as follows:

1. A detailed description of the General Motors Air Cushion Restraint System has been filed in Docket No. 69-7, and the system is discussed in two papers of the Society of Automotive Engineers: No. 720407, "Air Cushion Restraint Systems Development and Vehicle Applications", by D. D. Campbell, and No. 720411, "Special Problems and Considerations in the Development of Air Cushion Restraint Systems", by E. H. Klove, Jr. and R. N. Oglesby.

2. The SAE papers and documentation submitted previously by General Motors establish the innovational nature of air cushions on a restraint system, and demonstrate that the level of safety exceeds the level of safety provided by the lap and shoulder restraints required by Standard No. 208.

The petition was supported by Allstate Insurance Co. and opposed by the Public Interest Research Group and Edward F. Kearney of Falls Church, Va. The principal issues raised by the comments, and involved in the matter, are as follows:

A. *Support for petition.* The Public Interest Research Group asserts that petitioner has submitted no research, development, or test data with the application to support its allegations that it is developing an innovational safety feature or that the feature provides a level of safety which equals or exceeds that required by Standard No. 208. The Research Group contends that it is unnecessarily burdensome for the public to search the files for the documents General Motors has referenced, and that the petitioner should submit the results of "development and certification tests conducted in accordance with MVSS 208" which apparently are not in the public domain.

The NHTSA has decided that General Motors has adequately made and documented its case, and that the exemption if granted would facilitate the development and field evaluation of an innovational safety feature, one which will provide a level of safety exceeding that required by Standard No. 208. The air cushion restraint system in question was developed by General Motors as a result of rulemaking proceedings of the NHTSA (Docket No. 69-7) culminating in the issuance of Standard No. 208, *Occupant Crash Protection*. The system is designed to satisfy the requirements of "Option 1" of that standard, providing complete passive protection. All aspects of the air cushion restraint system, including test data and discussions of its merits relative to other types of systems, are described in detail in the many thousands of pages of material contained in that docket, which is available to the public at the same location as the petition considered in this notice. In response to petitions for review of the

standard in the U.S. Court of Appeals for the Sixth Circuit, this agency took the position that passive systems such as the one considered in this petition provide an overall level of protection that is equivalent to, and in many respects superior to, the protection offered by belt systems presently in use. Although the court of appeals remanded the proceeding to the agency for further elaboration of its test dummy specifications, it upheld the NHTSA's judgment that the passive protection requirement was practicable and met the need for motor vehicle safety. (Chrysler Corp. v. DOT, No. 71-1339, 6th Cir. 1972.) Thus, this petition is unique in that it involves a system that is already exhaustively described in the public docket, and whose merits have already been favorably passed on in the course of both agency rulemaking and judicial review. For these reasons this agency has determined that further documentation of the features of General Motors' air cushion system for purposes of this petition is unnecessary.

B. *Scope of exemption.* Edward F. Kearney has commented that the exemption should not relieve the manufacturer of the obligation to provide lap belts in the driver's seating position, contending that failure of the driver to wear the lap belt can contribute to a crash or cause injuries to others.

The purpose of the exemption is to evaluate under actual driving conditions a restraint system for front seat occupants that is completely passive in nature, and not a hybrid active-passive system. To grant Mr. Kearney's request would tend to defeat the purpose of this exemption. Also, as noted above, the agency has determined that the air cushion system provides a level of safety at least equivalent to belt systems. The Allstate Insurance Co., which has equipped an experimental fleet of over 200 vehicles with both air cushions and lap belts, did not make a request similar to Mr. Kearney's in supporting the petition, as it has found that usage of the lap belt system is less than 17 percent.

C. *Timeliness of application.* The Research Group argued that an exemption cannot be granted in advance of the application procedures, alleging that the regulations are an integral part of the exemption scheme.

The NHTSA does not agree with this position. The new exemption authority (Public Law 92-548) was enacted on October 25, 1972. Although the legislation directed the Secretary to issue regulations, it did not state that no action on petitions should be taken until regulations were finally in effect. In this case, deferring consideration of the petition would delay field evaluation of a safety device which the agency believes has a great potential in reducing deaths and injuries resulting from traffic accidents. The NHTSA agrees that it is normally preferable to defer action until the implementing regulations are adopted, but in this case important countervailing considerations were found to exist.

In consideration of the foregoing, General Motors Corp. is granted NHTSA Exemption No. 73-2, exempting up to 1,000 Chevrolet passenger cars manufactured from January 8, 1973, to January 1, 1974, from compliance with the requirements of paragraphs S4.1.1.2, S4.1.1.3, and S4.1.2.2 of Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, applicable to front designated seating positions.

General Motors will be required to provide notification in the manner proposed (37 FR 25533, Dec. 1, 1972), in both a windshield label and the vehicle's certification label attached to the door or door post nearest the driver.

(Sec. 3, Public Law 92-548, 86 Stat. 1151, 15 U.S.C. 1410; delegation of authority at 49 CFR 1.51)

Issued on January 5, 1973.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.73-547 Filed 1-8-73;10:50 am]

[Docket No. EX 72-1; Notice 2]

LOTUS CARS, LTD.

Temporary Exemption from Federal Motor Vehicle Safety Standard

The National Highway Traffic Safety Administration has decided to grant Lotus Cars, Ltd. an exemption from compliance with Federal Motor Vehicle Safety Standard No. 214, *Side Door Strength*, from January 8, 1973, to August 15, 1973. The ground for the exemption is that compliance would cause the petitioner substantial economic hardship. The exemption is for the Lotus Europa model only.

Notice of petition for the exemption was published in the FEDERAL REGISTER on December 2, 1972 (37 FR 25768), and an opportunity afforded for comment. Section 123(e) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410(e)) requires Lotus to demonstrate that compliance with Standard No. 214 would cause it substantial economic hardship, and that it has made a good faith effort to comply with the standard. The salient points of the petition in support of these factors may be summarized as follows:

1. The basic design of the Europa door does not permit the introduction of a straight beam linking the door hinge to the door latch. Introduction of a sufficient reinforcement would incur tooling and development costs of $750,000, and necessitate an increase in retail price of $1,500. However, the reinforcement would reduce the window opening in the Europa to less than 3 inches.

2. Thirty-eight percent of the company's worldwide sales in 1972 have been in the American market. The Elan model, representing 20 percent of U.S. sales, has already been discontinued because of its inability to meet Standards No. 215 and No. 302, effective September 1, 1972. Failure to secure an exemption from Standard No. 214 would terminate the participation by Lotus in the American market for about a year until new conforming models are introduced. Projected losses of $444,000 would be incurred.

3. Lotus believes the exemption will not be necessary for more than 1,000 units, and the two new models scheduled for introduction in 1973 are designed to conform to Standard No. 214.

Comments supporting the petition were received from American Motors Corp. and Ecurie Shirlee Corp. of Manhattan Beach, Calif. The petition was opposed by the Center for Auto Safety, the Public Interest Research Group, and Mr. George J. Grumbach, Jr. of New York City, N.Y. The principal issues raised by the comments, and involved in the matter, are as follows.

A. *Substantial economic hardship.* The Public Interest Research Group argued that Lotus has failed to prove that lack of an exemption would result in an irretrievable loss of U.S. dealerships and permanent exclusion from the American market. It asserted that affidavits from dealers and market surveys should have been submitted by Lotus in support of its statement of expected consequences of a denial. The Research Group also contended that Lotus should have estimated whether the predicted economic loss of $444,000 could be made up in whole or in part by raising the price of vehicles sold outside the U.S. market, and showing, as an alternative, that the market outside the United States could not absorb the nonexempted Lotuses. The Research Group suggested that in the absence of such a demonstration, the only economic hardship suffered would be a reduction in profits, and expressed doubt that that alone constitutes "substantial economic hardship." The Center for Auto Safety asked for a clarification of "hardship," arguing that the need of Lotus for an exemption is predicated upon faulty management decisions and that the NHTSA should discourage applications growing out of such circumstances.

The NHTSA has decided that Lotus has adequately made and documented its case for substantial economic hardship. It is clear that a denial would cause Lotus to leave the American market until either a conforming Europa could be manufactured, late in 1973, or until its planned new models could be introduced. Bringing the Europa into conformity would necessitate large, unplanned-for expenditures, delay new models that will incorporate a higher level of overall safety than the Europa, and result in a vehicle whose reception by the public would be dubious because of its reduced window opening. Either course would deprive petitioner of almost 40 percent of its sales income for 1973.

It is possible that some lost volume could be diverted elsewhere, but other costs and risks would be incurred. The incremental inventory cost of equipping the vehicles to meet U.S. safety standards would either be substantially lost, or result in an additional price premium that would make the vehicles harder to sell. The effort to expand sales for a

short period in other markets would entail major costs in overhead and management time, with uncertain results. It is probably true that Lotus has a sufficient reputation that denial of the exemption would not cause an irretrievable loss of its dealerships, or permanently exclude it from the U.S. market. But this agency does not interpret the exemption legislation (Public Law 92–548, 86 Stat. 1159) as requiring such a showing. It finds that Lotus has demonstrated that without an exemption this small producer will suffer a severe financial setback. That the projected loss may ultimately not be fatal is balanced by the fact that the exemption sought is limited to one standard and to a short period of time. Thus, on the basis of data presented, the NHTSA finds that conformity to Standard 214 would cause substantial economic hardship for Lotus within the meaning of section 123 of the Act.

The NHTSA cannot accept the view of the Center for Auto Safety that the agency should reject an application resulting from a risk that management consciously incurred. The Center argues that Lotus should have devoted its efforts to improving the Europa rather than gambling that its conforming model would be ready by January 1, 1973. It was, however, demonstrated that Lotus has given effort to upgrading the Europa. The basic design of the vehicle antedates its introduction in 1968, when the initial Federal safety standards became effective, and the company has not previously sought an exemption from any other standard.

Particularly in a small company, management cannot be expected to anticipate every contingency, and Lotus' inability to adhere to its production schedule for its new model should not be considered fatal to its application. The situation would be different where management deliberately avoided conformance, but no evidence of bad faith is present in the current situation.

B. *Good faith efforts to comply.* The Public Interest Research Group and the Center for Auto Safety argued that Lotus should demonstrate at what points and how its schedule for development of a model complying with Standard No. 214 was delayed, and that Lotus should state whether alternate methods were considered.

The NHTSA believes that the submission by Lotus demonstrates that the Europa could not be brought into conformity without major changes to the vehicle structure, which would create a problem of window clearance, and that the decision to introduce successor models was made at a reasonably early time, with a view to conforming to Standard No. 214 and presumably other standards coming into effect in the mid-70's. Submission of a development schedule would be relevant to the issue of good faith, but since a delay of less than a year is involved, the agency has found such a submission unnecessary to make a decision at this time. The question may be reconsidered, however, in the event of a petition for extension of the exemption.

C. *Public interest.* Mr. George J. Grumbach, Jr. commented that the economic hardship to Lotus should be weighed against the cost of injuries that could be suffered. He argued that damages from personal injuries of $100,000 could arise, and that if Lotus' profit on a sale of 1,000 units is $1,000 per unit, "no more than ten serious accidents would be required to counterbalance the economic hardship Lotus claims it would suffer." Mr. Grumbach suggested that as a minimum Lotus should indicate on its sales controls and literature, and on a permanent plaque on the dashboard, that the Europa fails to meet Standard No. 214.

Mr. Grumbach's comments point to an issue that much be considered in determining whether the exemption is in the public interest. It should be noted, however, that an analysis of direct public costs and benefits may not be conclusive in determining the merits of an exemption petition. The intent of the hardship exemption legislation was at least in part to mitigate the economic effects of the standards on small manufacturers, with a view to preserving their viability and the long-term public benefits of variety of choice in automotive transportation—benefits that cannot adequately be measured in financial terms.

The NHTSA has found that the safety detriment to drivers and passengers of Lotus Europas is not sufficient to outweigh the other considerations discussed herein, in light of the purposes of the exemption legislation. The exemption will enable Lotus to introduce in a relatively short time vehicles that will meet or exceed current and proposed standards. Again, the limited character of the Lotus petition is relevant, in that exemption is sought for only 1 000 vehicles from one standard for 8 months.

Mr. Grumbach's suggestion regarding purchaser notification has been filed in Docket No. 72–30 and will be considered in formulating the regulations for Temporary Exemption from Federal Motor Vehicle Safety Standards. Lotus will be required to provide notification in the manner proposed (37 FR 25533, Dec. 1, 1972), on both a windshield label and the vehicle's certification label attached to the door or door post nearest the driver. The certification label will read:

> This Vehicle Conforms To All Applicable Federal Motor Vehicle Safety Standards In Effect on the Date of Manufacture Shown Above Except for Standard No. 214, Side Door Strength. Exempted Pursuant to NHTSA Exemption No. 73–1.

The windshield label will have the same statement, except that the words "shown above" will not be included.

D. *Timeliness of application.* The Public Interest Research Group argued that an exemption cannot be granted in advance of adoption of the application procedures, alleging that the regulations are an integral part of the exemption scheme.

The NHTSA does not agree with this position. The new exemption authority (Public Law 92–548) was enacted on October 25, 1972. Although the legislation directed the Secretary to issue regulations, it did not state that no action on petitions should be taken until the regulations were finally in effect. In this case, delay would create a hardship, since Standard No. 214, from which exemption is sought, was effective January 1, 1973. The NHTSA agrees that it is normally preferable to defer action until the implementing regulations are adopted, but in this case important countervailing considerations were found to exist.

In consideration of the foregoing, Lotus Cars, Ltd. is granted NHTSA Exemption No. 73–1, exempting its Europa model manufactured from January 8, 1973, to August 15, 1973, from compliance with Federal Motor Vehicle Safety Standard No. 214, *Side Door Strength.*

(Sec. 3, Public Law 92–548, 86 Stat. 1159, 15 U.S.C. 1410; delegation of authority at 49 CFR 1.51)

Issued on January 5, 1973.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.73–548 Filed 1–8–73;10:50 am]

PRIME GLAZING MATERIAL MANUFACTURERS

Assignment of Code Numbers

This notice publishes code numbers presently assigned by NHTSA to prime glazing material manufacturers.

Code numbers may be used by prime glazing material manufacturers as a means of certifying that glazing materials conform to Motor Vehicle Safety Standard No. 205, "Glazing Materials" (49 CFR 571.205). Pursuant to recent amendments to Standard No. 205 (37 FR 12237, June 21, 1972; 37 FR 24035, November 11, 1972), each prime glazing material manufacturer will be required, after April 1, 1973, to certify glazing materials manufactured by him by affixing the symbol DOT to them, in accordance with paragraph S6.2 of Standard No. 205, followed by a code number assigned by NHTSA. Code numbers will be assigned to prime glazing material manufacturers on their written request to the Associate Administrator, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

(Sections 103, 114, 119, Public Law 89–563, 80 Stat. 718 15 U.S.C. 1392, 1403, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on January 5, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

CODE NUMBERS ASSIGNED TO PRIME GLAZING MATERIAL MANUFACTURERS

Code No.	Manufacturer
1	Not assigned.
2	Do.
3	Do.
4	Do.
5	Do.
6	Do.
7	Do.
8	Do.
9	Do.
10	Do.
11	Do.
12	Do.
13	Do.
14	Saftee Glass Co., Inc., Philadelphia, Pa.
15	Libbey-Owens-Ford Co., Toledo, Ohio.
16	Hayes-Albion Corp., Jackson, Mich.
17	Triplex Safety Glass Co., Ltd., London, England.
18	P.P.G. Industries, Pittsburgh, Pa.
19	Duplate Canada, Ltd., Toronto, Ontario, Canada.
20	Asahi Glass Co., Ltd., Tokyo, Japan.
21	Chrysler Corp., Detroit, Mich.
22	Guardian Industries Corp., Detroit, Mich.
23	Nippon Sheet Glass Co., Ltd., Osaka, Japan.
24	Splintex Belge S.A., Gilly, Belgium.
25	Flachglas AG Delog Detag, Furth/Bayern, West Germany.
26	Corning Glass Works, Corning, N.Y.
27	Vereinigte Glaswerke, Herzogenrath, West Germany.
28	Spiegelglaswerke Germania, Porz, West Germany.
29	Withdrawn.
30	Südglas Klumpp & Arretz Gmbh, Bietigheim/Wurtt, West Germany.
31	Glas-und Spiegelmanufaktur N. Kinon Gmbh, Aachen, West Germany.
32	Glaceries Reunies, S.A., Belgium.
33	Laminated Glass Corp., Detroit, Mich.
34	Withdrawn.
35	Hordis Brothers, Inc., Pennsauken, N.J.
36	Societa Italiana Vetro, S.p.A., San Salvo (Chieti), Italy.
37	Fabbrica Pisana DiSpecchi E Lastre Colate, Milan, Italy.
38	N V Glasfabriek "SAS VAN GENT", Sas van Gent, Netherlands.
39	Compagnie de Saint-Gobain, Neuilly, France.
40	Dearborn Glass Co., Bedford Park (Argo Post Office), Ill.
41	Scanex Säkerhetsglas Aktiebolag, Landskrona, Sweden.
42	Société Industrielle TRIPLEX, Longjumeau, France.
43	Boussois - Souchon - Neuvesel, Paris, France.
44	Central Glass Co., Ltd., Tokyo, Japan.
45	Splintex, Ltd., London, England.
46	Cristales Inastillables de Mexico, S.A., Xalostoc Edo. de Mexico.
47	Nordiamex Safety Glass OY, Helsinki, Finland.
48	Rohm and Haas Co., Philadelphia, Pa.
49	Lasipaino Ky, Tampere, Finland.
50	Armourplate Safety Glass Ltd., Port Elizabeth, South Africa.
51	Vetreria di Vernante, S.p.A., Cuneo, Italy.
52	Shatterproof Glass Corp., Detroit, Mich.
53	Hsinchu Glass Works, Inc., Taipai, Taiwan, Republic of China.
54	Sunex Säkerhetsglas AB, Lysekil, Sweden.
55	Globe Glass Mfg. Co., Elk Grove Village, Ill.
56	Armour Glass Co., Santa Fe Springs, Calif.
57	Aktiebolaget Trempex, Eslöv, Sweden.
58	Shatterproof de Mexico, S.A., Col. Industrial Vallejo, Mexico 15, D.F.
59	Industrias Venezolanas Automotrices C.A., Caracas, Venezuela.
60	Muotolasi OT, Rauma, Finland.
61	Taylor Products, Inc., Payne, Ohio.
62	Glass Arts of California, Inc., Los Angeles, Calif.
63	Union Carbide Corp., Ottawa, Ill.
64	Tyneside Safety Glass Co., Ltd., Gateshead-on-Tyne, England.
65	Royal Industries, Wichita, Kans.
66	Swedlow, Inc., Garden Grove, Calif.
67	Sierracin Corp., Sylmar, Calif.
68	Vetrobel, S.p.A., Torino, Italy.
69	Fujiwara Kogyo Co., Ltd., Osaka, Japan.
70	AUTOLASI, Lappi T.L., Finland.
71	P. M. Tabor Co., Inc., Costa Mesa, Calif.
72	Mitsubishi Rayon Co., Ltd., Los Angeles, Calif.
73	V. E. Lipponen OY, Oulu, Finland.
74	Beclawat (Canada), Ltd., Pointe Claire, Quebec, Canada.
75	Ford Motor Co., Dearborn, Mich.
76	The Tudor Safety Glass Co., Ltd., Sheppey, Kent, England.
77	Dongsung Glass Co., Ltd., of Korea, Seoul, Korea.
78	American Cyanamid Co., Sanford, Maine.
79	Triclover Safety Glass, Ltd., Waterford, Ireland.
80	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.
81	Tamglass oy, Tampere, Finland.
82	Donnelly Mirrors, Inc., Holland, Mich.
83	Vidrierias de Llodio, S.A., Llodio, Spain.
84	Lahtis Glasbruk, Lahti, Finland.
85	K.S.H., Inc., St. Louis, Mo.
86	Eastman Chemical Products, Inc., Kingsport, Tenn.
87	Glaverbel s.a.—Brussels, Belgium.
88	Chromalloy Corp., Philadelphia, Pa.
89	Goodyear Tire & Rubber Co., Akron, Ohio.
90	Soliver, Beiligbeidsglas, Groenenherderstraat 18, Belgium.
91	Sletex Safety Glass AB, Uppsala, Sweden.
92	Toughened Glass, Ltd., Liverpool L36 6BL, England.
93	Day Specialties Co., Ltd., Midland, Ontario, Canada.
94	General Electric Co., Pittsfield, Mass.
95	Glaverbel Glass Manitoba, Ltd., Winnipeg, Manitoba, Canada.
96	Taiwan Glass Corp., Lake Oswego, Oreg.
97	AB Emmaboda Glasverk, Sweden.
98	Plaskolite, Inc., Columbus, Ohio.
99	Ohio Plate Glass Co., Paul Manufacturing, Lewisburg, Ohio.
100	Mills Appliance Products, Ltd., Bramalea, Ontario, Canada.
101	Polycast Technology Corp., Stamford, Conn.
102	Glass Develop AB, Lund, Sweden.
103	Artistic Glass Products, Quakertown, Pa.
104	Sheffield Poly-Glaz, Inc., Sheffield, Mass.

[FR Doc.73-644 Filed 1-10-73;8:45 am]

ATOMIC ENERGY COMMISSION

OAK RIDGE OPERATIONS OFFICE

Trespassing On Commission Property

The notice concerning unauthorized entry into or upon certain installations and facilities of the Oak Ridge Operations Office of the Atomic Energy Commission dated October 12, 1965, appearing at pages 13285–13287 of the FEDERAL REGISTER of October 19, 1965, 30 FR 13285 (FR Doc. 65–11108), and amended at page 5384 of the FEDERAL REGISTER of March 30, 1967, 32 FR 5384 (FR Doc. 67–3473), and at page 18302 of the FEDERAL REGISTER of December 1, 1970, 35 FR 18302 (FR Doc. 70–16033), is hereby further amended in the following respects:

The following installations and facilities are added to this notice:

The Atomic Energy Commission installation known as the Oak Ridge National Laboratory 7900 Area occupied by the High-Flux Isotope Reactor, High-Flux Isotope Reactor Office Building, Transuranium Processing Plant, and Thorium-Uranium Recycle Facility, located in the Second Civil District, Roane County, Tenn., within the corporate limits of the city of Oak Ridge, on the south side of Melton Valley Drive, approximately 0.7 mile west of the intersection of Melton Valley Drive and Melton Valley Access Road, said intersection being approximately 0.6 mile south of the intersection of Bethel Valley Road and Melton Valley Access Road. This installation contains approximately 36 acres and is enclosed by a 6-foot chain link fence.

Dated at Germantown, Md., this 3d day of January 1973.

ROBERT E. HOLLINGSWORTH,
General Manager.

[FR Doc.73-578 Filed 1-10-73;8:45 am]

[Docket No. 50-395]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Availability of Final Statement on Environmental Considerations

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Final Environmental Statement related to the proposed issuance of a construction permit to the South Carolina Electric and Gas Company for the Virgil C. Summer Nuclear Station, Unit 1", is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and in the Fairfield County Library, Vanderhorst Street, Winnsboro, SC 29180. The report is also being made available at the Office of the Governor, State Planning and Grants Division, Wade Hampton Office Building, Columbia, SC 29201, and at the Central Midlands Regional Planning Council, 1125 Blanding Street, Columbia, SC 29201.

The notice of availability of the Draft Environmental Statement for the Virgil C. Summer Nuclear Station and request for comments from interested persons was published in the FEDERAL REGISTER on September 30, 1972, 37 FR 20585 and 20586. The comments received from Federal, State, and local officials and interested members of the public have been included as appendixes to the final environmental statement.

Single copies of the statement may be obtained by writing to the U.S. Atomic Energy Commission, Washington, DC 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 8th day of January 1973.

For the Atomic Energy Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Directorate of Licensing.

[FR Doc.73-717 Filed 1-10-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24739]

SCHENKER & CO. G.m.b.H. (GERMANY) AND SCHENKERS INTERNATIONAL FORWARDERS, INC.

Postponement of Hearing

Notice is hereby given, that due to the receipt of objections by the parties to the prehearing conference report served December 15, 1972, and to a request of several of the parties for establishment of new procedural dates, the hearing in the above-entitled proceeding now scheduled for January 16, 1973 (38 FR 906), is hereby postponed, to be renoticed in the supplement to the prehearing conference report forthcoming in the near future.

Dated at Washington, D.C., January 5, 1973.

[SEAL] RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.73-629 Filed 1-10-73;8:45 am]

[Docket No. 24686, etc.]

STANDARD AIRWAYS, INC., ET AL.

Notice of Prehearing Conference

In the matter of Standard Airways, Inc., Mark Aero, Inc., Charlotte Aircraft Corp., et al.; acquisition of control and interlocking relationships, Docket No. 24686, Standard Airways, Inc., certificates of public convenience and necessity for supplemental air transportation, Docket No. 21355, etc.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 30, 1973, at 10 a.m. (local time), in Room 1031, North Universal Building, 1875 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Alexander N. Argerakis.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the judge of: (1) Proposed statements of issues, (2) proposed stipulations, (3) requests for information, (4) statement of positions of parties, and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 19, 1973, and the other parties on or before January 25, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., January 5, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-628 Filed 1-10-73;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST

Addition to Initial List

Notice of proposed addition to the initial procurement list, August 26, 1971 (36 FR 16982) was published in the FEDERAL REGISTER on April 21, 1972 (37 FR 7944).

Pursuant to the above notice, the following commodity is added to the procurement list.

COMMODITY	Set
Class 6625:	
Test set, lead 6625-553-1442	$2.20

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-568 Filed 1-10-73;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MACAO

Entry or Withdrawal From Warehouse for Consumption

JANUARY 5, 1973.

On December 22, 1972, the U.S. Government, in furtherance of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Portugal concerning exports of cotton textiles and cotton textile products from Macao to the United States over a 5-year period beginning January 1, 1973, and extending through December 31, 1977. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories and within the aggregate limit specific limits on Categories 50 and 62 for the agreement year which began on January 1, 1973.

There is published below a letter of January 5, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 50 and 62 produced or manufactured in Macao which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning January 1, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

JANUARY 5, 1973.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of December 22, 1972, between the Governments of the United States and Portugal, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning January 1, 1973, and extending through December 31, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 50 and 62 produced or manufactured in Macao, in excess of the following 12-month levels of restraint:

Category		*12-month levels of restraint* [1]
50	dozen	39,332
62	pounds	152,174

[1] These levels have not been adjusted to reflect any entries made on or after Jan. 1, 1973.

Cotton textiles and cotton textile products in Categories 50 and 62 produced or manufactured in Macao and which have been exported to the United States prior to January 1, 1973, shall not be subject to this directive.

Cotton textiles and cotton textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 22, 1972, between the Governments of the United States and Portugal which provide, in part, that within the aggregate limit, the limitations on certain categories may be exceeded by not more than five (5) percent; for the limited carryover of shortfalls to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral

agreement referred to above will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton textiles and cotton textile products from Macao have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.73-621 Filed 1-10-73;8:45 am]

CERTAIN WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MACAO

Entry or Withdrawal from Warehouse for Consumption

JANUARY 5, 1973.

On December 22, 1972, the U.S. Government concluded a comprehensive bilateral Wool and Man-Made Fiber Textile Agreement with the Government of Portugal concerning exports of wool and man-made fiber textiles from Macao to the United States over a 5-year period beginning January 1, 1973, and extending through December 31, 1977. Among the provisions of the agreement are those establishing specific export limitations on man-made fiber textile products in Categories 219, 221, 222, 223, 224, 229, and 230, for the agreement year which began January 1, 1973.

Accordingly, there is published below a letter of January 5, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of man-made fiber textile products in the above categories produced or manufactured in Macao which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning January 1, 1973, and extending through December 31, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

JANUARY 5, 1973.

DEAR MR. COMMISSIONER: Under the provisions of the bilateral Wool and Man-Made Fiber Textile Agreement of December 22, 1972, between the Governments of the United States and Portugal, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective as soon as possible and for the 12-month period beginning January 1, 1973, and extending through December 31, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Categories 219, 221, 222, 223, 224, 229, and 230, produced or manufactured in Macao, in excess of the following 12-month levels of restraints:

Category		12-month levels of restraint [1]
219	dozen	247,059
221	do	142,826
222	do	226,517
223	do	111,000
224	pounds	193,846
229	dozen	140,800
230	do	12,715

[1] These levels have not been adjusted to reflect any entries made on or after Jan. 1, 1973.

Entries of man-made fiber textile products in the above categories produced or manufactured in Macao and which have been exported to the United States prior to January 1, 1973, shall not be subject to this directive.

Man-made fiber textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 22, 1972, between the Governments of the United States and Portugal which provide in part that within the aggregate limit, limits on specific categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustment pursuant to the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802).

In carrying out this directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to the imports of wool and man-made fiber textile products from Macao have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.73-622 Filed 1-10-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

MERCK SHARP & DOHME

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP 3F1332) has been filed by Merck Sharp & Dohme, Division of Merck & Co., Inc., Rahway, N.J. 07065, proposing establishment of a tolerance (40 CFR Part 180) for residues of the fungicide thiabendazole (2 - (4 - thiazolyl) benzimidazole) in or on the raw agricultural commodity citrus at 10 parts per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 3H5023) proposing establishment of a food additive tolerance (21 CFR Part 121) of 35 parts per million for residues of thiabendazole in dried citrus pulp resulting from application of the fungicide to growing citrus fruit.

The analytical method proposed in the pesticide petition for determining residues of the fungicide is a procedure in which residues are extracted with ethyl acetate. The extract is purified by a series of extraction procedures and determined spectrophotofluorometrically.

Dated: January 4, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-549 Filed 1-10-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 141]

CALIFORNIA FINANCIAL CORP.

Receipt of Application for Approval of Acquisition of Control

JANUARY 8, 1973.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the California Financial Corp., San Jose, Calif., a unitary savings and loan holding company, for approval of acquisition of control of the Trans-Coast Investment Co., a multiple savings and loan holding company which controls

Transcoast Savings and Loan Association, Oxnard, Calif., Santa Maria Savings and Loan Association, Santa Maria, Calif., and Independent Savings and Loan Association, Salinas, Calif., insured institutions, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by an exchange of stock between California Financial Corp. and Trans-Coast Investment Co. Following said acquisition, it is proposed that Transcoast Savings and Loan Association, Santa Maria Savings and Loan Association, and Independent Savings and Loan Association be merged into Security Savings and Loan Association, an insured subsidiary of the applicant. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.73-619 Filed 1-10-73;8:45 am]

[H.C. 142]

FIRST TEXAS FINANCIAL CORP.

Receipt of Application for Permission To Acquire Control

JANUARY 8, 1973.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the First Texas Financial Corp., Dallas, Tex., a multiple savings and loan holding company, for approval of acquisition of control of the First Savings and Loan Association, El Paso, Tex., and First Savings and Loan Association of Midland, Midland, Tex., under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisitions to be effected by the exchange of shares of First Texas Financial Corp., for shares of said associations. Comments on the proposed acquisitions should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.73-620 Filed 1-10-73;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1219]

G. P. DONAHUE, INC.

Order of Revocation

G. P. Donahue, Inc., 415 Lafayette Building, Philadelphia, Pa. 19106, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1219 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) (dated May 1, 1972);

It is ordered, That Independent Ocean Freight Forwarder License No. 1219 of G. P. Donahue, Inc., be and is hereby revoked effective December 13, 1972, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon G. P. Donahue, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.73-607 Filed 1-10-73;8:45 am]

PORT OF SEATTLE AND SEA-LAND SERVICE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Gerald A. Malia, Esq., Ragan & Mason, The Farragut Building, 900 17th Street NW., Washington, DC 20006.

Agreement No. T-2005-8, between the Port of Seattle (Port) and Sea-Land Service, Inc. (Sea-Land), amends the basic lease between the parties (as heretofore amended) which provides for the lease to Sea-Land of certain marine terminal facilities at Seattle, Wash. The purpose of the modification is to provide for: (1) The construction by Sea-Land of a new warehouse, garage, and offices; (2) the demolition and removal by Sea-Land of certain construction to provide for a container yard, such area becoming preferentially assigned to Sea-Land; (3) extend the term of the basic agreement for an additional 5 years; (4) incorporate FMC Agreement No. T-2565 into the basic agreement; (5) grant options for the incorporation of two additional areas to the premises; and (6) describe with more specificity the circumstances under which the Port may permit third persons to use portions of the premises. While Sea-Land is to be reimbursed by the Port for the costs of the improvements made under this amendment, Sea-Land's rental for the facility will increase to the extent necessary to amortize the Port's expenditures on the improvements over the term. Sea-Land will be credited for all sums received by the Port from third parties for wharfage, wharf demurrage, and storage for the area preferentially assigned to Sea-Land.

Agreement No. T-2451-1, between the Port and Sea-Land, amends the basic agreement which provides for the lease of container cranes at the facility in Seattle leased by Sea-Land under the terms of Agreement No. T-2005, as amended. The purpose of the amendment is to: (1) Provide for an increase in the capacity of the existing three cranes and construction of a fourth crane, with the cost of the foregoing to be borne by the Port and amortized by Sea-Land; (2) extend the term of the basic agreement by 5 years; and (3) clarify the Port's right to permit third-person use of the cranes by redefining Sea-Land's rights to the cranes as a preferential assignee rather than a lessee.

Dated: January 4, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-608 Filed 1-10-73;8:45 am]

UNITED STATES GULF/JAPAN COTTON POOL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Elkan Turk, Jr., Esq., Burlington, Underwood & Lord, 25 Broadway, New York, N.Y. 10004.

Agreement No. 8682-9 in effect modifies the basic agreement between the American companies and the Japanese companies, comprising the membership of the United States Gulf/Japan Cotton Pool to provide for the readmission of the Waterman Steamship Corp. and for a rearrangement of the percentage participation of carryings and in the minimum number of sailings per annum for the three American companies, States Marine Lines, Lykes Bros. Steamship Co., Inc., and Waterman Steamship Corp.

Dated: January 5, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-606 Filed 1-10-73;8:45 am]

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS AND CONTAINER LIFT INTERNATIONAL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Cyrus C. Guidry, Port Counsel, Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, LA 70160.

Agreement No. T-2728, between the Board of Commissioners of the Port of New Orleans (Port) and Container Lift International (CLI), is a permit under which CLI will install, maintain, and operate at its own cost a container crane at Berth No. 5 of the Port's France Road Terminal. Charges for the use of the crane are to be competitive and/or comparable to similar services now provided at New Orleans and other modern container ports. These charges are to be published in the Port's Dock Department Tariff, provided that CLI shall have the right to change such charges in accordance with sound business practices, subject to the review and approval of the Port.

Dated: January 9, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-727 Filed 1-10-73;8:45 am]

FEDERAL RESERVE SYSTEM

BUDGET INDUSTRIES, INC.

Nonbanking Activities

Budget Industries, Inc., Los Angeles, Calif., has applied, pursuant to section 4 (d) of the Bank Holding Company Act (12 U.S.C. 1843(d)), for an exemption from the provisions of the Act limiting the nonbanking activities of a bank holding company. Applicant controls Century Bank, Los Angeles, Calif.

Under section 4(d), the exemption may be granted "(1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, or (2) to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests."

Interested persons may express their views on this matter. The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any request for a hearing on this matter should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for a hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 1, 1973.

Board of Governors of the Federal Reserve System, January 5, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-581 Filed 1-10-73;8:45 am]

CAMBRIDGE AGENCY, INC.

Order Approving Formation of Bank Holding Company, Acquisition of Insurance Agency, and Engaging De Novo in Insurance Agency Activities

Cambridge Agency, Inc., Cambridge, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares of The Cambridge State Bank, Cambridge, Nebr. (Bank).

At the same time, Applicant has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y to acquire voting shares of Cambridge Insurance Agency, Inc., Cambridge, Nebr. (Agency). Applicant has also applied for permission, itself, to engage de novo in the sale of credit life and credit accident and health insurance.

Applicant states that Agency would engage in the activities of a general insurance agency in a community of less than 5,000 persons and that Applicant, itself, would engage de novo in the sale of credit life and credit accident and health insurance. Such activities have been determined by the Board to be

closely related to the business of banking (12 CFR 225.4(a)(9)).

Notice of receipt of these applications was published in the FEDERAL REGISTER on November 4, 1972 (37 FR 23593), and the time for filing comments and views has expired. One comment was received as discussed below. The Board has considered the applications in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act.

Applicant was organized to acquire the shares of Bank and Agency, and to engage de novo in the sale of credit life and credit accident and health insurance. Applicant's principal owners, as individuals, acquired Bank's shares in July 1971 and 81 percent of Agency's shares in September, 1971. Subsequently, Agency acquired the Louis Shaffert Agency, Inc. The proposed transaction involves the transfer of these shares to Applicant in return for Applicant assuming the debts arising from its organizers' purchase of Bank shares and the Louis Shaffert Agency, Inc.

Bank, the smaller of two banks located in Cambridge, a community of approximately 1,400 persons, had deposits as of June 30, 1972 of approximately $2 million. Since the proposed acquisition of Bank essentially involves only a change from individual to corporate ownership, consummation of the proposal will have no significant adverse effects on existing or potential competition.

Considerations relating to financial and managerial resources and prospects of Applicant and Bank appear to be satisfactory and consistent with approval. Although Applicant will assume the debt incurred by its organizers when Bank and the Louis Shaffert Agency, Inc., were acquired, it appears that such debt may be adequately serviced without placing an undue strain on Bank earnings. Since Applicant's principals acquired control of Bank in July 1971, the bank has increased its banking hours, and has added services, such as free checking accounts and passbook savings. While such services have already been introduced, approval of the application will assure continuation of the new management of Bank. Accordingly, considerations relating to the convenience and needs of the communities involved support approval of the transaction. It is the Board's judgment that the transaction would be in the public interest and that the application to acquire Bank should be approved.

Agency, which was formed in September 1971, by Applicant's principal owners, didn't begin business until January 1972, shortly after it had acquired an existing general insurance agency. Agency has its office in Bank's building and its day-to-day operations are handled by two employees not associated with Bank. Agency is one of five general insurance agencies in Cambridge.

Among the comments made by a competing insurance agency are that the use of bank premises and personnel causes the creation of a "captive" relationship in the provision of insurance on property of a borrower and that the "bank" may split its overhead among various activities. Applicant states that Agency and Bank are separate corporations and are operated by different personnel.

The Board notes the legislative policy stated in the National Bank Act that national banks in communities of less than 5,000 persons may sell insurance (12 U.S.C. 92) and the provisions of section 106 of the Bank Holding Company Act Amendments of 1970 which prohibit banks from tying an extension of credit to the purchase of insurance from the bank or its bank holding company. The Board finds that approval of Applicant's proposals to acquire Agency and to engage de novo in the sale of credit life and credit accident and health insurance is unlikely to result in any undue concentration of resources, decreased or unfair competition, unsound banking practices, or other adverse effects on the public interest. Furthermore, in the Board's judgment, the benefits to the public resulting from approval of these proposals, including assurance of the continued operation of an alternative source of banking and insurance services, and the availability of credit life and credit accident and health insurance in connection with Bank's lending transactions, lends substantial weight to approval. On the basis of the foregoing and other facts reflected in the record, the balance of the public interest factors the Board must consider regarding the acquisition of Agency and Applicant engaging de novo in the sale of credit life and credit accident and health insurance is favorable and the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be consummated (a) before the 13th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Agency's and Applicant's insurance agency activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By order of the Board of Governors,[1] effective January 4, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-582 Filed 1-10-73;8:45 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governor Bucher.

CEDAR FALLS HOLDING CO., LTD.

Formation of Bank Holding Company

Cedar Falls Holding Co., Ltd., Cedar Falls, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 96.8 percent or more of the voting shares of Cedar Falls Trust & Savings Bank, Cedar Falls, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than January 29, 1973.

Board of Governors of the Federal Reserve System, January 5, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-583 Filed 1-10-73;8:45 am]

CENTURY BANCORP, INC.

Order Approving Acquisition of Bank

Century Bancorp, Inc., Somerville, Mass., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 95 percent or more of the voting shares of North Shore Bank & Banking Co., Lynn, Mass. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank, Century Bank & Trust Co., Somerville, Mass. (Century Bank), with deposits of $22.4 million, representing approximately 0.2 percent of total deposits in commercial banks in the State and in the Boston SMSA,[1] and ranking 30th of 56 banking organizations in the Boston SMSA.

Bank is a Morris Plan bank and it appears that State law authorizes it to accept demand deposits and make commercial loans.[2] Bank will provide such services either prior to or directly after consummation of the proposed acquisition. Bank has deposits of approximately $2.9 million, representing 0.036 percent of total deposits in commercial banks in the Boston SMSA, in which Bank ranks 53d of 56 banking organizations. The nearest existing office of Century Bank is located

[1] Banking deposit and market data are as of June 30, 1972. All data are adjusted to reflect holding company formations and acquisitions approved by the Board through Nov. 30, 1972.

[2] See Massachusetts General Laws, Ch. 172, section 1.

11 miles from Bank and Century Bank's proposed branch office will be 8 miles from Bank. Although Bank and Century Bank are both located in the Boston SMSA, each bank is located in a separate county and is prohibited by State law from branching into the county of the other organization. In light of the distances separating banking offices, Massachusetts' restrictive branching laws, and the presence of numerous banking alternatives in the intervening areas, no meaningful competition exists between Bank and Century Bank, and it appears unlikely that any such competition would develop in the future. In addition, Applicant's acquisition of Bank may have a procompetitive effect since Bank will become an additional source of commercial loan services in its area. On the basis of these facts, the Board concludes that consummation of the proposal would not eliminate existing or potential competition, nor would it have an adverse effect on any competing bank.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiary bank, and Bank are consistent with approval of the application. While it appears that the banking needs in the area are being adequately met at present, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application, since Bank will become an alternative source of commercial loan services. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[3] effective January 4, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-584 Filed 1-10-73;8:45 am]

FIRST NATIONAL BANKSHARES OF FLORIDA, INC.

Acquisition of Banks

First National Bankshares of Florida, Inc., Pompano Beach, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of the following banks:

(1) The Indian River Citrus Bank, Vero Beach, Fla.;

(2) The Beach Bank of Vero Beach, Fla.;

(3) The Westside Bank of Vero Beach, Vero Beach, Fla.; and

(4) The Sebastian River Bank, Sebastian, Fla.

The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 31, 1973.

Board of Governors of the Federal Reserve System, January 3, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-558 Filed 1-10-73;8:45 am]

FIRST NATIONAL FINANCIAL CORP.

Order Approving Acquisition of Bank

First National Financial Corp., Kalamazoo, Mich., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to the Commercial Bank of Stambaugh, Stambaugh, Mich. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of $296.9 million, representing 1.2 percent of the total commercial bank deposits in Michigan, and is the 11th largest banking organization in the State. (All banking data are as of Dec. 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through July 31, 1972.) The acquisition of Bank (deposits of $5.3 million) would increase Applicant's percentage share of the State's total deposits by 0.1 percent, and Applicant would become the 10th largest banking organization in Michigan. Consummation of the acquisition would not result in a significant increase in the concentration of banking resources in the State.

Bank, which operates its main office in the city of Stambaugh and its only branch office in the city of Caspian, holds 20.3 percent of the total commercial bank deposits in Iron County (the relevant market area), and is the smallest of four banks in the market. The three largest banks in the market hold, respectively, 31.2 percent, 28.0 percent, and 20.5 percent of the deposits. (Market data are as of Dec. 31, 1971.) Applicant's closest subsidiary banking office is located in a separate market area, approximately 110 miles north of Bank. There is no present competition between any of Applicant's subsidiary banks and Bank. Furthermore, it appears unlikely that any significant competition would develop between any of Applicant's subsidiaries and Bank in the future due to the distances separating the banking offices and the presence of numerous banking alternatives in the intervening areas. The Board concludes that consummation of the proposal would not eliminate existing or potential competition, nor would it have adverse effects on any competing bank.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are satisfactory and consistent with approval of the application. While it appears that major banking needs in the area are being met, considerations relating to the convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective January 4, 1973.

TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-585 Filed 1-10-73;8:45 am]

HAMILTON BANCSHARES, INC.

Order Approving Acquisition of Bank

Hamilton Bancshares, Inc., Chattanooga, Tenn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 50.06 percent or more of the voting shares of Hardeman County Savings Bank, Bolivar, Tenn. (Bank).

Notice of the application affording opportunity for interested persons to submit comments and views has been given

[3] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governor Bucher.

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governor Bucher.

in accordance with section 3(b) of the Act. The time for filing comments and views has expired and none have been timely received. The Board has considered the application in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization and bank holding company in the State, controls 11 banks with aggregate deposits of approximately $521 million representing about 6 percent of total deposits of commercial banks in Tennessee. (All banking data are as of Dec. 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through Oct. 31, 1972.) Acquisition of Bank (deposits of about $14.5 million) would add only 0.2 of 1 percentage point to Applicant's share of Statewide deposits and would not alter Applicant's ranking among the State's banking organizations and bank holding companies.

Bank is the largest of five banking organizations competing in the Hardeman County market and holds about 46 percent of the total commercial bank deposits therein. The nearest banking subsidiary of Applicant to Bank is located approximately 185 miles east of Bank, and neither it nor any of Applicant's other subsidiary banks complete with Bank to any significant extent, primarily due to the distances involved. Nor does it appear likely that significant competition would develop in the future in view of the distances separating Bank and Applicant's subsidiaries, the presence of numerous banks in the intervening areas, and Tennessee's restrictive branching laws. Furthermore, it appears unlikely that Applicant would establish a new bank in Hardeman County, since the area is unattractive for de novo entry with both the population to banking office ratio and the per capita income of the area being considerably lower than averages for the State. Even though Bank is the largest bank in the market, its total deposits are less than $15 million, and it does not appear that its acquisition by Applicant would place Bank in a dominant competitive position nor adversely affect the other competing banks in the area. On the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank are generally satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served are also consistent with approval of the application.

In connection with its review of the proposal herein, the Board's attention has been called to the fact that Applicant has followed a practice of acquiring certain banks that are members of the Federal Reserve System and thereafter systematically withdrawing those banks from membership in the System. Six of Applicant's present 11 subsidiary banks are not now members of the System, and three of those six were converted to nonmember status after having been acquired by Applicant. Applicant now proposes to convert another of its subsidiaries to nonmember status within a month. Although the bank that is the subject of the present application is not now a member of the System and thus a consideration of the practice previously followed by Applicant with respect to its other subsidiary banks is not directly before the Board, the Board is concerned that large bank holding companies such as this one should shun the public responsibilities that large banks or large families of banks have to be a part of and support the policies of the Nation's central bank. Such a practice (if permitted to go unchecked) could significantly diminish the effectiveness of one of the major tools of the Board in administering monetary policy, i.e., the setting of reserve requirements for member banks of the System. If large banks or the members of a large family of banks shirk this public responsibility the task of implementing monetary policy becomes more difficult and one-sided in its impact on the banking system as a whole.

Late last year the Board amended its Regulation D governing reserve requirements in order to substantially remove discrimination in the application of such requirements among member banks that were similarly situated as to size and access to national money markets. Another type of discrimination has become of significant importance, namely between branching systems of member banks and bank holding company families. The reserve requirements of the former are based on the aggregate of the branching banks' deposits wherever located. For holding companies, on the other hand, deposits are fractioned according to the size of each separate unit or office. This results in lower requirements for a banking entity, the multiple bank holding company, which is essentially comparable and competitive with branching systems.

When the holding company amendments were considered in 1970 the Board advised the Congress it did not believe that, as a matter of law, membership in the Federal Reserve System should be required for the subsidiary banks of a holding company. In the light of developments in the past 2 years and the rapid spread of holding company form of banking organization in many States, the merit of that recommendation should be reexamined and the Board is in the process of doing so.

Nonetheless, on the basis of the facts in this case, and in light of the factors set forth in the Act, it is the Board's judgment that the proposed acquisition should be approved. The transaction shall not be consummated (a) before the 13th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective January 5, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-588 Filed 1-10-73;8:45 am]

KANSAS BANCORP, INC.

Formation of Bank Holding Company

Kansas Bancorp, Inc., Concordia, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of the First National Bank, Concordia, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than January 22, 1973.

Board of Governors of the Federal Reserve System, January 5, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-589 Filed 1-10-73;8:45 am]

MINNESOTA SMALL LOAN CO.

Determination Regarding "Grandfather" Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather" privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer, Sheehan and Bucher. Absent and not voting: Governor Mitchell.

Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a 2-year period.

Notice of the Board's proposed review of the grandfather privileges of the Minnesota Small Loan Co., Minneapolis, Minn., and an opportunity for interested persons to submit comments and views or request a hearing has been given (37 FR 22414). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in § 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Minnesota Small Loan Co., Minneapolis, Minn. (Registrant),[1] became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act, by virtue of Registrant's ownership of approximately 68.5 percent of the outstanding voting shares of First National Bank of Sioux City, Sioux City, Iowa (Bank) (assets of $92.6 million as of December 31, 1970). Bank, control of which was acquired by Registrant in September 1967, had total deposits of $78.2 million as of June 30, 1972, representing about 24 percent of the total deposits in the immediate Sioux City area (which includes the towns of South Sioux City, Nebr., and Sargeant Bluff, Iowa). Bank is the second largest of the seven banks located in Sioux City, as well as second among the 10 banks in the immediate Sioux City area. Bank's management, financial condition, and prospects are regarded as satisfactory, and the Board has found no evidence of any unsound banking practices.

Registrant (total assets of $7.7 million, as of December 31, 1971), is a small loan company and engages directly in making consumer loans and, to a limited extent, engages in selling credit life, health, and accident insurance related to such loans, and apparently has engaged in such activities continuously since before June 30, 1968. Bank is the only subsidiary of Registrant. Registrant conducts its small loan business from its sole office, located in Minneapolis, Minn. In addition to serving local consumers, Registrant makes consumer loans to school teachers in a 30-State area through a mail-order business. Registrant did not rank as one of the 150 largest finance companies in the United States as of December 31, 1971 (the most recent data available). Registrant's income in 1971, from interest and insurance commissions on small loan operations, was $0.6 million. The size of Registrant's total lending operation is not substantial (about $2 million in receivables as of December 31, 1971), and the number of local sources for consumer credit is diverse (20 firms with offices in the Minneapolis area, including six of the 10 largest finance companies in the country).

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the activities of Registrant and its subsidiary do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest nor unsound banking practices.

There appears to be no reason to require Registrant to terminate its grandfathered activities. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968, and continuously thereafter, or any activity that is not the subject of this determination, nor authority for Registrant to engage in any additional type of insurance agency activity.

A significant alteration in the nature or extension of Registrant's activities or a change in location thereof (significantly different from any described in this determination) will be cause for a reevaluation by the Board of Registrant's activities under the provisions of section 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources or any of the other evils designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, nor acquisition of any interest in a going concern, to which the Registrant or any nonbank subsidiary thereof is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review, by the Board, of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By determination of the Board of Governors,[2] effective January 4, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-590 Filed 1-10-73;8:45 am]

[1] On July 13, 1972, Registrant became a subsidiary of MEI Corp. Because MEI became a bank holding company with respect to Bank subsequent to December 31, 1970 (pursuant to the Board's order of May 9, 1972), MEI is not entitled to grandfather privileges and is required to divest its interest in Bank or in MEI's nonbanking interests by July 13, 1974, 2 years from the date upon which it became a bank holding company.

SOUTHWEST BANCSHARES, INC.

Order Approving Acquisition of Bank

Southwest Bancshares, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Houston Intercontinental National Bank, Houston, Tex. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization and third largest multibank holding company in Texas, controls 10 banks with aggregate deposits of $1,188.4 million, representing approximately 4 percent of the total deposits of commercial banks in Texas. (All banking data are as of June 30, 1972, and reflect bank holding company acquisitions approved through October 31, 1972.) Applicant is the third largest banking organization in the Houston market with five subsidiary banks holding 11.2 percent of total deposits of commercial banks in that market. Consummation of the proposal herein would increase insignificantly applicant's share of commercial bank deposits in the Houston area and its ranking among commercial banks in that market and in the State would be unchanged.[1]

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Bucher. Absent and not voting: Governor Sheehan.

[1] In addition to its 10 subsidiary banks, applicant holds approximately 20 percent of the outstanding voting shares of Commerce State Bank, Houston, Tex. ($20 million of deposits). On December 21, 1972, the Board approved applicant's application to acquire Gulf Coast National Bank, Houston, Tex. ($12.4 million of deposits). Applicant's minority interest of 24.7 percent of the voting shares of Kilgore National Bank, Kilgore, Tex., has recently been liquidated.

Bank ($2.7 million of deposits) ranks 141st in deposits among 149 commercial banks in the Houston market. Bank is located near the Houston Intercontinental Airport on the fringe of the Houston banking market, approximately 20 miles north of applicant's lead bank which is located in downtown Houston. Bank was organized in 1970 by officials and other individuals closely associated with applicant, and its lead bank and one or more officers or directors of applicant or its lead bank have served on Bank's board since it began operations in 1970. At the present time, there exists a significant degree of common stock ownership among shareholders of Bank and applicant. In view of Bank's small size, its location on the outskirts of the Houston banking market, and the presence of a large number of intervening banks, no meaningful competition exists between Bank and any of applicant's subsidiary banks. In the light of these factors, it appears unlikely that any significant competition between Bank and any of applicant's subsidiary banks would develop in the future. Acquisition of Bank by applicant will not have any adverse effect on the concentration of banking resources in the Houston area.

On the record before it, the Board concludes that consummation of applicant's proposal would not result in a monopoly nor be in furtherance of any combination, conspiracy, or attempt to monopolize the business of banking, nor have any significant anticompetitive effect, in any area of the State.

The financial condition and managerial resources of applicant and its subsidiaries appear satisfactory and future prospects of all seem favorable. The financial condition of Bank has deteriorated during the past year due to its experiencing capital inadequacies and substantial losses on loans. Applicant has recently moved to provide additional personnel from its lead bank in order to strengthen Bank's managerial resources—especially in the areas of asset management and loan administration. In addition, applicant has committed itself to add at least $350,000 of additional funds to Bank's capital accounts. This increased financial and managerial assistance from applicant which would be made available to Bank upon consummation of the proposed transaction should enable Bank to remedy its present financial and managerial problems. Although the banking needs of residents of the Houston area are adequately served by existing institutions, provision of applicant's broad range of services through Bank should provide a more convenient source for these sophisticated services to the increasing number of customers locating in Bank's immediate service area. Addition of these services should contribute positively to the convenience and needs of the communities served by Bank and, these considerations are consistent with approval of this application.

It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[2] effective January 4, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-591 Filed 1-10-73;8:45 am]

WEST MICHIGAN FINANCIAL CORP.

Formation of Bank Holding Company

West Michigan Financial Corp., Cadillac, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of the successor by merger to The Cadillac State Bank, Cadillac, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than January 29, 1973.

Board of Governors of the Federal Reserve System, January 5, 1973.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.73-592 Filed 1-10-73;8:45 am]

ZIONS UTAH BANCORPORATION

Determination Regarding "Grandfather" Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather" privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determinatin within a 2-year period.

Notice of the Board's proposed review of the grandfather privileges of the Zions Utah Bancorporation, Salt Lake City, Utah, and an opportunity for interested persons to submit comments and views or request a hearing, has been given (37 FR 22414 and 25204). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in section 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Zions Utah Bancorporation, Salt Lake City, Utah (Registrant), became a bank holding company on December 31, 1970, as a result of the 1970 amendments to the Act, by virtue of Registrant's ownership of approximately 52 percent of the outstanding voting shares of Zions First National Bank, Salt Lake City, Utah (Bank) (assets of $325.9 million as of December 31, 1970). Bank, control of which was acquired by Registrant in April 1960,[1] had total deposits of $339.2 million (as of December 31, 1971), representing about 16 percent of the total deposits in commercial banks in Utah. On the basis of its share of deposits, Bank ranks third of 13 banks in the Salt Lake County market, with about 21 percent of the deposits therein, and fourth of five banks in the Provo banking market, with about 14 percent of deposits therein. While Bank is a significant competitor among the State's banking organizations, it does not appear to be dominant. Bank's management financial condition and prospects are regarded as satisfactory, and the Board has found no evidence of unsound banking practices.

Registrant (consolidated assets of about $342 million in 1970) engages directly in insurance agency activities and real estate business, and apparently has engaged in such activities continuously since before June 30, 1968. Registrant's insurance agency activities consist of writing credit life insurance almost entirely for loans made by Registrant's subsidiaries and casualty insurance for property pledged as collateral against such loans. Registrant's principal real estate activity is the development of an industrial park in a 170 acre area acquired in 1955 in Salt Lake City. Registrant engages in the consumer finance

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governor Bucher.

[1] Registrant acquired all of the remaining shares of Bank in April 1972.

business in Utah and has been engaged therein continuously since before June 30, 1968, through the Lockhart Co., Salt Lake City, and Lockhart Finance Co., Salt Lake City (both acquired in January 1966), and in Colorado through the following nonbanking subsidiaries: Rocky Mountain Industrial Bank, Colorado Springs (acquired in January 1966); Littleton First Industrial Bank, Littleton (acquired in May 1968); Fort Collins First Industrial Bank, Fort Collins (acquired in October 1971); Guaranty Industrial Bank, Loveland (acquired in November 1971); Arvada First Industrial Bank, Arvada (acquired in December 1971); and First Industrial Bank, Longmont (acquired in December 1971).[2] The two finance company subsidiaries located in Utah (combined assets of about $21 million in 1970) compete with over 150 lending offices of other small loan companies operating in Utah, including offices of two large national corporations engaged in consumer finance, and do not appear to be large enough to affect the position of Bank in the Utah markets served by it. The two finance company subsidiaries located in Colorado, which are eligible for grandfather benefits, had combined assets of less than $6 million in 1970, and are not regarded as significant competitors in the markets served by Registrant's banking subsidiary.

Through the Lockhart companies, Registrant also engages in the equipment leasing business. The Lockhart Co. conducts such activities directly, and the Lockhart Finance Co. engages in such activities through a wholly owned subsidiary formed in 1966, Zions Leasing Co., Salt Lake City, Utah (assets of about $3 million as of December 1970). In addition, Registrant operates a real estate business (Lockhart Realty Co., Salt Lake City, Utah), which was acquired in January 1966, and now limits its activities to collecting payments on contracts of sale of real estate previously made. The equipment leasing activities and the current real estate operations of Lockhart Realty appear eligible for grandfather benefits, and the nature and scope of such activities are such that curtailment or divestiture of such activities is not required.

Registrant also owns an electrical supplies distributing business and a company engaged in the sale of money orders. These businesses were not acquired by Registrant prior to June 30, 1968, and are not eligible for grandfather benefits.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the activities of Registrant and its subsidiaries do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest nor unsound banking practices.

There appears to be no reason to require Registrant to terminate its grandfathered interests. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary in order to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968 and continuously thereafter, or any activity that is not subject to this determination. Nor is this determination authority for Registrant to acquire any additional real property or additional types of insurance agency activity.

A significant alteration in the nature or extension of Registrant's activities or a change in location thereof (significantly different from any described in this determination) will be cause for a reevaluation by the Board of Registrant's activities under the provisions of section 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources or any of the other evils designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, nor acquisition of any interest in a going concern, to which the Registrant or any nonbank subsidiary thereof is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review by the Board, of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of registrant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By determination of the Board of Governors,[3] effective January 4, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-593 Filed 1-10-73;8:45 am]

[2] Registrant received approval of the Federal Reserve Bank of San Francisco pursuant to delegated authority to acquire three finance companies during 1971, under the provisions of section 4(c)(8) of the Act and § 225.4(b)(1) of the Board's Regulation Y.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Bucher. Absent and not voting: Governor Sheehan.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-3]

NASA LIFE SCIENCES SUBCOMMITTEE

Notice of Open Meeting

A special subcommittee of the NASA Life Sciences Committee will meet on January 23, 1973, at the Headquarters of the National Aeronautics and Space Administration, Washington, D.C. 20540. The meeting will be held in Room 5092 of the Federal Office Building 6, NASA Headquarters, 400 Maryland Avenue SW., Washington, DC. The meeting is open and members of the public will be admitted on a first-come first-served basis up to the seating capacity of the room, which is 35 persons.

The subcommittee is meeting for the purpose of reviewing and evaluating the standards for sterilizing spacecrafts to avoid carrying earth organisms to other celestial bodies. Special attention to this matter is being addressed at this time in preparation for the Project Viking flights to Mars in 1975.

The NASA Life Sciences Committee of which this subcommittee is a part serves in an advisory capacity only. In this capacity, it is concerned with man in relation to space and habitation, exobiology, with other life forms, and including: Physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, nutrition and food technology, biology of gravity and rhythms, ecology and biotechnology. The current Chairman is Dr. Shields Warren.

The following agenda is proposed for the meeting on January 23, 1973. For further information, please contact Dr. Stanley C. White, Area Code 202—755-2350.

Time	*Topic*
9:00 a.m.	Planetary Quarantine Constraints Established by COSPAR and NASA—(Purpose: To review the international and national rules for safeguarding the planets from biological infection via spacecraft which could cause undesirable changes in the environments of the planets).
9:25 a.m.	Philosophy and Guideline for Planetary Quarantine Research—(Purpose: To familiarize the subcommittee with the research requirements and guidelines imposed by NASA in forming the planetary quarantine research program).
9:50 a.m.	Lethality of Outer Space for Micro-organisms—(Purpose: To review the results of research performed to establish the effects of the forces in outer space (vacuum-temperature, ultraviolet radiation, solar winds, ionizing radiation) on the viability of micro-organisms on a spacecraft).

Time	Topic
10:15 a.m....	Numbers and Characteristics of the Bio-load on a Spacecraft—(Purpose: To discuss the research which has been conducted to define the estimates of the number of viable micro-organisms which may be expected to be buried inside nonmetallic spacecraft elements and the number of organisms to be found on spacecraft surfaces).
11:20 a.m....	Release of Organisms from Space Hardware—(Purpose: To review the results of the research which has been conducted to determine the release of organisms from buried, mated surfaces and open surfaces of the spacecraft under conditions of normal and high velocity impact).
11:45 a.m....	Heat Resistance of Organisms—(Purpose: To discuss the details of the experience gained through research on the resistance of bacterial spores to dry heat, including the variables of temperature, time, and water activity. These results provide the basis for establishing the standards for sterilization).
1:30 p.m.....	Growth of Organisms of the Martian Surface—(Purpose: To summarize the best data available on the ability of terrestrial microorganisms to replicate on the Martian surface).
2:20 p.m.....	Estimation of the Contamination Hazard—(Purpose: To review the methods that have been used by the planetary quarantine program to interrelate all the factors involved in the potential contamination of Mars and to develop the parametric values to be used in the Viking sterilization program).
3:15 p.m.....	Viking Planetary Quarantine Operations—(Purpose: To present the plans and procedures, based on the foregoing parameters, to be used in the preparation of the Viking vehicle prior to flight in order that NASA complies with the planetary quarantine requirements).
4:00 p.m.....	Subcommittee Review and Recommendations — (Purpose: To develop the subcommittee comments and recommendations regarding the adequacy of current plans and procedures proposed for Viking).

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

JANUARY 5, 1972.

[FR Doc.73-603 Filed 1-10-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

JANUARY 4, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 5, 1973 through January 14, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-552 Filed 1-10-73;8:45 am]

[812-3136]

BACHE-HUNTOON PAIGE GINNY MAE TRUST, SERIES 1 (AND SUBSEQUENT SERIES)

Notice of Filing of Application for an Order of Exemption

JANUARY 3, 1973.

Notice is hereby given that Bache-Huntoon Paige Ginny Mae Trust, Series 1 (and subsequent series) (hereinafter called Applicant), a unit investment trust registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of section 14(a) of the Act and Rule 22c-1 under the Act and pursuant to section 45(a) of the Act granting confidential treatment to the profit and loss statements of Bache & Co. Inc., 100 Gold Street, New York, NY 10038, and Huntoon Paige Securities Corp., 44 Wall Street, New York, NY 10005, the Sponsors of the Applicant, which statements Applicant has filed or may from time to time file with its registration statements under the Securities Act of 1933.

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.

Section 14(a). Applicant includes Bache-Huntoon Paige Ginny Mae Trust, Series 1 and all subsequent series of "Bache-Huntoon Paige Ginny Mae Trust." Each series will be governed by trust instruments under which Bache & Co. Inc. and Huntoon Paige Securities Corp., and possibly others, will act as Sponsors and the Bank of New York will act as Trustee. The trust instruments for all series will contain similar terms and conditions of trust. Pursuant to such trust instruments, the Sponsors will deposit with the Trustee a portfolio of mortgaged-backed certificates (commonly known as Ginny Maes) guaranteed as to payment of principal and interest by Government National Mortgage Association, a corporate instrumentality of the U.S. Government. Simultaneously with such deposit of the portfolio the Sponsors will receive from the Trustee registered certificates evidencing units of undivided interest in the fund portfolio of a series.

Applicant alleges that when these two events occur the Trust is in existence and the Sponsors cease to have significant power over the underlying portfolio. No securities may be added to or substituted for those originally comprising the fund portfolio, nor may the number of units originally issued be increased. On the date of deposit of the portfolio securities for Series 1, and before any unit of that Series is offered to the public, Applicant will have a net worth of approximately $25 million represented by the market value of the Ginny Mae certificates deposited with the Trustee on that date. While the size of the portfolios of future series has not been established, the Sponsors anticipate that in no event would the portfolio of any series be less than $5 million. Applicant proposes to offer the units of Series 1 of the fund for sale to the public and for this purpose a registration statement under the Securities Act of 1933 has been filed with the Commission but has not yet become effective. After the Sponsors deposit the portfolio with the Trustee, and the Trust is in existence, an amendment to the registration statement under the Securities Act of 1933 will be filed. Upon the effectiveness of such registration statement, the units will be offered to the public by means of the final prospectus. The trust instruments do not provide for the issuance of additional units.

Section 14(a) of the Act provides, in pertinent part, that no registered investment company shall make a public offering of its securities unless either (i) such company has a net worth of at least $100,000 or (ii) provision is made as a condition of registration of its securities under the Securities Act of 1933 which adequately insures, in the opinion of the Commission, (A) that after the effective date of such registration statement such Company will not issue any security or receive any proceeds of any subscription until not more than 25 responsible persons have made agreements to purchase securities in an aggregate net amount which will give the company a net worth of at least $100,000; (B) that said

amount will be paid into such company before subscriptions will be accepted from any person in excess of 25; (C) that arrangements will be made whereby any amount so paid in, as well as any sales load, will be refunded to any subscriber on demand in the event the net proceeds so received by the Company do not result in the company having a net worth of at least $100,000 within 90 days after such registration statement becomes effective.

In connection with this request for exemption, the Sponsors hereby agree that they will refund, on demand and without deduction, all sales charges to purchasers of units of a series if, within 90 days from the time when that series becomes effective under the Securities Act, the net worth of the series shall be reduced to less than $100,000 or if the series shall have been terminated. The Sponsors further agree to instruct the Trustee on the date of deposit of each series that in the event redemption by the Sponsors of units constituting a part of the unsold units shall result in that series having a net worth of less than $5 million, the Trustee shall terminate the series in the manner provided in the Trust Agreement and distribute all securities and other assets deposited with the Trustee pursuant to the Agreement as provided therein. The Sponsors further agree, in such event, to refund any sales charges to any purchaser of units purchased from the Sponsors or any dealer participating in the underwriting on demand and without deduction.

Rule 22c–1. The application also seeks an order pursuant to section 6(c) of the Act exempting the secondary market operations of Applicant's Sponsors from the provisions of Rule 22c–1 under the Act. The Sponsors propose to adopt the practice of valuing Applicant's units, for repurchase and resale by the Sponsors in the secondary market, at prices computed once a week as of the close of business on the last business day of the week, effective for all transactions made during the following week.

The trust instruments provide that Applicant's units may be tendered by the unit holders to the Trustee for redemption. The unit holder will receive cash from the Fund on the basis of the current bid side evaluation of the mortgaged-backed (Ginny Mae) certificates forming the portfolio of the fund. Applicant's Sponsors, Bache & Co., Inc., and Huntoon Paige Securities Corp., intend (though they will not be obligated) to maintain a secondary market for the fund and continuously to offer to repurchase units from holders at a price based on the offering side prices of the portfolio securities of the fund. Such price, according to the application, may exceed the redemption price (based upon the bid side evaluations of the underlying certificates) by an average of $10 per unit. In addition, the Sponsors will resell units at a public offering price based upon the offering side evaluation prices of the underlying certificates plus a sales charge of 3½ percent of the public offering price. To avoid the Sponsors' receiving more than the specified sales charge on the resale of the units, the Sponsors undertake not to resell any units which they purchase at a price below the then current offering side evaluation. Both the repurchase and resale prices are to be computed as of the close of business on the last business day of each week and will be effective for all purchases and sales by the Sponsors during the following week. The evaluation is made by Applicant's evaluator, Standard and Poor's Corp.

Rule 22c–1 provides, in part, that redeemable securities of registered investment companies must be sold, redeemed or repurchased at a price based on the current net asset value (computed on each day during which the New York Stock Exchange is open for trading not less frequently than once daily as of the time of the close of trading on such Exchange) which is next computed after receipt of a tender of such security for redemption or of an order to repurchase or sell such security.

Applicant asserts that the pricing by the Sponsors in the secondary market in no way affects Applicant's assets, and that the public unit holders benefit from such pricing procedure by receiving a normally higher repurchase price for their units without the cost burden of daily evaluations of the unit redemption value. In addition, the application states that the Sponsors have undertaken to adopt a procedure whereby the evaluator, without a formal evaluation, will provide estimated evaluations on trading days. In the case of a purchase by the Sponsors, if the evaluator cannot state that the previous Friday's offering side evaluation is at least equal to the current bid side evaluation, the Sponsors will order a new offering side evaluation for the purpose of such purchase. Also, in the case of such a purchase, if the evaluator cannot state that the previous Friday's offering side evaluation, to be paid to a holder, is no more than one-half point lower than the current offering side evaluation, a full evaluation will be ordered to determine the current offering side evaluation to be paid the holder. In the case of sale by the Sponsors, if the evaluator cannot state that the previous Friday's offering side evaluation is no more than one-half point ($5 on the purchase of a unit representing $1,000 face amount of underlying securities) greater than the current offering side evaluation, a full evaluation will be ordered. Applicant asserts that this procedure will minimize the risk to the selling holders of the units without imposing the expense of daily evaluations upon the fund's investors.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rules or regulations under the Act, if and to the extent 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.

Section 45(a). Applicant also seeks an order of the Commission pursuant to section 45(a) of the Act granting confidential treatment to the profit and loss statements of Bache & Co., Inc., and Huntoon Paige Securities Corp., the Sponsors, submitted in connection with registration statements of Bache-Huntoon Paige Ginny Mae Trust, Series 1, filed with the Commission from time to time.

When a determination has been made by the Sponsors to offer a new series of the fund, the Sponsors will prepare and file with the Commission registration statements under the Act and the Securities Act of 1933. It is contemplated that current profit and loss statements of the Sponsors will be filed in connection with the registration statements of new series. The application requests confidential treatment for such statements and subsequent profit and loss statements which Applicant has filed or may from time to time file with the Commission.

Section 45(a) of the Act provides in pertinent part that information filed with the Commission "shall be made available to the public, unless and except insofar as the Commission * * * by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors."

Applicant submits that public disclosure of the Sponsors' profit and loss statements is neither necessary nor appropriate in the public interest or for the protection of investors. As stated above, Applicant alleges that after the securities forming the portfolio of the fund are deposited with the Trustee, the Trust is then in existence and the Sponsors cease to have significant power over the underlying portfolio. No securities may be added to or substituted for those originally comprising the fund portfolio. Investors in the fund are not offered an opportunity to acquire any interest whatsoever in the Sponsors. Apart from the Sponsors' minimal obligation under the trust instruments to designate Ginny Mae certificates for liquidation by the Trustee to the extent necessary to provide funds for redemption (which obligation may be performed by the Trustee if not performed by the Sponsors), and certain other contingent supervisory responsibilities, the Sponsors have virtually no discretionary authority relating to the management of the fund. Applicant states that the Sponsors thus function primarily as underwriters of the fund. Applicant asserts that there is no legitimate interest on the part of investors in the public disclosure of the profit and loss statements of the Sponsors, acting as underwriters from whom the units are purchased.

In addition, Applicant submits that to the extent that the Sponsors' solvency may conceivably be thought relevant to the maintenance of the secondary

market in the units of the fund, the Sponsors' statements of financial condition, which appear in the prospectus, contain adequate information in this regard. Moreover, there is clear disclosure in the prospectus of the Sponsors' right to terminate secondary market activities in a fund at any time. Even in the absence of a secondary market, unit holders nevertheless retain the protection of their right under the trust instruments to the redemption of their units upon presentation of such units to the Trustee. Upon such redemption, the unit holders receive cash equal to the "unit value" of the units computed with regard to the underlying assets of the fund. The soundness of the investors' interests in the funds, it is stated, is solely a function of the value of the underlying Ginny Mae certificates, the payment of principal of and interest on which is guaranteed by Government National Mortgage Association (a guaranty backed by the full faith and credit of the United States). Applicant thus represents that the profitability of the Sponsors will in no way enhance or diminish the prospect for an orderly payment of the underlying mortgage-backed certificates.

Notice is further given that any interested person may, not later than January 24, 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth 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.73-556 Filed 1-10-73;8:45 am]

[812-3342]

CAPITAL EXCHANGE FUND, INC., ET AL

Notice of Application for Exemption

JANUARY 4, 1973.

Notice is hereby given that Capital Exchange Fund, Inc., Depositors Fund of Boston, Inc., Diversification Fund, Inc., the Exchange Fund of Boston, Inc., Fiduciary Exchange Fund, Inc., Leverage Fund of Boston, Inc., and Second Fiduciary Exchange Fund, Inc. (the Funds), 111 Devonshire Street, Boston, MA 02109, all Massachusetts corporations registered as management investment companies under the Investment Company Act of 1940 (the Act), and Philip H. Theopold (Theopold), 294 Washington Street, Boston, MA 02108 (hereinafter collectively called Applicants), have filed an application for an order of the Commission pursuant to section 6(c) of the Act declaring that Theopold shall not be deemed an "interested person" of the Funds or any investment adviser of, or principal underwriter for, the Funds, within the meaning of section 2(a)(19) of the Act solely by reason of his status as a director, member of the Committee of Finance, and Chairman of the Real Estate Committee of John Hancock Mutual Life Insurance Co. (Hancock Life), or as a director and member of the U.S. Investment Advisory Committee of the Employers-Commercial Union Insurance Co., The Employers' Fire Insurance Co., the Northern Assurance Company of America, or American Employers' Insurance Company (ECU Subsidiaries). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Theopold, a member of the board of directors of each of the Funds, is also a director of Hancock Life, a mutual insurance company which is in the business of selling life insurance and variable annuities. Hancock Life is a registered broker-dealer under the Securities Exchange Act of 1934 (the 1934 Act). It also has registered as an investment adviser under the Investment Advisers Act of 1940 for the purpose of advising the variable annuity separate accounts it has organized and for the purpose of selling its own variable annuity contracts through its independent and employee insurance agents. It wholly owns John Hancock Advisers, Inc., which is the investment adviser for John Hancock Growth Fund, Inc., and John Hancock Signature Fund, Inc., open-end investment companies registered under the Act, and John Hancock Investors, Inc., and John Hancock Income Securities Corp., closed-end investment companies registered under the Act (hereinafter collectively referred to as "John Hancock Funds"). The shares of the two open-end investment companies are offered for sale to the public only by independent and employee insurance agents of Hancock Life who are registered representatives of John Hancock Distributors, Inc. (Hancock Distributors), a wholly owned subsidiary of John Hancock Advisers, Inc., and a registered broker-dealer under the 1934 Act.

Vance, Sanders & Co. (VS), a Maryland corporation employed by the Funds as their investment adviser, does not sell shares of the John Hancock Funds, and neither does any affiliated person of VS. In his capacities as a director, member of the Committee of Finance, and Chairman of the Real Estate Committee of Hancock Life, Theopold has no direct supervisory authority over, or direct responsibility for, the day-to-day management or the broker-dealer operations of Hancock Life or of Hancock Distributors.

Theopold is also a member of the board of directors and the U.S. Investment Advisory Committee of the ECU Subsidiaries, which are wholly owned subsidiaries of ECU Corp., which, in turn, is a wholly owned subsidiary of Commercial Union Assurance Co., Ltd., a publicly owned company domiciled in London, England, which owns other subsidiary companies that are engaged in the insurance business. ECU Corp. owns 85 percent of the outstanding voting stock of Egret Holding Corp. which owns all of the outstanding voting stock of Egret Distributing Co., Inc. (Egret Distributing), CU Securities Corp. (CU Securities), and Egret Management Co., Inc., which furnishes Egret Growth Fund, Inc. (Egret Fund), an investment company registered under the Act, with investment advisory and management services. The remaining 15 percent of the outstanding voting stock of Egret Holding Corp. is owned by Employers-Commercial Union Insurance Co., of which Theopold is a director. It is expected, however, that prior to December 31, 1972, Employers-Commercial Union Insurance Co. will distribute a dividend consisting of all of its capital stock interest in Egret Holding Corp. to ECU Corp., and that thereafter, ECU Corp. will directly own all of the outstanding securities of Egret Holding Corp.

Egret Distributing is the principal underwriter of Egret Fund. CU Securities is a member of the PBW Stock Exchange. The only business of CU Securities at present is to execute transactions on the PBW Stock Exchange or otherwise recapture commissions for Egret Fund and subsidiaries of ECU Corp. It may not be so limited in the future. Both Egret Distributing and CU Securities are registered as broker-dealers under the 1934 Act. As a director of ECU Subsidiaries, Theopold is ultimately responsible, together with other directors, for setting the policies and managing the business of the ECU Subsidiaries. As a member of the U.S. Investment Advisory Committee of such corporation, he, together with other members of the committee, provide investment advice to the pension

fund and insurance company subsidiaries of ECU Corp., but Theopold has no supervisory authority or responsibility for management or operations of Egret Distributing or CU Securities.

Applicants assert that neither Egret Distributing nor CU Securities, nor Hancock Life, nod Hancock Distributors engage in portfolio transaction with, or on behalf of, the Funds, nor, in the normal course, would they be considered by the Funds or VS as a potential firm through which to execute securities transactions. Each of the Funds and VS represent that so long as Theopold is a director of such Fund, such Fund and VS will not engage in any securities transactions through Hancock Life, Hancock Distributors, Egret Distributing, or CU Securities.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person," when used with respect to an investment company, to include any broker or dealer registered under the 1934 Act or any affiliated person of such a broker or dealer. Section 2(a)(3) defines an "affiliated person" of another person to include any director of such other person.

Section 6(c) of the Act provides that the Commission by order, upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision or provisions of the Act 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.

Applicants assert that Theopold is subject to no conflicts of interest as a result of his relationships with Hancock Life or ECU Subsidiaries since his activities at Hancock Life and the ECU Subsidiaries are isolated from, and independent of, any business activities of the Funds and of VS.

Notice is further given that any interested person may, not later than January 29, 1973, 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 reasons 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 unless an order for a 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.73-599 Filed 1-10-73;8:45 am]

[812-3290]

FEDERAL STREET FUND, INC.

Notice of Application for an Order Exempting a Proposed Transaction

JANUARY 5, 1973.

Notice is hereby given that Federal Street Fund, Inc. (Applicant), 225 Franklin Street, Boston, MA 02110, a diversified, open-end management investment company registered under the Investment Company Act of 1940, as amended (the "Act"), has filed an application pursuant to section 17(b) of the Act for an order of exemption from section 17(a) of the Act to permit the Estate of Howard Cullman (Estate), to tender shares of Applicant for redemption in kind. 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.

Applicant was incorporated under the laws of Massachusetts and was created as a so-called "exchange type" fund. Since the completion of the initial public offering of its shares of common stock in exchange for outstanding stock or other securities of various business corporations, Applicant has not offered its shares to the general public, and until September 25, 1972, had not issued any additional shares except with respect to a 20 for 1 stock split in 1962, an acquisition of assets of a private investment company in 1968, and shares issued in payment of various optional stock dividends to Applicant's shareholders.

Applicant, in the ordinary course of its business, redeems shares tendered for redemption by its shareholders and has continuously followed the policy of paying the price of substantially all such redemptions in kind with securities from its portfolio. Applicant states that it intends to continue this policy for the foreseeable future.

On September 25, 1972, The Second Federal Street Fund, Inc., formerly a Massachusetts corporation registered under the Act as a diversified, open-end management investment company, was merged into Applicant and, as part of the merger plan, Applicant split its stock 3 for 1. Immediately thereafter, Applicant acquired $33,502,756 of marketable securities (market value as of September 22, 1972) and cash from Cullman Bros., Inc. (Cullman), a New York private investment company, in exchange for 1,021,920 shares of Applicant's common stock having a per share net asset value as of September 22, 1972 (adjusted for the aforesaid 3 for 1 stock split), of $31.49. Cullman was subsequently liquidated and the shares of Applicant were distributed to the Cullman stockholders. As of September 30, 1972, the former Cullman stockholders or their representatives held the following amounts and percentages of Applicant's outstanding shares:

Former Cullman stockholders	Shares of applicant held	Percentage of applicants outstanding stock
Joseph F. Cullman, 3d., Edgar M. Cullman, and W. Arthur Cullman, trustees u/w of Joseph F. Cullman, Jr.	311,682	3.54
Estate of Howard S. Cullman	207,859	2.36
Joseph F. Cullman, 3d	207,859	2.36
Edgar M. Cullman	207,859	2.36
Lawrence H. Levy	34,439	.39
Hugh Cullman	23,607	.27
W. Arthur Cullman	23,607	.27
Bernhard L. Cohn	5,008	.06

Applicant states that between the time when it reached a formal agreement with Cullman to acquire Cullman's assets and the effective completion date of such transaction, Mr. Howard S. Cullman, a former stockholder of Cullman, died. The executors of the Estate are Marguerite W. Cullman, Joseph F. Cullman, 3d, Hugh Cullman, and Bankers Trust Co. (New York). The Estate, which may be deemed to be an affiliated person of Applicant if its holdings are combined with the holdings of other members of the Cullman family, including the Estate of Joseph F. Cullman, Jr., desires to redeem a portion of the 207,859 shares of Applicant presently held by it in order to raise approximately $1 million to pay certain of its expenses, including Federal estate taxes.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company, or any company controlled by such registered company, any security, or other property. Section 17(b) of the Act: *Provides, however,* That the Commission, upon application, may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

Applicant, in accordance with its continuous redemption policy described above, wishes to pay the redemption price of the shares to be tendered for redemption by the Estate with one or more marketable securities from Applicant's portfolio.

The portfolio securities of Applicant to be used to meet such redemption will be

selected solely by Applicant in its investment discretion at the time of the redemption, and there is no arrangement or understanding with the executors of the estate as to what the securities will be. Such portfolio securities will be valued in accordance with the valuation practices of Applicant (as set forth in its governing instruments) for determining its net asset value per share as of the same time as the net asset value of the Applicant's shares tendered for redemption is determined. By paying the redemption price of its shares tendered by the estate for redemption with portfolio securities, Applicant will be adhering to its policy, in effect since its inception, of paying all redemptions of its shares, except for those involving an insubstantial amount, by delivery of portfolio securities. Applicant submits that if it were required to sell portfolio securities in order to raise cash to meet redemptions, it would, in consequence, be forced to realize substantial capital gains and thereby incur substantial capital gains tax liability and the expense of brokerage commissions, all of which would be to the detriment of its shareholders. No realization of capital gains or incurring of brokerage commission expense by Applicant will occur upon a redemption in which portfolio securities are delivered in satisfaction of the redemption price.

Notice is further given that any interested person may, not later than January 29, 1973, submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons 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 should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the 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 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 the 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.73–600 Filed 1–10–73;8:45 am]

[File No. 500–1]

FIRST WORLD CORP.

Order Suspending Trading

JANUARY 4, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stocks, $0.15 par value, and all other securities of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from January 5, 1973 through January 14, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73–551 Filed 1–10–73;8:45 am]

[70–5287]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Proposed Amendments of Articles of Acceptance, Increase in Permitted Short-Term Unsecured Indebtedness, and Solicitation of Proxies in Connection Therewith

JANUARY 4, 1973.

Notice is hereby given that Indiana & Michigan Electric Co. (I & M), 2101 Spy Run Avenue, Fort Wayne, IN 46801, an electric utility subsidiary company of American Electric Power Co., Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a)(2), 7, and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

I & M proposes to amend its Articles of Acceptance (Articles) to increase the number of authorized shares of its cumulative preferred stock. As of November 15, 1972, of the 1,250,000 authorized shares of I & M's cumulative preferred stock, 120,000 shares of its 4⅛ percent Series, 60,000 shares of its 4.56 percent Series, 40,000 shares of its 4.12 percent Series, 300,000 shares of its 7.08 percent Series, and 350,000 shares of its 7.76 percent Series were issued and outstanding. I & M now proposes, to provide funds with which to finance its expenditures for construction and other corporate purposes, to amend its Articles so as to increase its authorized cumulative preferred stock to 2,250,000 shares. The cost of I & M's construction program for the year 1973 is estimated, on the basis of presently existing conditions, to be approximately $140 million.

I & M proposes to obtain the consent and approval of the holders of the outstanding cumulative preferred stock to an increase in the amount of unsecured short-term debt, which the company is authorized to incur, to exceed 10 percent, but provided that combined short-term and long-term unsecured indebtedness would be not more than 20 percent of its total capitalization for a period ending on December 31, 1976, but with no maturity later than, June 30, 1977, except as otherwise provided by I & M's Articles. Authorization from the Commission for such an increase in the permissable amount of short-term debt, as required by I & M's debenture agreement is requested. The actual issue and sale of securities related to such proposed increase in short-term indebtedness will be subject to further authorization by this Commission.

I & M intends to submit the proposed amendments of its Articles and the proposed consent to its shareholders for their approval at a special meeting of shareholders to be held on March 7, 1973. In connection therewith, I & M proposes to solicit proxies from the holders of its preferred stock through the use of solicitation material which sets forth the proposals in detail. The declaration states that the proposed amendments require the affirmative vote of the holders of a majority of the outstanding shares of I & M's common stock and of the holders of a majority of the outstanding shares of each class of cumulative preferred stock, voting separately as a class. Consent of the holders of a majority of the outstanding cumulative preferred stock, voting as a class, is needed to increase the amount of short-term unsecured indebtedness. American Electric Power Co., Inc., holder of all of the outstanding shares of I & M's Power Co., Inc., has indicated that all such shares will be voted in favor of the proposed amendments.

The fees and expenses incurred and to be incurred in connection with the provided transactions are estimated not to exceed $21,500. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given, that any interested person may, not later than January 25, 1973, request in writing that a hearing be held with respect to the proposed transactions, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as

it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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 Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-555 Filed 1-10-73;8:45 am]

[812-3333]

KEYSTONE CUSTODIAN FUNDS, INC., ET AL.

Notice of Filing of Application for Order Conditionally Exempting Certain Underwriting Contracts

JANUARY 4, 1973.

Notice is hereby given, that Keystone Custodian Funds, Inc. (Keystone), a Delaware corporation, as trustee of each of the following nine trusts, namely, Keystone Custodian Fund Series B-1, B-2, B-4, K-1, K-2, S-1, S-2, S-3, S-4 (Funds) each registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, the Keystone Company of Boston (Keystone-Boston), a Delaware corporation, and Cornerstone Financial Services, Inc. (Cornerstone), 99 High Street, Boston, MA 02104, a Delaware corporation, (collectively Applicants), have filed an application for an order pursuant to section 6(c) of the Act, exempting Keystone-Boston and Cornerstone from the provisions of section 15(b)(1) of the Act, on condition that the principal underwriting contracts dated April 1, 1971, between Keystone and Keystone-Boston and between Keystone and Cornerstone, and any future contracts of the type required by section 15(b) of the Act so entered into, shall continue in effect with respect to any of the Funds only so long as the continuance is specifically approved at least every 3 years by either written approval by holders of a majority of the outstanding shares of each of the Funds, or by the vote of a majority of such outstanding shares cast in person or by proxy at a meeting called for the purpose. If the requested order were not granted, such approval would be required annually. The exemption, if granted, shall not be operative with respect to any approval required from and after December 31, 1980. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Commission by Order dated September 24, 1965 (Investment Company Act Release No. 4361) (the "1965 Order") granted a conditional order to Keystone and Keystone-Boston similar to that requested by the present application. The 1965 Order provided that the exemption would not be operative with respect to any approval which would otherwise be required to continue such underwriting contracts in effect from and after December 31, 1972. New underwriting contracts with Keystone-Boston and Cornerstone (the latter not a party to the 1965 order), both Keystone subsidiaries, executed on April 1, 1971, were most recently submitted to and approved by shareholders of the nine Funds between March 8 and March 22, 1971. Applicants now seek an order exempting them from section 15(b)(1) and extending the 1965 Order to permit them to continue to submit the underwriting contracts with Keystone-Boston and Cornerstone or any future such contracts to shareholders of the Funds every 3 years beginning in 1974 and continuing through December 1980.

The nine Funds, created in 1935, are unincorporated common law trusts, each existing under a separate but substantially identical trust agreement between Keystone as Trustee of each fund and the investors in the Funds. Keystone is a corporation which, pursuant to the terms of the trust agreements, performs as trustee all of the investment, management, and administrative services required by the Funds. Except for the Trustee, the Funds have no employees.

As a principal underwriter, Keystone-Boston is authorized to sell shares of the Funds as agent for the Funds upon receipt of orders from retail dealers. It may also sell shares to the public acting as principal, although it does not presently do so. The contract allots the entire sales charge to Keystone-Boston. Keystone-Boston is required to pay the retail dealers' concessions, the cost of registration of shares sold by it under Federal and State securities laws and the cost of preparation and distribution of prospectuses and sales literature.

As a principal underwriter, Cornerstone is authorized to sell shares of the Funds as principal to the public. Cornerstone, with the approval of Keystone, may enter into sales contracts with other business entities, acting as either principal or agent for resale by such other business entities to the public although it does not presently do so. Cornerstone is required to pay the cost of registration of shares sold by it under Federal and State securities laws and the cost of preparation and distribution of prospectuses and sales literature.

Section 15(b)(1) of the Act makes it unlawful for any principal underwriter of a registered open-end investment company to offer securities of such company except pursuant to a written contract, which contract shall continue in effect for a period of more than 2 years from the date of its execution only so long as such continuance is specifically approved at least annually by the Board of Directors or by vote of a majority of the outstanding voting securities of such Fund.

In August 1960, certain shareholders of the Funds brought suit in the Court of Chancery of New Castle County, Del., against Keystone individually and as trustee, its directors, and Keystone-Boston, in which, among other things, they challenged the validity of the underwriting contracts with Keystone-Boston. "Saminsky v. Abbott," 185 A. 2d 765 (Del. Ch. 1961). The defendants filed a motion for summary judgment which the court granted in part and denied in part. With respect to the challenge to the validity of the then existing underwriting contracts, the court held such contracts to be void on the ground that the contracts had been continued for more than 2 years without shareholder approval. Other issues, including the plaintiff's right to recover for violations of section 15(b) of the Act, were reserved for later decision.

Subsequent to the proceedings in the Delaware Chancery Court at special meetings held in January 1963 to consider various matters related to the litigation, the shareholders of each of the Funds voted to approve new underwriting contracts with Keystone-Boston and to ratify and approve past underwriting contracts and transactions thereunder. After these meetings, the parties to the aforementioned litigation agreed to settlement subject to court approval.

Applicants assert that the cost of an annual submission of the underwriting contracts to shareholders, which cost is borne by Keystone, would be large in relation to any interest of shareholders in the matter. Ordinarily, no other matters are submitted for shareholder approval. For example, the cost of the proxy solicitation and shareholders' meetings conducted in 1971, when there were approximately 460,000 shareholders in the nine Funds, was $90,000, of which about $53,000 represented postage. Based on the current number of shareholders (about 450,000 at Oct. 31, 1972) and higher postage and other costs, it is estimated that a solicitation at this time would cost more than $115,000. The cost will increase with each increase in the number of shareholders.

In addition Applicants state that there is substantial question whether sufficient shareholder interest can be obtained to secure the majority approval required by the Act when the underwriting contract is the only matter to be brought before the shareholders. Applicants know of no investment company situation where the only annual submission to shareholders is that of the underwriting contract. Applicants allege that failure to obtain necessary approval might make further sales of shares impossible and thus have a serious adverse effect on Keystone and the Funds.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if 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 25, 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, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of any attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc. 73-554 Filed 1-10-73;8:45 am]

[File No. 500-1]

LILAC TIME, INC.

Order Suspending Trading

JANUARY 5, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Lilac Time, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m. (e.s.t.) on January 5, 1973 through January 14, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-598 Filed 1-10-73;8:45 am]

[File No. 500-1]

STAR-GLO INDUSTRIES, INC.

Order Amending Order Suspending Trading

JANUARY 4, 1973.

The Commission having determined to amend its order of December 29, 1972, summarily suspending trading in the securities of Star-Glo Industries, Inc. for the period from December 30, 1972 through January 7, 1973:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the common stock, no par value, and all other securities of Star-Glo Industries, Inc. being traded otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 30, 1972 through January 8, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-553 Filed 1-10-73;8:45 am]

[70-5288]

UTAH POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Term Notes to Banks and Exception From Competitive Bidding

JANUARY 5, 1973.

Notice is hereby given that Utah Power & Light Co. (Utah), 1407 West North Temple Street, Post Office Box 899, Salt Lake City, UT 84110, an electric utility company and a registered holding company has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Utah proposes to issue and sell, from time to time prior to December 31, 1973, unsecured promissory term notes with 10-year maturities to commercial banks, in an aggregate amount not exceeding $50 million. The principal amount of the term notes will be payable at maturity or the principal amount may be prepaid, in whole or in part, at any time, without penalty or premium, upon payment of the interest accrued to the date of such prepayment on the principal prepaid.

The rate of interest per annum on each outstanding term note, or portion thereof, shall be: 1¼ percent of the prime rate during the first and second years; 1¼ percent of the prime rate plus one-fourth of 1 percent during the third and fourth years; 1¼ percent of the prime rate plus one-half of 1 percent during the fifth, sixth, and seventh years and 1¼ percent of the prime rate plus 2 percent during the eighth, ninth, and 10th years. Based on a prime rate at commercial banks of 5¾ percent per annum, the average interest cost on the term notes during a 7-year period would be approximately 6.8 percent per annum, and over a 10-year period approximately 7.4 percent per annum. During the first 7 years of each term note outstanding the maximum average interest rate is guaranteed to not exceed 8 percent per annum. There are no compensating balances required.

Utah further proposes to issue its notes, in accordance with the above-stated terms, in units of approximately $10 million to $15 million each to no less than two of the following banks:

First National City Bank, New York, N.Y.
Irving Trust Co., New York, N.Y.
Mellon National Bank & Trust Co., Pittsburg, Pa.
Morgan Guaranty Trust Company of New York, New York, N.Y.
The Chase Manhattan Bank, New York, N.Y.

The proceeds from the sale of the term notes will be used to pay for short-term notes and/or commercial paper then outstanding; and, together with other funds, to pay for Utah's construction program during 1973. Construction costs for 1973 are estimated to be $100 million. The sale of the term notes is excepted from the competitive bidding requirements of Rule 50 under the provisions of subparagraph (a)(2).

It is stated that the Idaho Public Utilities Commission and the Wyoming Public Service Commission has jurisdiction over the proposed transaction. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Miscellaneous expenses are estimated not to exceed $4,000.

Notice is further given that any interested person may, not later than January 29, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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 Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-601 Filed 1-10-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30—Region I; Amdt. 2]

DISTRICT DIRECTOR, DISTRICT OFFICE ET AL.

Delegation of Authority To Conduct Program Activities in the Field Offices

Delegation of Authority No. 30—Region I (37 FR 17590), as amended (37 FR 26557) is hereby further amended to expand disaster loan authority.

PART II—DISASTER PROGRAM

SECTION A. *Disaster Loan Authority.*

1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety, occupational safety and health, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan:

(1) District Director, District Office.

(2) Disaster Branch Manager, as assigned.

(3) Chief and Assistant Chief, Financing Division, Regional Office.

(4) Supervisory Loan Officer, Regional Office.

(5) Chief, Financing Division, District Office.

2. To decline direct disaster and immediate participation disaster loans (excluding displaced business loans, coal mine health and safety, occupational safety and health, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) in any amount and to aprove such loans up to the total SBA funds of $50,000:

(1) District Director, District Office.

(2) Disaster Branch Manager, as assigned.

(3) Chief and Assistant Chief, Financing Division, Regional Office.

(4) Supervisory Loan Officer, Regional Office.

(5) Chief, Financing Division, District Office.

3. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guarantee of the following amounts:

(1) District Director, District Office	$500,000
(2) Disaster Branch Manager, as assigned	500,000
(3) Chief and Assistant Chief, Financing Division, Regional Office	500,000
(4) Supervisory Loan Officer, Regional Office	50,000
(5) Chief, Financing Division, District Office	350,000

4. To appoint as a processing representative any bank in the disaster area:

(1) District Director, District Office.

(2) Disaster Branch Manager, as assigned.

(3) Chief and Assistant Chief, Financing Division Regional Office.

Effective Date: July 1, 1972.

DAVID P. HEILNER, *Regional Director, Region I.*

[FR Doc.73-617 Filed 1-10-73;8:45 am]

TARIFF COMMISSION

[TEA-W-170]

ANDAL SHOES, INC.

Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Andal Shoes, Inc., Haverhill, Mass., the U.S. Tariff Commission, on January 5, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in Items 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the customhouse.

By order of the Commission.

Issued: January 8, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-634 Filed 1-10-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 153]

ASSIGNMENT OF HEARINGS

JANUARY 8, 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 136884, James J. Hamilton doing business as Hamilton's Towing Service, now assigned January 15, 1973, at Chicago, Ill., is canceled and reassigned January 15, 1973, will be held at the Kirkwood Hotel, Fourth and Walnut Streets, Des Moines, Iowa.

MC 66886 Sub 30, Belger Cartage Service, Inc., now assigned January 15, 1973, at Kansas City, Mo., is postponed indefinitely.

MC-121495 Sub 5, Englewood Transit Co., now assigned January 31, 1973, at Denver, Colo., is canceled and application dismissed.

AB-5 Sub 47, Penndel Co. and George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment between New Castle and Houston Junction, in Mercer and Lawrence Counties, Pa., now being assigned hearing March 1, 1973 (2 days), at New Castle, Pa., in a hearing room to be later designated.

MC-115311 (Sub-No. 134), J & M Transportation Co., Inc., now assigned February 5, 1973, will be held in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC 63792, Tom Hicks Transfer Co., Inc., now assigned January 23, 1973, at Jackson, Miss., will be held in Room 536, U.S. Post Office and Courthouse, East Capitol and Southwest Streets.

MC 136468 Sub 1, Virginia Air Freight Inc., now assigned January 29, 1973, at Roanoke, Va., will be held in Room 301, U.S. Post Office Building, 212 Church Avenue SW., MC 115841 Sub 413, Colonial Refrigerated Transportation, Inc., now assigned February 5, 1973, at Washington, D.C., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-612 Filed 1-10-73;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 8, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42598—*Methylene chloride from points in Texas and Louisiana.* Filed by Southwestern Freight Bureau, agent (No. B-375), for interested rail carriers. Rates on methylene chloride, in tank-car loads, as described in the application, from Nadeau and Texas City, Tex., to Chicago, Ill., and points taking same rates, also from specified points in Louisiana and Texas, to East St. Louis, Ill., and St. Louis, Mo.

Grounds for relief—Market competition.

Tariffs—Supplements 23 and 165 to Southwestern Freight Bureau, agent, tariffs ICC 5044 and 4899, respectively. Rates are published to become effective on February 1, 1973.

FSA No. 42599—*Resin plasticizers to points in Florida.* Filed by Southwestern Freight Bureau, agent (No. B-368), for interested rail carriers. Rates on resin plasticizers, in tank-car loads, as described in the application, from Bayport and Houston, Tex., to specified points in Florida.

Grounds for relief—Market competition.

Tariff—Supplement 39 to Southwestern Freight Bureau, agent, tariff ICC 5019. Rates are published to become effective on February 12, 1973.

FSA No. 42600—*Salt and related articles to points in southern territory.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3030), for interested rail carriers. Rates on salt and salt compounds and mixtures, salt, common (sodium chloride), in bulk, in carloads, as described in the applicataion, from Seneca Lake, Retsof, and Ludlowville, N.Y., to points in southern territory.

Grounds for relief—Market competition.

Tariff—Supplement 108 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC A-907. Rates are published to become effective on February 7, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-610 Filed 1-10-73;8:45 am]

[Rev. S.O. 994; ICC Order 78, Amdt. 4]

LONG ISLAND RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 78 (the Long Island Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 78 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 19, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., January 5, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 4, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-611 Filed 1-10-73;8:45 am]

[Notice 2]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JANUARY 5, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by special rule 1100.247 [1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing: (1) That it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, or oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 1042 (Sub-No. 8), filed November 16, 1972. Applicant: C.P.T. FREIGHT, INC., 2600 Calumet Avenue, Hammond, IN 46320. Applicant's representative: E. H. Heisterberg (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and contractors' machinery, equipment, materials and supplies*, between Indian Oaks, Ill., and points in Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 1263 (Sub-No. 17) (Correction), filed October 17, 1972, published in

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

the FEDERAL REGISTER issue of November 16, 1972, and republished as corrected this issue. Applicant: MCCARTY TRUCK LINE, INC., 17th and Harris, Trenton, Mo. 64683. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading) serving all points within 10 miles of St. Joseph, Mo., and 15 miles of Platte City, Mo., as off-route points in connection with McCarty's regular route operations between Kansas City and St. Joseph, Mo. NOTE: The purpose of this republication is to delete the phrase "for operating convenience only, serving no intermediate points," which was erroneously published. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 1641 (Sub-No. 99), filed November 20, 1972. Applicant: PEAKE TRANSPORT SERVICE, INC., Box 366, Chester, NE 68327. Applicant's representative: Einar Viren, 904 City National Bank Building, Omaha, NE 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer, fertilizer materials and ammonium nitrate*, in bulk, or in bags from Farmland Industries, Inc., plant or warehouse located at or near Hastings, Nebr., to points in Colorado, Kansas, South Dakota, and Wyoming; and (2) *liquid asphalt, road oils, and residual fuel oils*, in bulk, in tank vehicles from the Sioux City, Iowa-South Sioux City Nebraska commercial zone, including Bridgeport industrial park, to points in Iowa, Minnesota, Nebraska, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 2202 (Sub-No. 420) (Amendment), filed October 10, 1972, published in the FEDERAL REGISTER issue of November 16, 1972, and republished in part as amended this issue. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Connor (same address as applicant). NOTE: The purpose of this partial republication is to show (1) as follows: From Davenport over U.S. Highway 61 to the junction of U.S. Highway 61 and Missouri 19, thence over Missouri Highway 19 to the junction of Missouri 19 and U.S. Highway 54, thence over U.S. Highway 54 to the junction of U.S. Highways 54 and 40, and return over the same route. The rest of the application remains the same.

No. MC 8535 (Sub-No. 44) (Amendment), filed November 9, 1972, published in the FEDERAL REGISTER issue of December 21, 1972, and republished as amended this issue. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, Interstate 83 at Route 439, Baltimore, Md. 21120. Applicant's representative: John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment and those injurious or contaminating to other lading), between the site of applicant's terminal at or near South Hill, Va., on the one hand, and, on the other, points in North Carolina, serving South Hill, Va., for purpose of joinder only. NOTE: Applicant presently holds authority as above described between Victoria and Kenbridge, Va., on the one hand, and, on the other, points in North Carolina. Applicant presently holds authority to transport a number of special commodities between Virginia, on the one hand, and, on the other, points in the following States: Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Under its existing certificates it is presently authorized to tack at either Victoria or Kenbridge to permit through movements of traffic between North Carolina, on the one hand, and, on the other, points in the States named above. Applicant states it does intend to continue to tack the two authorities involved but over the additional gateway of South Hill, Va. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 26396 (Sub-No. 65), filed November 24, 1972. Applicant: POPELKA TRUCKING CO., doing business as, THE WAGGONERS, Post Office Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fence and materials and wood poles*, from points in St. Regis, Superior, Troy, Montana; and Idaho, Boundry, Bonner, Kootenai, Shoshone, Ada, Benewah, Latah, Clearwater, Lewis, Nez Perce Counties, Idaho, to points in Indiana, Michigan, Ohio, Nebraska, Minnesota, Iowa, Missouri, Kansas, Illinois, Wisconsin, Oklahoma, Wyoming, Colorado, New Mexico, Arizona, Utah, Montana, Washington, Oregon, North and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 26396 (Sub-No. 67), filed November 27, 1972. Applicant: POPELKA TRUCKING CO., doing business as, THE WAGGONERS, a corporation, Post Office Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Treated and untreated poles, posts, piling, ties, and lumber*, from Flathead County, Mont., to points in North Dakota, South Dakota, Colorado, and Wyoming; and (2) *forest products*, from points in Montana to points in the United States (including Alaska and excluding Hawaii) on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the Ohio River at the Illinois State line, thence along the Ohio River to its intersection with the eastern State boundary of Indiana, thence northward along the eastern State boundary of Indiana, to its intersection with the Michigan State line, and thence eastward along the Michigan State line to Lake Erie. NOTE: Applicant states that the requested authority can be tacked with the authority it holds in certificate No. MC 26396 at points in Wyoming within a 100-mile radius of Bridger, Mont., to serve points in Montana. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 30844 (Sub-No. 445), filed November 20, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from Ames, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the facilities of Carriage House Meat & Provision Co., Inc. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is demed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 30844 (Sub-No. 446), filed November 20, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Mankato, Kans., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Kans., or Washington, D.C.

No. MC 30844 (Sub-No. 447), filed November 20, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Footwear, footwear accessories, and footwear display cases*, (1) from Brockton, Mass., to points in Colorado and Oklahoma and (2) from Norwood, Mass., to points in Colorado, Illinois (except Chicago and points in the Chicago commercial zone), Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 46737 (Sub-No. 48), filed December 5, 1972. Applicant: GEO. F. ALGER COMPANY, a corporation, 3050 Lonyo Road, Detroit, MI 48209. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, and materials and supplies* used in the installation or distribution thereof, from the plantsite and facilities of United States Gypsum Co. at River Rogue, Mich., to points in Illinois, Kentucky, Pennsylvania, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 51146 (Sub-No. 300), filed November 27, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Charles Singer, Suite 1000, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished and unfinished plywood*, (1) from Baltimore, Md., Camden and Newark, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, West Virginia, Ohio, Kentucky, Tennessee, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, and Missouri, and (2) from Joliet and Chicago, Ill., St. Louis, Mo., St. Paul, Minn., and Louisville, Ky., to points in Tennessee, Kentucky, Ohio, Michigan, Indiana, Wisconsin, Illinois, Arkansas, Oklahoma, Kansas, Nebraska, Missouri, Iowa, and Minnesota. NOTE: Common control may be involved. Applicant states that the requested authority could be tacked with various subs of MC 51146 and it will tack with its MC 51146 where feasible, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states it has various duplicative items of authority under various subs but does not seek duplicative authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 301), filed December 7, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Charles Singer, Suite 1000, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Lenoir, N.C., to points in the Upper Peninsula of Michigan and points in Illinois on and north of U.S. Highway 30 (except points in Chicago, Ill., commercial zone as defined by the Commission). NOTE: Common control may be involved. Applicant states that the requested authority could be tacked with various subs of MC 51146 and it will tack with its MC 51146 where feasible, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states it has various duplicative items of authority under various subs but does not seek duplicative authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 303), filed December 11, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Charles Singer, Suite 1000, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the plant and warehouse sites of Tri-Valley Growers located at Madera, Modesto and at or near Stockton, Calif., to points in North Dakota, South Dakota, Iowa, Minnesota, Wisconsin, Michigan, Illinois, Missouri, Indiana, Ohio, and Pennsylvania, restricted to traffic originating at the named plant and warehouse sites and destined to points in the above named States. NOTE: Common control may be involved. Applicant states that the requested authority could be tacked with various subs of MC 51146 and it will tack with its MC 51146 where feasible, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that falure to oppose the application may result in an unrestricted grant of authority. Applicant further states it has various duplicative items of authority under various subs but does not seek duplicative authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 51146 (Sub-No. 304) filed December 11, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Charles Singer, Suite 1000, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the plant and warehouse sites of Tri-Valley Growers located at Madera, Modesto and at or near Stockton, Calif., to points in Texas, Louisiana, Arkansas, Mississippi, and Alabama, restricted to traffic originating at the named plant and warehouse sites and destined to points in the above named States. NOTE: Common control may be involved. Applicant states that the requested authority could be tacked with various subs of MC 51146 and it will tack with its MC 51146 where feasible, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states it has various duplicative items of authority under various subs but does not seek duplicative authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 52460 (Sub-No. 117), filed November 26, 1972. Applicant. HUGH BREEDING, INC., Post Office Box 9515, Tulsa, OK 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and supplies* used in manufacturing of carpeting; (a) from Toccoa, Ga., to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas; and (b) from Rome, Dalton, Oxford, and Columbus, Ga., to Poteau, Okla.; (2) *rugs and carpeting;* (a) from Bristow, Okla., to points in Arkansas, Kansas, Missouri, Texas, and Louisiana; and (b) from Poteau, Okla., to Des Moines, Iowa, Kansas City, Kansas-Missouri commercial zone and Dallas, Tex.; and (3) *finished carpeting*, from Columbus, Ga., to points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Oklahoma City, Okla.; Atlanta, Ga.; or Little Rock, Ark.

No. MC 52574 (Sub-No. 45), filed December 4, 1972. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, NJ 07111. Applicant's representative: Edward F. Bowes, 744 Broad Street,

Newark, NJ 07102. Authority songht to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from Totowa, N.J., to Somerset, Altoona, and Pittsburgh, Pa., Dover, Del., and Berlin, Md., under a continuing contract, or contracts, with S. B. Thomas, Inc., at Totowa, N.J. NOTE: Applicant presently holds permanent contract carrier authority to transport similar commodities for S. B. Thomas, Inc., from Totowa, N.J., to various points in Maryland, Pennsylvania, and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 61592 (Sub-No. 293), filed November 24, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from the Port of New Orleans, La., and the plantsite of Plywood Pahels, Inc., at or near New Orleans, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 61592 (Sub-No. 294), filed November 27, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Beaverhead, Fergus, Flathead, Gallatin, Granite, Lake, Lincoln, Mineral, Missoula, Musselshell, Powell, Ravalli, Rosebud, and Sanders Counties, Mont., and Salmon, Idaho, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 61592 (Sub-No. 295), filed November 27, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquors, wines, and spirits*, excluding beer and malt beverages, from Louisville, Frankfort, Bardstown, and Ownesboro, Ky., to Tulsa and Oklahoma City, Okla. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 76266 (Sub-No. 123), filed December 1, 1972. Applicant: ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul, MN 55114. Applicant's representative: Cecil L. Goettsch, 11th Floor Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's regular-route operations via Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.; Omaha, Nebr.; or Des Moines, Iowa.

No. MC 85465 (Sub-No. 53), filed November 30, 1972. Applicant: WEST NEBRASKA EXPRESS, INC., The 1650 Grant Street Building, Denver, CO 80203. Applicant's representative: Stockton and Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Huron, S. Dak., to points in Wyoming and Colorado. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Rapid City, S. Dak.

No. MC 103498 (Sub-No. 30), filed December 6, 1972. Applicant: W. D. SMITH TRUCK LINE, INC., Post Office Drawer C, De Queen, Ark. 71832. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards composed of wood fiber and cement combined and accessories therefor*, when moving incidental to and in the same vehicle with subject boards, returned of rejected and damaged materials; and return commodities used in the manufacture and distribution of the above-named commodity, from the plantsite and warehouse of the Gold Bond Building Products, Division of National Gypsum Co., at or near Arkadelphia, Ark., to points in Louisiana, Texas, Oklahoma, Iowa, Illinois, Wisconsin, Missouri, Kansas, Alabama, Colorado, Georgia, Minnesota, Mississippi, Nebraska, New Mexico, North Dakota, South Dakota, Florida, Kentucky, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 104523 (Sub-No. 53), filed December 10, 1972. Applicant: HUSTON TRUCK LINE, INC., Friend, Nebr. 68359. Applicant's representative: David R. Parker, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone; and landscaping, building and stone products, materials and supplies*, from points in Colorado, New Mexico, and Utah to points in Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority in MC 104523 (Sub-No. 40). If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Albuquerque, N. Mex.

No. MC 106644 (Sub-No. 145), filed November 13, 1972. Applicant: SUPERIOR TRUCKING COMPANY, INC., Post Office Box 916 (2770 Peyton Road NW.), Atlanta, GA 30301. Applicant's representative: Fred Coffman, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Switch gears, circuit breakers, bus bar systems and rectifiers; parts of the above named commodities*, from Camden, N.J., and Philadelphia, Pa., to points in the United States (including Alaska, but excluding Hawaii). NOTE: Applicant holds contract carrier authority under MC 104724 (Sub-No. 13), therefore dual operations and common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the applications may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106748 (Sub-No. 10), filed November 24, 1972. Applicant: GODDARD'S TRANSPORTATION, INC., Route 4, Fair Haven, Vt. 05743. Applicant's representative: John P. Monte, 61 Summer Street, Barre, VT 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed, ground, and broken limestone* in dump vehicles, from points in Rutland County, Vt., to points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island. NOTE: Applicant states that the requested authority cannot be tacked

with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either (1) Montpelier, Vt.; (2) Concord, N.H.; or (3) Boston, Mass.

No. MC 107012 (Sub-No. 167), filed November 30, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and carpet padding*, from Greenville, S.C., to Charleroi and Clarion, Pa. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 107012 (Sub-No. 169), filed November 30, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass bathtub and shower enclosures*, from Cordele, Ga., to points in Louisiana, Arkansas, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina, and South Carolina. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 107478 (Sub-No. 16), filed December 6, 1972. Applicant: OLD DOMINION FREIGHT LINE, a corporation, Post Office Box 1189, High Point, NC 27261. Applicant's representative: Francis W. McInerny, 1000 16th Street, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous articles, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Richmond, Va., and Henderson, N.C., from Richmond over Interstate Highway 95 to its junction with Interstate Highway 85, thence over Interstate Highway 85 to Henderson, N.C., and return over the same route; and (2) between Richmond, Va., and Roanoke Rapids, N.C., from Richmond over Interstate Highway 95 and/or U.S. Highway 301 to Roanoke Rapids, and return over the same route, as alternate routes for operating convenience only in connection with applicant's presently held regular-route authority and serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or High Point, N.C.

No. MC 107743 (Sub-No. 19), filed October 12, 1972. Applicant: SYSTEM TRANSPORT, INC., East 6523 Broadway, Spokane, WA 99206. Applicant's representative: Gordon Roberts, Kearns Building, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products, and millwork*, from points in Washington, Idaho, and Oregon, to points in Ohio, Michigan on, south and west of U.S. Highway 10 and Port Huron, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash., or Portland, Oreg.

No. MC 107743 (Sub-No. 20), filed November 21, 1972. Applicant: SYSTEM TRANSPORT, INC., East 6523 Broadway, Spokane, WA 99206. Applicant's representative: S. J. Cully, Jr., Post Office Box 3456TA, Spokane, WA 99220. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles* (except those, the transportation of which, because of their size or weight, require the use of special equipment, and except pipe as described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from points in California to points in Oregon, Washington, Idaho, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 109172 (Sub-No. 10), filed November 30, 1972. Applicant: NATIONAL TRANSFER, INC., 4100 East Marginal Way S., Seattle, WA 98134. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo vans and containers only; and *empty cargo vans and containers*; (1) between points in King, Pierce, Lewis, Clark, and Cowlitz Counties, Wash.; and (2) between points in King, Pierce, Lewis, Clark, and Cowlitz Counties, Wash., on the one hand, and, on the other, points in Multnomah, Clackamas, Yamhill, Washington, and Marion Counties, Oreg. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 110420 (Sub-No. 669), filed November 22, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, over irregular routes, from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110988 (Sub-No. 291), filed November 24, 1972. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, in tank or hopper-type vehicles, from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 110988 (Sub-No. 292), filed November 24, 1972. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends*, in bulk, in tank or hopper-type vehicles, from the plantsite of the Hubinger Co. at or near Elk Grove Village, Ill., to points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, Tennessee, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 111545 (Sub-No. 178), filed December 10, 1972. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, Marietta, GA 30062. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, GA 30062. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and tubing, iron and steel pipe and tubing and fittings for pipe and tubing*, from the plantsite of Tex-Tub Division, Detroit Steel Corp., a division of Cyclops Corp., at or near Houston, Tex., to points in the United States

(except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 111812 (Sub-No. 482), filed November 27, 1972. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chicago and Deerfield, Ill., to points in California, restricted to traffic originating at the plantsites and warehouses utilized by the Kitchens of Sara Lee at the above-named origin points and destined to California. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112750 (Sub-No. 291), filed December 11, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY. Applicant's representative: John M. Delaney (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions, between Adrian, Mich., and Toledo, Ohio, under contract with banks and banking institutions. NOTE: Applicant holds common carrier authority under MC 111729 and subs thereto, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 113382 (Sub-No. 15) (Amendment), filed October 11, 1972, published in the FEDERAL REGISTER issue of November 9, 1972, and republished as amended this issue. Applicant: NELSEN BROS., INC., Post Office Box 613, Nebraska City, NE 68410. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products, products* produced or distributed by manufacturers and converters of paper and paper products, from Minneapolis, Minn., to points in South Dakota, Nebraska, Kansas, and Missouri; and (2) *Materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk and commodities which by reason of size or weight require the use of special equipment), from points in South Dakota, Nebraska, Kansas, and Missouri to St. Paul and Minneapolis, Minn., under contract with Hoerner Waldorf Corp. Restriction: Restricted to traffic originating at or destined to the plantsites or warehouse facilities utilized by Hoerner Waldorf Corp. at St. Paul and Minneapolis, Minn. NOTE: The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 113855 (Sub-No. 264), filed November 24, 1972. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining equipment and construction equipment, and attachments and parts of mining equipment and construction equipment*, between Salt Lake City and Monticello, Utah; Lebanon, Mo.; and Rock, Mich., on the one hand, and, on the other, points in the United States (except Hawaii but including Alaska). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 114045 (Sub-No. 374), filed August 25, 1972. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, TX 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oils, cleaning, and polishing compounds*, in vehicles equipped with mechanical refrigeration, from Baltimore, Md., to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 114840 (Sub-No. 13), filed November 27, 1972. Applicant: EUGENE EBY, GLENN EBY AND WAYNE EBY, a partnership, doing business as, EBY BROTHERS, Route 2, Boise, ID 83702. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, lumber products, particle board, and poles*, from points in Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union, and Wallowa Counties, Oreg., and points in Idaho to points in Nevada; (2) *precast and prestressed concrete products*, from points in Ada County, Idaho, to points in Baker, Grant Harney, Malheur, Umatilla, Union, and Wallowa Counties, Oreg., and points in Nevada; (3) *stone and clay products*, (a) from points in Ada County, Idaho, to points in Baker, Grant, Harney, Malheur, Umatilla, Union, and Wallowa Counties, Oreg., and points in Nevada; and (b) from points in Nevada to points in Ada County, Idaho; and (4) *corrugated steel pipe and steel storage tanks*, from points in Ada County, Idaho, to points in Baker, Grant, Harney, Malheur, Umatilla, Union and Wallowa Counties, Oreg. NOTE: Applicant states that portions of the requested authority can be tacked with applicant's presently held authority but has no present intention of tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 115092 (Sub-No. 22), filed November 8, 1972. Applicant: WEISS TRUCKING, INC., Post Office Box 0, Vernal, UT 84078. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Torches and accessories, metal heating or melting furnaces, liquefied petroleum gases in steel cylinders, portable gas stoves, lanterns, engine starters, steel tool boxes, hardware, camping equipment and accessories including, but not limitd to barrack, duffel, clothing or sleeping bags, waterproofing compound, mattresses, tents, tent poles or stakes, cotton piece goods, cloth awnings, tarpaulins, cotton clothing, portable toilet seats, folding camp seats, portable alcohol stoves, pads, cots and umbrellas*, from Sycamore, Ill., to points in Arizona, California, and Nevada and (2) *tents and accessories*, from Bellwood, Ill., to same destinations as (1) above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116459 (Sub-No. 46), filed November 30, 1972. Applicant: RUSS TRANSPORT, INC., Post Office Box 4022, Chattanooga, TN 37405. Applicant's representative: Leonard A. Jasklewicz, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed ingredients* in bulk, in tank vehicles and packages, from Chattanooga, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Tennessee, South Carolina, and Virginia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 116544 (Sub-No. 137), filed November 2, 1972. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's

representative: Floyd F. Knutson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Hampton, Iowa, to points in Florida, Georgia, Alabama, Mississippi, and Louisiana. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 117169 (Sub-No. 4), filed November 29, 1972. Applicant: BEASLEY'S HOT SHOT SERVICE, INC., Post Office Box 161, Farmington, NM 87401. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies used in or in connection with*, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of *natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in or in connection with*, the construction, operation, repair, servicing, maintenance, and dismantling of *pipelines* (except the stringing or picking up of pipe in connection with main or trunk pipelines), between points in Arizona, that part of Colorado on and south of U.S. Highway 50, New Mexico and Utah. NOTE: Applicant states that the authority sought could be tacked at points in San Juan County, N. Mex., with existing authority in its Sub-No. 1, to provide service to and from Nevada and that part of Wyoming on and south of U.S. Highway 26. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 117574 (Sub-No. 221), filed October 19, 1972. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representative: James W. Hagar, 100 Pine Street, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *tractor parts* and *attachments* therefor, from Romeo, Mich., to points in that part of Illinois east of U.S. Highway 51 and north of U.S. Highway 50; Indiana, Ohio, that part of Kentucky east of U.S. Highway 127, that part of New York west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to Hamburg, N.Y., and thence along U.S. Highway 62 to Niagara, N.Y., that part of Pennsylvania west of U.S. Highway 219, and that part of West Virginia west of U.S. Highway 219. Restriction: The authority sought hereinabove is restricted to the transportation of shipments originating at the plantsite of Ford Motor Co. at Romeo, Mich., and destined to the named destination points above. NOTE: Applicant states that no duplicating authority is sought. Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 118457 (Sub-No. 9), filed November 30, 1972. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., West 145 South 6550 Tess Corners Drive, Muskego, WI 53150. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from Chicago Heights, Ill., to points in Wisconsin, Indiana, Ohio, and the Lower Peninsula of Michigan and (2) *meat, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the town of Paris, Kenosha County, Wis., to points in Illinois, Indiana, Iowa, Ohio, Kentucky, Missouri, the Lower Peninsula of Michigan, and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 118989 (Sub-No. 83), filed December 1, 1972. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, WI 53221. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers (cans) and parts related thereto*, from Indianapolis, Ind., to Sheboygan, Appleton, and Plymouth, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119789 (Sub-No. 134), filed November 30, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, 1612 East Irving Boulevard, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., Post Office Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in containers (except frozen foods), from Croswell and Edmore, Mich., to points in Texas, Oklahoma, Arkansas, Louisiana, Kansas, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.Y., or Dallas, Tex.

No. MC 119789 (Sub-No. 135), filed November 14, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1612 East Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned citrus products* (other than frozen) and *dried citrus pulp*, from points in Cameron, Hidalgo, Starr, and Willacy Counties, Tex., to points in the United States (except Alaska, Hawaii, Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harlingen, Tex., or Washington, D.C.

No. MC 119789 (Sub-No. 137), filed December 1, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1612 East Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Playground apparatus, recreational equipment, and sporting goods*, from Bossier City, La., to points in North Carolina, South Carolina, Georgia, Florida, Virginia, Alabama, and Mississippi. NOTE: Applicant states that the requested authority cannot be tacked with its existing authoriy. If a hearing is deemed necessary applicant requests it be held at Shreveport, La., or Washington, D.C.

No. MC 123048 (Sub-No. 239), filed November 27, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished and unfinished plywood*, (1) from Baltimore, Md., Camden and Newark, N.J., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, Wisconsin, and those in Pennsylvania on and west of U.S. Highway 219, and (2) from Louisville, Ky., St. Paul, Minn., and St. Louis, Mo., to points in Illinois, Iowa, Indiana, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 124078 (Sub-No. 535), filed December 11, 1972. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio,

Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 124813 (Sub-No. 100), filed November 20, 1972. Applicant: UNTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, IA 50533. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soybean flour and feed ingredients*, from points in Illinois to Muscatine, Iowa, and (2) *feed*, from Dundee, Ill., to points in Iowa, Minnesota, and Missouri. NOTE: Applicant states that the requested authority can be tacked at Muscatine to transport feed ingredients to points in Kansas, Missouri, and Nebraska and at Eagle Grove, Iowa, to transport feed to Nebraska, South Dakota, Colorado, and Wyoming. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Des Moines, Iowa, or Chicago, Ill.

No. MC 125777 (Sub-No. 139), filed November 13, 1972. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: Axelrod, Goodman, Steiner & Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in dump vehicles, from Chicago, Ill., to points in Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128375 (Sub-No. 87), filed November 30, 1972. Applicant: CRETE CARRIER CORPORATION, Box 249, Crete, NE 68333. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and accessories*, and *those commodities* used in the manufacture, production, and distribution of motor vehicle parts and accessories (except in bulk) between Ripley, Tenn., on the one hand, and, on the other, points in the United States (including Alaska and Hawaii), under a continuing contract with the Maremont Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Chicago, Ill.

No. MC 128527 (Sub-No. 32), filed November 27, 1972. Applicant: MAY TRUCKING COMPANY, a corporation, Post Office Box 398, Payette, ID 83661. Applicant's representative: C. Marvin May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, from Caldwell, Idaho, to points in Oregon west of the Cascade Mountain Range. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 134097 (Sub-No. 2), filed November 27, 1972. Applicant: HAHN TRANSPORTATION, INC., New Market, Md. 21774. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Baltimore, Md., to the gasoline stations of Cheker Oil Co. in Winchester, Va., Harrisburg, and Middletown, Pa., under contract with Cheker Oil Co. NOTE: Applicant also holds common carrier authority under MC 56388 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 134369 (Sub-No. 3), filed December 6, 1972. Applicant: CARLSON TRANSPORT, INC., Post Office Box R, Byron, IL 61010. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from (1) Michigan City, Ind., to points in the Lower Peninsula of Michigan, Waukegan and North Chicago, Ill., and points in the Chicago, Ill., commercial zone as defined by the Commission. Points in Ohio; (2) points in Berrien County, Mich., to points in Indiana, points in Ohio and that part of Illinois north of U.S. Highway 36, and (3) Oregon, Ill., to points in Indiana, points in the Lower Peninsula of Michigan and points in Ohio, restricted to traffic originating at the plantsite and facilities of Martin-Marietta Corp. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134601 (Sub-No. 4), filed October 26, 1972. Applicant: GOOSE CREEK TRANSPORT, INC., Rural Delivery No. 1, Ashville, N.Y. 14710. Applicant's representative: Kenneth T. Johnson, Bankers Trust of Jamestown Building, Jamestown, N.Y. 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, dairy products and articles distributed by meat packinghouses* (except hides and commodities in bulk) as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the town of Harmony (located in Chautauqua County), N.Y. to points in Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Columbia, Elk, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Lycoming, Mercer, Mifflin, Montour, Northumberland, Perry, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Washington, Westmoreland, Wyoming Counties, Pa., to points in Ashtabula, Columbiana, Mahoning, and Trumbull Counties, Ohio, under a continuing contract with Fairbank Farms, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 134922 (Sub-No. 38), filed December 11, 1972. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: L. C. Cypert (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Clifton, N.J., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Clifton, N.J., or Little Rock, Ark.

No. MC 135220 (Sub-No. 4), filed December 6, 1972. Applicant: MORRIS MILLER, 288 Maple Avenue, Cassadaga, NY 14718. Applicant's representative: William J. Hirsch, Suite 444, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, and newspaper supplements otherwise exempt from economic regulation pursuant to section 203(b)(7) of the Act when transported in mixed loads with printed matter*, from the plantsites of the Greater Buffalo Press, Inc., at Buffalo and Dunkirk, N.Y., to points in Connecticut, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Missouri, Nebraka, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Wisconsin, and returned shipments on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 135423 (Sub-No. 2), filed November 24, 1972. Applicant: FRANKLIN GORDON, Rural Route 1, Manilla, Ind. 46150. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, feed supplements, and feed ingredients*, between Rushville, Ind., on the one hand, and, on the other, points in Ohio; and Anderson, Boone, Bourbon,

Bracken, Bullitt, Campbell, Carroll, Fayette, Franklin, Gallatin, Grant, Hardin, Harrison, Henry, Jefferson, Jessamine, Kenton, Larue, Marion, Mercer, Nelson, Nicholas, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Trimble, Washington, and Woodford Counties, Ky. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Cargill, Inc., Nutrena Feed Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Cincinnati, Ohio.

No. MC 135553 (Sub-No. 6), filed December 6, 1972. Applicant: HENRY ANDERSEN, INC., 1618 College Avenue, Fredericksburg, VA 22401. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), (a) from Dogue, Va., to points in Texas; and (b) from North Bergen, N.J., to Washington, D.C.; and (2) *fresh pork and pork bellies and frozen pork products*, from points in Illinois, Iowa (except Ottumwa and Sioux City), Kansas, Nebraska, Kentucky, Georgia, Indiana, North Carolina, Wisconsin (except Cudahy), Michigan (except Detroit), Ohio (except Greenfield), Missouri (except St. Louis), New Jersey (except Jersey City), Pennsylvania (except Philadelphia), and New York (except Buffalo) to Dogue, Va., under contract with White Packing Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136030 (Sub-No. 3), filed December 1, 1972. Applicant: CAVALIER TRANSPORTATION CO., INC., Post Office Box 7, Riverside, NJ 08075. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum products* (except in bulk), and *building materials* as described in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities in bulk), from the plantsite of the Kaiser Gypsum Co., Inc., at Delanco, N.J., to points in Illinois, Iowa, Indiana, Kentucky, Ohio, Wisconsin, Missouri, Michigan, Minnesota, and Tennessee and (2) *Materials, supplies, equipment and returned, rejected shipments* in the reverse direction. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136476 (Sub-No. 2), filed May 18, 1972. Applicant, TRANSPORT WEST, INC., 2115 Birchwood, Eugene, OR 97401. Applicant's representative: Hector E. Smith, 33 East 10th Avenue, Post Office Box 334, Eugene, OR 97401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Reinforcing steel*, from McMinnville, Oreg. (Cascade Steel Rolling Mills), to San Jose, Calif., under contract with Cascade Steel Rolling Mills. NOTE: If a hearing is deemed necessary, applicant requests it be held at Eugene, McMinnville or Portland, Oreg.

No. MC 136769 (Sub-No. 3), filed November 13, 1972. Applicant: POP TRUCKING, INC., 20 North Main Street, Cornelia, GA. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Nonalcoholic beverages*, in containers, and *nonalcoholic beverage concentrate and syrup*, other than frozen, in containers, from Augusta, Ga., Inman, S.C., and the plant and warehouse sites of Custom Canners, Inc., located at points in Gwinnett and De Kalb Counties, Ga., to points in Arkansas, Illinois, Indiana, Missouri, Ohio, Pennsylvania, and Texas; and (2) *materials, supplies, and equipment* used in the production and distribution of nonalcoholic beverages (except commodities in bulk), from the destination points named above to Augusta, Ga., Inman, S.C., and the plant and warehouse sites of Custom Canners, Inc., located at points in Gwinnett and De Kalb Counties, Ga. Restriction: The Service authorized herein is subject to the following conditions: The operations herein are limited to transportation service to be performed, under a continuing contract, or contracts, with Custom Canners, Inc., of Gwinnett County, Ga. Further the authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act. Additionally, the operations authorized herein are subject to the condition that any transportation service performed by the carrier from and to the points set forth above shall only be performed under authority of and in accordance with the terms, express or implied, of the permit issued hereunder. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 136879 (Sub-No. 1), filed November 24, 1972. Applicant: PAUL R. GARNSEY and PAUL Z. GARNSEY, doing business as PAUL GARNSEY & SON, Post Office Box 55, Rural Delivery 1, Schuylerville, NY 12871. Applicant's representative: Julius Braun, Port Administration Building, Albany, NY 12202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Manufactured shipping containers, fabricated steel units, shipping rigs, pulp and paper manufacturing machinery and parts thereof, and rough and finished castings*, between Hudson Falls, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Wisconsin; (2) *paperboard boxes, folding cartons, and papermill supplies*, between Saratoga, N.Y., on the one hand, and, on the other, points in New Jersey, Nassau, and Suffolk Counties, N.Y., and New York City; and (3) *paper and paper mill supplies*, between Greenwich, N.Y., on the one hand, and, on the other, points in New Jersey, Nassau and Suffolk Counties, N.Y., and New York City, under contract with Sandy Hill Corp., Hollingsworth & Vose Co., and the A. L. Gerger Co. NOTE: Applicant also holds common carrier authority under MC 119297 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Albany or New York, N.Y.

No. MC 136980, filed August 3, 1972. Applicant: TERRANCE W. SHEARER, Rural Delivery No. 1, Hinsdale Highway, Box 337, Olean, NY 14760. Applicant's representative: David P. Feldman, 714 Genesee Building, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Engines, pumps, compressors, and turbines, and parts of said commodities*; and *equipment and materials* used in the manufacture or assembly of said commodities, in units not exceeding 15,000 pounds in weight, from shipper plantsite and warehouse in Olean, Cattaraugus County, N.Y., to points in Allegany, Cattaraugus, Cayuga, Chautauqua, Delaware, Erie, Monroe, Nassau, Niagara, Onondaga, Ontario, Orleans, Oswego, St. Laurence, Steuben, Wayne, Wyoming, and Yates Counties, N.Y.; New York, N.Y.; Newark, N.J.; and points in Essex County, N.J., under contract with Clark Bros. Co., Division of Dresser Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Olean, N.Y., Buffalo, N.Y., or Washington, D.C.

No. MC 138020, filed September 5, 1972. Applicant: E. & S. TRUCKING, INC. 43 West Calhoon Street, Memphis, TN 38100. Applicant's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, OK 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment of expeditious transportation), between Memphis, Tenn., on the one hand, and, on the other, points in Tennessee, Mississippi, and Arkansas, restricted to shipments having prior and/or subsequent movements in interstate commerce by railroads, air and barge transportation systems. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., Jackson, Miss., or Oklahoma City, Okla.

No. MC 138050 (Sub-No. 2), filed December 10, 1972. Applicant: STILWELL CANNING COMPANY, INC., Post Office Box 432, Stilwell, OK 74960. Applicant's representative: Wilburn Williamson, 280 National Foundation Life Building, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in Indiana, Iowa, Michigan, and Wisconsin to Arkansas City and Wichita, Kans., and Enid, Okla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, or Tulsa, Okla.

No. MC 138164 (Sub-No. 1), filed November 27, 1972. Applicant: CAN-AM MARINE TRANSIT LTD., Cote St. Charles Road, Post Office Box 145, Hudson Heights, PQ, Canada. Applicant's representative: J. P. Vermette, 250 Napoleon-Provost Street, Repentigny, PQ, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sailboats and ancillary equipment*, using specialized equipment (extra low bed trailers or trucks with specially designed racks), from ports of entry on the international boundary line between the United States and Canada in Minnesota, Michigan, New York, Vermont, and Maine, to points in Maine, Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, Wisconsin, and the District of Columbia, restricted to traffic in foreign commerce originating in the Province of Quebec, Canada: NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 138192, filed October 27, 1972. Applicant: JAMISON MOTOR LINES, INC., 516 Warren Avenue, Dade City, FL 33525. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tobacco products, advertising and promotional material including redemption premiums, and merchandise used in the sale and distribution of tobacco products*, from points in Florida, to points in Arizona, California, Oregon, Washington, Montana, Idaho, Utah, New Mexico, Colorado, Wyoming, and Nevada; and (2) *cigar boxes and materials, supplies and equipment used in the manufacture of tobacco products*, from points in California, to points in Florida. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla.

No. MC 138249, filed August 31, 1972. Applicant: R. C. TRANSFER, INC., 833 Northeast Second Avenue, Fort Lauderdale, FL. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, FL 33134. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New crated furniture*, between points in Dade, Broward, and Palm Beach Counties, Fla.; all shipments to have a prior or subsequent movement by motor or rail carrier. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami, Fla., or Fort Lauderdale, Fla.

No. MC 138253, filed December 1, 1972. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, Post Office Box G, Greeley, CO 80631. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts*, and *articles* distributed by meat packinghouses as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and such other *commodities* as are usually dealt in, or used by restaurants and restaurant supply houses, from Denver and Greeley, Colo., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies*, and such other *commodities* as are used, or dealt in by persons (as defined in section 203 (a) of the Interstate Commerce Act) engaged in the production and distribution of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Denver and Greeley, Colo., under a continuing contract or contracts with Monfort Packing Co.; Monfort Portion Foods, Inc.; Monfort Food Distributing Co.; Monfort International Sales Corp.; Monfort Feed Lots, Inc.; Monfort-Gilcrest, Inc., and Monfort of Colorado International, Inc. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATION FOR FREIGHT FORWARDER

No. FF-330 (Sub-No. 1) (Amendment) (HOME-PACK TRANSPORT, INC., extension—domestic service), filed December 1, 1972, published in the FEDERAL REGISTER issue of December 21, 1972, and republished, in part, as amended this issue. Applicant: HOME-PACK TRANSPORT, INC., 57-48 49th Street, Maspeth, NY 11378. Applicant's representatives: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006 and Edward M. Alfano, 2 West 45th Street, New York, NY 10036. NOTE: The purpose of this partial republication is to include Mr. Alfano's name as applicant's representative in addition to Mr. Wohlstetter.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130185, filed December 1, 1972. Applicant: CRAWFORD COUNTY AUTOMOBILE CLUB, 314 South Sandusky Avenue, Bucyrus, OH 44820. Applicant's representative: Gerald P. Wadkoski, 85 East Gay Street, Columbus, OH 43215. For a license (BMC-5) to engage in operations as a *broker* at Bucyrus, Ohio, in arranging for transportation in interstate or foreign commerce in the transportation of: *Passengers and their baggage*, in all expense round trip tours, in special and charter operations, beginning and ending at points in Crawford, Morrow, Marion, and Wyandot Counties, Ohio, and extending to points in the United States including Alaska and Hawaii.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 113908 (Sub-No. 248) (Correction), filed November 17, 1972, published in the FEDERAL REGISTER issue of December 21, 1972, and republished as corrected this issue. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). NOTE: The purpose of this republication is to show that this application has been assigned No. MC 113908 Sub-No. 248 in lieu of MC 113908 Sub 247 which was in error. The rest of the notice remains as previously published.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-528 Filed 1-10-73;8:45 am]

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PART II

FEDERAL HOME LOAN BANK BOARD

■

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Conversions of Insured Institutions From Mutual Into Stock Associations

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 546]

[No. 73-25]

FEDERAL MUTUAL SAVINGS AND LOAN ASSOCIATIONS

Mutual to Stock Conversions

JANUARY 3, 1973.

The third unnumbered paragraph of section 5(i) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (i)), among other things, authorizes Federal mutual savings and loan associations to convert to the stock form upon an equitable basis and subject to the approval by regulations or otherwise of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation. This authority has been implemented by § 546.5 of the Board's rules and regulations for the Federal savings and loan system (12 CFR 546.5).

In a companion proposal made on the same date as this proposal, the Board proposes to replace its existing regulations dealing with mutual to stock conversions with a new Part 563b of its rules and regulations for insurance of accounts (12 CFR Part 563b). If that companion proposal were adopted it would not be necessary for the Board to continue to provide for conversions of Federal associations to the stock form under the rules and regulations for the Federal savings and loan system. An extended preamble to that companion proposal describes the contents of proposed Part 563b and the Board's reasons for making the proposal.

For the reasons specified above and in that companion proposal, the Board would amend Part 546 of the Federal regulations by revoking § 546.5 thereof.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by March 12, 1973, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc.73-460 Filed 1-10-73;8:45 am]

[12 CFR Parts 563, 563b, 571]

[No. 73-26]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Conversions of Insured Institutions From Mutual Into Stock Associations

JANUARY 3, 1973.

The third unnumbered paragraph of section 5(i) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (i)), among other things, authorizes Federal mutual savings and loan associations to convert to the stock form upon an equitable basis and subject to the approval by regulations or otherwise of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation (FSLIC). This authority has been implemented by § 546.5 of the rules and regulations for the Federal savings and loan system (12 CFR 546.5). The laws of somewhat less than half the States permit the chartering of both mutual and stock savings and loan associations and the conversion of mutual associations into stock associations. Under Title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.) the Board, as operating head of the Federal Savings and Loan Insurance Corporation, has authority to regulate any such conversion involving an association whose accounts are insured by the Corporation. This authority has been implemented by § 563.22-1 of the rules and regulations for insurance of accounts (12 CFR 563.22-1), whose requirements are substantially similar to those of said § 546.5.

Since December 5, 1963, the Board has maintained a moratorium on conversions of all FSLIC-insured institutions, both federally chartered and State-chartered, from the mutual to the stock form. This moratorium was imposed primarily because of abuses arising from earlier conversions and because of the absence of sufficient information and knowledge on how conversions can occur in a safe and fair manner and without undue injury to the stability of the financial and managerial structure of the savings and loan industry.

During the time that such moratorium has been in effect, the Board has engaged three detailed studies of this difficult subject (the so-called Scott report, Hester report, and Friend report). In order to gain further information and experience, the Board in February 1972 approved a test conversion involving Citizens Federal Savings and Loan Association of San Francisco, Calif. In an additional effort to obtain information and experience in this area, the Board in July 1972 called for study applications. Five such applications were received. On the basis of the foregoing, the Board in September 1972 directed the preparation of proposed revised conversion regulations and decided that the moratorium is terminated effective upon the final adoption of revised conversion regulations.

The proposed regulations would revoke said § 563.22-1 and replace it by adding a new Part 563b of the rules and regulations for insurance of accounts. A companion proposal would revoke § 546.5 of the rules and regulations for the Federal savings and loan system. New Part 563b would be applicable to both federally chartered and State-chartered FSLIC-insured associations. Part 563b would govern only ordinary conversions in which the converted institution is insured by the FSLIC. It would not govern conversions involving mergers and holding companies and conversions in which the converted institution is not insured by the FSLIC. In addition, certain related amendments dealing with management contracts, stock options, and Federal charter amendments are not proposed at this time. Proposed regulations on related matters are being prepared and it is expected that they will be proposed at a later date during the comment period for this proposal.

Included in these proposals are three forms, form PA, form PS, and form FA, to be used in connection with conversions and dealing respectively with preliminary approval, proxy and information statements, and final approval. Because of their integral and significant relationship to the operation of Part 563b, they are published for comment in the same manner as the proposed regulations.

The general contents of proposed Part 563b may be summarized as follows: Section 563b.1 deals with the scope of the proposed regulations and § 563b.2 contains necessary definitions. Section 563b.3 sets forth the general sequence of processing applications for conversion and provides for numerous administrative requirements such as number of copies, place of filing, format for filings, amendments, and incorporation by reference. Section 563b.3 is modeled on regulation C of the Securities and Exchange Commission (SEC) (17 CFR 230.400-494) and is designed in part to insure that the filings under Part 563b can be used by insured institutions without substantial additional expense to meet the formal filing requirements of the SEC. Section 563b.4 deals with notice of filing and confidentiality of filings. Section 563b.4 also deals with the difficult question of what statements may be made by the insured institution prior to preliminary approval of the plan of conversion. The Corporation is concerned that improper statements made prior to such approval may subject the association to serious liability.

Section 563b.5 is one of the most significant sections of proposed Part 563b. Primarily, it deals with prohibited and optional provisions in plans of conversion and specifies a formula for determining the eligibility of accountholders to participate in the conversion distribution and for calculating the amount of the distribution to which eligible accountholders are entitled. In general, eligibility would be determined as of a fixed distribution record date and such date would be shifted annually an automatically to December 31 of each succeeding year. In general, the formula for determining the amount of distribution is a system of forward time-weighting which operates to discount more recent deposits. It is the present conclusion of the Board that shifts of funds on a destabilizing scale may occur among insured institutions unless some system of time-weighting or time-averaging is employed uniformly throughout the industry. It is also the present conclusion of the Board that weighting or averaging on the basis of past deposits over any extended period of time is probably not feasible. It appears that it would be too expensive for insured institutions to reconstruct their past deposit records far enough backwards in time for weighting for averaging to be sufficiently effective in discouraging shifts of funds.

Section 563b.6 deals with proxies, solicitations of proxies, and the use of proxy and information statements prepared in accordance with form PS. This section and form PS are based on regulation 14A, schedule 14A and form 10 of the Securities and Exchange Commission (17 CFR 240.14a–1 to 14a–12, 240.14a–101, and 239.7 respectively). It is the intent of the Board that this section and form PS should operate to give eligible accountholders and association members all the information they may need to vote intelligently on the plan of conversion and to make informed investment decisions with respect to the securities distributed incident to conversion. It is also the intent of the Board that § 563b.6 and form PS should operate to produce a document which insured institutions may use without substantial additional expense to meet the registration requirements of section 12(g) of the Securities Exchange Act of 1934.

Section 563b.7 deals with form and content of financial statements to be filed under item 17 of form PS. This section is based on regulation S–X of the SEC (17 CFR Part 210). It should be clearly noted that § 563b.7, unlike other parts of this proposal, is designed to be applicable to conversions involving mergers and holding companies, as well as ordinary conversions. Therefore, some parts of § 563b.7 will not be relevant to ordinary conversions. It should also be noted that some parts of item 17 will not be relevant to most insured institutions since under present circumstances their subsidiaries considered as a whole do not constitute a significant subsidiary.

Section 563b.8 concerns requirements for voting by members and notice of the meeting of members to consider the plan of conversion. Section 563b.9 deals with pricing and distribution of securities incident to conversion. A primary requirement of this section is that the prices be arrived at only after thorough and independent appraisal. Section 563b.10 deals with certain reports to be filed following conversion.

In order to carry out these proposals, the Board would amend Subchapter D of Chapter V of Title 12 of the Code of Federal Regulations substantially as set forth below:

PART 563—OPERATIONS

§ 563.22–1 [Revoked]

1. It is proposed to revoke § 563.22–1.

PART 563b—CONVERSIONS

2. It is proposed to add a new Part 563b to read as follows:

Sec.
563b.1 Scope of part.
563b.2 General definitions.
563b.3 General procedures.
563b.4 Notice of filing, public statements, and confidentiality.
563b.5 General principles for conversions.
563b.6 Solicitation of proxies and use of proxy and information form.
563b.7 Form and content of financial statements.
563b.8 Vote by members; application to the corporation for final approval.
563b.9 Distribution of capital stock.
563b.10 Post-conversion reports.

Authority: Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 563b.1 Scope of part.

This part shall govern conversions from a federally-chartered mutual insured institution to a State-chartered stock insured institution and conversions from a State-chartered mutual insured institution to a State-chartered stock insured institution. Except as provided in this part, a Federal or a State-chartered mutual insured institution may not convert to a stock institution. Any provision in a form prescribed under this part and covering the same subject matter as any provision in this part shall be controlling.

§ 563b.2 General definitions.

(a) As used in this part and in the forms under this part, the following definitions apply, unless the context otherwise requires:

(1) *Affiliate.* An "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) *Amount.* The term "amount," when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) *Applicant.* An "applicant" is an insured institution which has applied to convert pursuant to this part.

(4) *Associate.* The term "associate," when used to indicate a relationship with any person, means (i) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the applicant or any of its parents or subsidiaries.

(5) *Association members.* The term "association members" refers to persons who, pursuant to the charter or bylaws of the applicant, are eligible to vote at the applicant's meeting at which conversion will be voted upon.

(6) *Board.* The term "Board" refers to the Federal Home Loan Bank Board.

(7) *Capital stock.* The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock, or any similar certificate evidencing nonwithdrawable capital.

(8) *Charter.* The term "charter" includes articles of incorporation, articles of association, or any similar instrument, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

(9) *Control.* The term "control" (including the terms "controlling," "controlled by," and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(10) *Corporation.* The term "Corporation" refers to the Federal Savings and Loan Insurance Corporation.

(11) *Dealer.* The term "dealer" means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(12) *Director.* The term "director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

(13) *Eligible account holders.* The term "eligible account holders" refers to those persons who are eligible to receive a pro rata distribution of the ownership interest in the applicant upon its conversion pursuant to this part.

(14) *Employee.* The term "employee" does not include a director or officer.

(15) *Equity security.* The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such security; or any such warrant or right.

(16) *Insured institution.* The term "insured institution" has the same meaning as in § 561.1 of this subchapter.

(17) *Material.* The term "material," when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant, or matters as to which an average prudent association member ought reasonably to be informed in voting upon the plan of conversion of the applicant, or matters as to which an average prudent eligible account holder ought reasonably to be informed in determining whether to purchase, sell, or retain the securities being issued incident to the plan of conversion of the applicant.

(18) *Member.* The term "member" means any person qualifying as a member of an insured institution pursuant to its charter or bylaws.

(19) *Offer.* The term "offer," "offer to sell," or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(20) *Officer.* The term "officer" means the chairman of the board, president, vice-president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

(21) *Person.* The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(22) *Proxy.* The term "proxy" includes every form of authorization by which a person is, or may be deemed to be, designated to act for an association member in the exercise of his voting rights in the affairs of an insured institution. Such an authorization may take the form of failure to dissent or object.

(23) *Purchase.* The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(24) *Sale.* The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value.

(25) *Security.* The term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, passbook savings account, savings account, certificate of deposit, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

(26) *Solicitation; solicit.* The terms "solicitation" and "solicit" refer to (i) any request for a proxy whether or not accompanied by or included in a form of proxy; (ii) any request to execute, not execute, or revoke a proxy; or (iii) the furnishing of a form of proxy or other communication to association members under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. The terms do not apply, however, to the furnishing of a form of proxy to an association member upon the unsolicited request of such association member, the performance of acts required by § 563b.6(f), or to the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(27) *Subsidiary.* A "subsidiary" of a specified person is an affiliate controlled by such person, directly or indirectly through one or more intermediaries. (See also "majority-owned subsidiary," "significant subsidiary" and "totally-held subsidiary" in § 563b.7.)

(28) *Supervisory agent.* The term "Supervisory Agent" means (i) the president of the bank of the Federal home loan bank district in which the applicant has its principal office, or (ii) any other person who is specifically designated as a supervisory agent by the Corporation to act in its behalf in the administration of this part.

(29) *Underwriter.* The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

§ 563b.3 General procedures.

(a) (1) *Preliminary approval.* An applicant that desires to convert in accordance with this part shall file an application for preliminary approval in 10 copies on forms prescribed by the Corporation. Copies of such forms may be obtained from any Federal home loan bank or the Office of the Secretary of the Board.

(2) *Approval of members.* The plan of conversion shall not be submitted to a vote of the members in accordance with § 563b.8, until the Corporation has given preliminary approval of the plan of conversion.

(3) *Final approval.* Upon approval by association members of a plan of conversion, an applicant may file an application for final approval in accordance with § 563b.8 in 10 copies on forms prescribed by the Corporation. Copies of such forms may be obtained from any Federal home loan bank or the Office of the Secretary of the Board.

(b) *Return of improperly executed or materially incomplete filings.* Any application for preliminary approval that is improperly executed, or that does not contain copies of a (1) plan of conversion, (2) preliminary proxy and information statement with signed financial statements and (3) form of proxy, shall not be accepted for filing and shall be returned to the applicant. Any application for preliminary approval containing a materially incomplete plan of conversion, proxy and information statement or form of proxy may be returned by the Corporation to the applicant.

(c) *Number of copies; place of filing; binding; signatures.* (1) Whenever a requirement is made under this part for the filing of four copies of any document with the Corporation, one copy shall be filed with the Supervisory Agent and three copies with the Office of the Secretary of the Board. Whenever a requirement is made under this part for the filing of 10 or more copies of any document with the Corporation, three copies shall be filed with the Supervisory Agent and the remaining copies with such Office of the Secretary of the Board. Whenever a requirement is made under this part that a document to be filed be manually signed, one manually signed copy shall be filed with the Supervisory Agent and another with such Office of the Secretary. Each of the copies filed under this part shall be bound, in one or more parts, without stiff covers. The binding shall be made on the side or stitching margin in such manner as to leave the reading matter legible.

(2) At least two copies of every application and every amendment thereto filed shall be manually signed by (i) a duly authorized representative of the applicant on its behalf, (ii) its principal executive officer, (iii) its principal financial officer, (iv) its principal accounting officer, and (v) at least two-thirds of its board of directors or persons performing similar functions.

(3) If any name is signed to an application or any amendment thereto pursuant to a power of attorney, four copies of such power of attorney, including two manually signed, shall be filed with the application.

(4) (i) Except as provided in paragraph (c) (4) (ii) of this section, the filing of any application or amendment thereto under this part shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether or not such director has signed the application or any amendment thereto) severally that (A) he has read such application or amendment, (B) in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that such application or

amendment complies to the best of his knowledge and belief with the applicable requirements of this part and forms prescribed thereunder, and (C) each such person holds such informed opinion.

(ii) The representations specified in paragraph (c)(4)(i) of this section shall not be deemed to have been made by any director of the applicant who did not sign the application or any amendment thereto, if, and only to the extent that, such director files with the Corporation within 10 business days after the filing of such application or amendment a statement describing those portions of such filing as to which he does not so represent.

(d) *Requirements as to paper and printing.* (1) Applications shall be filed on good quality, unglazed, white paper, approximately 8½ by 13 or 8½ by 11 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper if folded to such sizes, and the plan of conversion and proxy and information statement may be on smaller paper if the applicant so desires.

(2) Applications and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, applications or any portion thereof may be prepared by any similar process which, in the opinion of the Corporation, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(e) *Method of preparation.* Every application shall furnish information in item-and-answer form in response to the items of the appropriate form, and shall include the captions of the form, but omit the text of all items and instructions. Every proxy and information statement shall present information as provided in paragraph (k) of this section in response to the items of the appropriate form in lieu of furnishing the information in item-and-answer form, and shall omit the captions and text of all items and instructions. Every preliminary application shall include a cross-reference sheet showing the location in the proxy and information statement of the response to the items of the appropriate form. If any such item is inapplicable, or the answer thereto is in the negative and is omitted, a statement to that effect shall be made in the cross-reference sheet.

(f) *Interpretation of requirements.* (1) Unless the context indicates otherwise, the forms require information only as to the applicant.

(2) Whenever words relate to the future, they have reference solely to present intention.

(3) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of such positions or offices.

(g) *Additional information.* In addition to the information expressly required to be included in any application under this part, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(h) *Information unknown or not reasonably available.* Information required need be given only insofar as it is known or reasonably available to the applicant. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:

(1) The applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(i) *Incorporation of certain information by reference.* (1) Where an item in an application calls for information not required to be included in the proxy and information statement, matter contained in any part of the application, including exhibits, may be incorporated by reference in answer, or partial answer, to such item. No information may be incorporated by reference in a proxy and information statement, unless the document containing such information is attached thereto or is summarized or outlined as provided in paragraph (j) of this section.

(2) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(j) *Summaries or outlines of documents.* Where a summary or outline of the provisions of any document is required, only a brief statement shall be made, in succinct and condensed form, as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular items, sections or paragraphs of any exhibit and may be qualified in its entirety by such reference.

(k) *Legibility of materials.* The body of all printed plans of conversion and proxy and information statements, including all notes to financial statements and other tabular data included therein, shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

(l) *Presentation of information.* (1) The information required in a proxy and information statement need not follow the order of the items or other requirements in the appropriate form. Such information shall not, however, be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where an item requires information to be given in tabular form it shall be given in substantially the tabular form specified in the item.

(2) All information contained in a plan of conversion and proxy and information statements shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth thereunder. Except as to financial statements and other tabular data, all information set forth in any form under this part shall be divided into reasonably short paragraphs or sections.

(3) Every proxy and information statement shall include in the forepart thereof a reasonably detailed table of contents showing the subject matter of its various sections or subdivisions and the page number on which each such section or subdivision begins.

(4) All information required to be included in a proxy and information statement shall be clearly understandable without the necessity of referring to the particular form or to the regulations under this part. Except as to financial statements and information required in tabular form, the information set forth in a proxy and information statement may be expressed in condensed or summarized form. Financial statements are to be set forth in comparative form, and shall include the notes thereto and the accountants' certificate or certificates.

(m) *Application of amendments to regulations and forms.* (1) The form and contents of any filing under this part made after _____, 1973 (date of final adoption of this part) need conform only to the applicable regulations and forms in effect, and contain the information including financial statements specified therein, at the time the filing is made, notwithstanding subsequent amendments to such regulations, except as otherwise provided in any such amendment or in subparagraph (2) of this paragraph (m).

(2) Whenever the Corporation prohibits by order or otherwise the use of any filing under this part, the form and contents of any filing used thereafter shall conform to the requirements of

such order and the applicable regulations and forms in effect at the time such prohibition ceases to be effective.

(n) *Consents of experts.* (1) If any accountant, attorney, investment banker, appraiser, or other persons whose professions give authority to a statement made in any application under this part is named as having prepared, reviewed, passed upon, or certified any part thereof, or any report or valuation for use in connection therewith, the written consent of such person shall be filed with the application. If any portion of a report of an expert is quoted or summarized as such in any filing under this part, the written consent of the expert shall expressly state that the expert consents to such quotation or summarization.

(2) All written consents filed pursuant to this paragraph (n) shall be dated and signed manually. A list of such consents shall be filed with the application. Where the consent of the expert is contained in his report, a reference shall be made in the list to the report containing such consent.

(o) *Consents of persons about to become Directors.* If any person who has not signed an application is named in the proxy and information statement as about to become a director, the written consent of such person shall be filed with the appropriate form.

(p) *Date of filing.* The date on which any documents are actually received by the Office of the Secretary of the Board shall be the date of filing thereof.

(q) *Amendments.* All amendments to any application under this part shall be filed under cover of an appropriate facing sheet, shall be numbered consecutively in the order in which filed, and shall conform to all pertinent regulations applicable to the type of application which they amend.

(r) *Pre-filing conferences with applicants.* (1) The staff of the Board and the Supervisory Agent will be available for conferences with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held for the purpose of discussing generally the problems confronting an applicant in effecting conversion or to resolve specific problems of an unusual nature.

(2) Pre-filing review of an application may be refused by the staff of the Board and the Supervisory Agent if such review would delay the examination and processing of material which has already been filed or would favor certain applicants at the expense of others. In any conference under this paragraph (r), the staff of the Board and the Supervisory Agent will not undertake to prepare material for filing but will limit itself to indicating the kind of information required, leaving the actual drafting to the applicant and its representatives.

§ 563b.4 Notice of filing, public statements, and confidentiality.

(a) *Advertising of conversions.* No insured institution, or any director, officer or employee thereof, shall advertise, directly or indirectly, the benefits of conversion generally or of any plan of conversion, whether its own, or another institution's.

(b) *Information prior to preliminary approval of plan of conversion.* (1) An insured institution which is considering converting pursuant to this part and its directors, officers, and employees shall maintain such consideration in confidence to the extent consistent with the need to prepare information for filing an application for preliminary approval. If a public statement should become essential as a result of rumors prior to the adoption of a plan of conversion by the applicant's board of directors, such statement shall only be made with the prior approval of the General Counsel of the Corporation.

(2) Promptly after the adoption of a plan of conversion by its board of directors, the insured institution shall (i) notify its members of such action by issuing a press release and/or mailing a letter to each of its members and (ii) have copies of the adopted plan of conversion available for inspection by its members at its home office and each branch office. Copies of the proposed press release and letter are not required to be filed with the Corporation, but may be submitted for comment to the Office of General Counsel. Copies of the definitive press release and letter shall be filed with the Corporation as part of the application for preliminary approval.

(3) The press release and letter, unless otherwise authorized by the Corporation, shall only:

(i) State that the board of directors has adopted a proposed plan to convert the institution from a Federal (or State, as the case may be) mutual association to a State-chartered stock association;

(ii) State that the proposed plan of conversion must be approved by at least two-thirds of the votes eligible to be cast by association members at a meeting at which the plan will be submitted for their approval;

(iii) State that existing proxies held by the institution will not be voted with respect to the conversion, and that new proxies will be solicited for voting on the proposed plan of conversion;

(iv) State that a proxy and information statement setting forth more detailed information with respect to the proposed plan of conversion will be sent to association members prior to the meeting of members;

(v) State that the proposed plan of conversion must be approved by the Federal Home Loan Bank Board and by the appropriate State regulatory authority or authorities (naming such an authority or authorities) before such plan can become effective;

(vi) State that the proposed plan of conversion is also contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;

(vii) State that there is no assurance that the approval of the Federal Home Loan Bank Board or the approval of the appropriate State authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;

(viii) State the proposed record date for determining the eligible account holders entitled to receive the distribution;

(ix) Describe briefly the proposed distribution terms under the proposed plan of conversion;

(x) State that the proposed distribution will be in satisfaction of the eligible account holders' ownership interest in the institution in its mutual form and briefly describe the nature of such ownership interest;

(xi) State the title, par value (if any) and approximate amount of securities to be distributed under the proposed plan of conversion;

(xii) Describe briefly the extent to which directors, officers and employees will participate in the distribution of securities incident to the conversion;

(xiii) State that savings account holders will find their deposits in the converted institution identical as to dollar amount, rate of return and general terms, and that their accounts will continue to be insured identically by the Federal Savings and Loan Insurance Corporation;

(xiv) State that the institution will also continue to be a member of the Federal Home Loan Bank System;

(xv) State that borrowers' loans will be unaffected by conversion, and that the amount, rate, maturity, security and other conditions will remain contractually fixed as they existed prior to conversion;

(xvi) State that the normal business of the institution in accepting savings and making loans will continue without interruption; that the converted institution will continue after conversion to conduct its present services to savings account holders and borowers under current policies to be carried on in existing offices and by the present management and staff; and that an election of directors for the converted institution will occur at its first annual meeting after the adoption of the proposed plan of conversion (unless State law requires the election of directors at the meeting at which conversion is voted, in which case so state);

(xvii) State that the proposed plan of conversion, including the proposed distribution terms, may be substantively amended by the board of directors as a result of comments from the regulatory authorities or otherwise prior to the meeting, and that the proposed plan may also be terminated by the board of directors prior to such meeting; and

(xviii) State that questions of members will be answered in the proxy material to be sent after the regulatory approvals of the proposed plan of conversion have been obtained and that any questions at this time may be answered by telephoning or writing to the institution.

(4) Such press release and letter shall not in any manner solicit proxies, include

financial statements, or describe the benefits of conversion or the value of the capital stock of the institution upon conversion. In replying to inquiries, the insured institution should limit its answers to the matters listed in subparagraph (3) of this paragraph (b).

(c) *Notice of filing.* (1) Promptly after filing an application for preliminary approval, the applicant shall publish a notice of such filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

NOTICE OF FILING OF APPLICATION FOR PRELIMINARY APPROVAL TO CONVERT TO A STOCK SAVINGS AND LOAN ASSOCIATION

Notice is hereby given that, pursuant to Part 563b of the rules and regulations for Insurance of Accounts.....
(fill in name of applicant)
has filed an application with the Federal Savings and Loan Insurance Corporation for preliminary approval to convert to the stock form of organization. Copies of the application have been delivered to the Office of the Secretary of said Corporation, 101 Indiana Avenue NW., Washington, DC 20552 and to the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of ....., ...,
(street address) (city)
....., ...
(State) (Zip Code)

Written comments from any member of the applicant will be considered by the Corporation if filed within 10 business days after the date of this publication. Three copies of such comments should be sent to the aforementioned Office of the Secretary with one copy to said Office of the Supervisory Agent. The proposed plan of conversion is available for inspection by any savings account holder at said Office of the Secretary and at said Office of the Supervisory Agent. A copy of the plan may also be inspected at the home office and any branch office of the applicant.

If a significant number of the applicant's members speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of such notice shall also be published in such newspaper.

(2) Promptly after publication of the notice or notices prescribed in subparagraph (1) of this paragraph (c), the applicant shall file four copies thereof with the Corporation accompanied by an affidavit of publication from each publisher.

(d) *Confidential information.* Should the applicant desire to submit any information it deems to be of a confidential nature regarding the answer to any item or a part of any exhibit included in any application under this part, such information pertaining to such item or exhibit shall be separately bound and labeled "confidential." Only general reference thereto need be made in that portion of the application which the applicant deems not to be confidential. Applications under this part shall be made available for inspection by the public, except for portions which are bound and labeled "confidential" and which the Corporation determines to withhold from public availability under 5 U.S.C. 552 and Part 505 of this chapter. The Corporation will withhold the public availability of preliminary copies of proxy soliciting materials without the necessity of their being bound and labeled as "confidential." The applicant will be advised of any decision by the Corporation to make public information designated as "confidential" by the applicant. Even though sections of the application are considered "confidential" as far as public inspection thereof is concerned, to the extent it deems necessary the Corporation may comment on such confidential submissions in any public statement in connection with its decision on the application without prior notice to the applicant.

§ 563b.5 General principles for conversions.

(a) *Prohibited provisions in plans.* No plan shall be approved which:

(1) Would result in any reduction of the Federal insurance reserve or would cause the applicant to fail to meet any net worth requirement of § 563.13 of this subchapter;

(2) Would result in a taxable reorganization of the applicant under the Internal Revenue Code of 1954, as amended, or in the distribution of any securities under the plan of conversion being a taxable event to eligible accountholders;

(3) Does not provide for the continuance of the present board of directors of the converting institution until the first annual meeting of the converted institution under its new charter and bylaws, unless Sate law requires an election of directors at the meeting of the members to consider the plan of conversion;

(4) Would result in the converted institution not being insured by the Corporation;

(5) Does not provide that each accountholder of the converting institution shall receive, without any payment, a withdrawable account or accounts in the converted institution equal in withdrawable amount to such accountholder's withdrawable account or accounts in the converting institution;

(6) Does not provide that each eligible accountholder's entitlement under the plan respecting his ownership interest in the association shall be pro rata to his interest in the association calculated in accordance with paragraphs (c), (d), and (e) of this section;

(7) Would constitute a preferential distribution to management on the basis of past services;

(8) Would result in a charge to eligible accountholders other than normal underwriting discount, commissions, or fees, a warrant subscription price, or the cost of purchasing the necessary number of shares to round up to a minimum number of shares;

(9) Does not provide a mechanism whereby each eligible accountholder may realize in cash the market value of the securities to be distributed if he so desires;

(10) Would result in the issuance of fractional shares;

(11) Provides for the distribution of capital stock, rather than cash, to eligible accountholders entitled to less than 25 shares, unless such accountholders elect under the plan of conversion to purchase a sufficient number of shares to round up to at least 25 shares;

(12) Would require eligible accountholders to purchase shares of capital stock to round up to more than 100 shares in order to receive shares in the distribution, or to pay more than $1,000 to purchase shares in order to round up to the minimum number of shares to be distributed;

(13) Provides for the distribution to eligible accountholders of a number of shares of capital stock, the expected initial price of which would be less than $5 per share or more than $40 per share (based on a reasonable price earnings multiplier applied to prior earnings of the applicant);

(14) Does not provide for the initial price of the capital stock to be based on an independent valuation of such stock at the expense of the applicant;

(15) Does not contain, if the applicant proposes to distribute subscription rights or warrants to eligible accountholders, adequate provision to insure that such holders who do not exercise or transfer such rights or warrants will receive fair value for their pro rata interest in the applicant, and that such value is supported by an independent valuation at the expense of the applicant;

(16) Provides that under the charter of the converted association its savings accountholders and borrowing members will have any vote unless State law requires or in such case more than the minimum number of votes required;

(17) Does not provide that under the charter of the converted association the applicant will solicit the proxies of the savings accountholders and borrowing members who have voting rights, if any, in the same manner as the applicant solicits the proxies of its capital stockholders; or

(18) Contains any other provision that the Corporation finds to be detrimental to the applicant, its accountholders and management, other insured institutions, or the public generally.

(b) *Optional provisions.* Unless State law otherwise requires, a plan of conversion may provide, among other things, for:

(1) Issuance to eligible accountholders without payment on a pro rata basis calculated in accordance with paragraphs (c), (d), and (e) of this section of subscription warrants or rights to purchase the capital stock representing the ownership of such holders;

(2) Issuance without payment of subscription warrants or rights to borrowing members, eligible accountholders, association members, and directors, officers and employees of the applicant to purchase additional capital stock to be sold incident to the plan of conversion: *Provided,* That the exercise price of such

warrants or rights shall not be less than the price of the capital stock representing the ownership interest in the applicant, and the exercise period shall not exceed 90 days from the date of final approval of the plan of conversion;

(3) Sale of additional capital stock incident to the plan of conversion: *Provided*, That the purchase price upon the sale of such additional capital stock shall not be less than the price of the capital stock representing the ownership interest of eligible accountholders;

(4) Internal matching of purchase and sell orders from eligible accountholders with respect to the securities representing their ownership interest and any additional capital stock;

(5) The mandatory payment of cash to eligible accountholders who do not return order forms or similar instruments within the time limits specified in the plan of conversion, and who are entitled to 25 or more shares and less than 100 shares in the distribution; and

(6) Authorization of management employment contracts and adoption of a stock option or stock purchase plan at the meeting at which the plan of conversion is voted upon and to take effect after conversion.

(c) *Distribution record date.* The distribution record date for eligible accountholders means, for plans adopted in any given year, (1) December 31 of the previous calendar year, or (2) such earlier date as the applicant may select with the approval of the Corporation or State law may require. No person shall be an eligible accountholder unless such person had an account in the applicant on the distribution record date. An applicant's plan of conversion may employ more than one distribution record date, a distribution record period, or distribution record periods, but only with the approval of the Corporation and only if none of such dates and no part of such period or periods is later than the date specified in paragraph (c)(1) of this section.

(d) *Distribution of securities.* (1) For the purposes of this paragraph—

(i) The term "adopted" means adopted by the applicant's board of directors;

(ii) The term "average" refers to the result reached by dividing a sum by the number of its addends;

(iii) The phrase "on the basis of qualifying deposits" means, with respect to an eligible accountholder having an account on a fixed date, the amount of securities obtained by multiplying the appropriate percentage of the total securities to be distributed by the ratio of the amount of his qualifying deposits on such date to the total amount of qualifying deposits on such date. The phrase "on the basis of the quarterly average of qualifying deposits" means, with respect to an eligible accountholder having an account open during all or part of a period, the amount of securities obtained by multiplying the appropriate percentage of the total securities to be distributed by the ratio of the amount of the quarterly average of his qualifying deposits during such period to the total amount of the quarterly average of all qualifying deposits during such period;

(iv) The term "predecessor account" means (A) a given account which is not open on the distribution record date and from which funds were transferred to an account open on the distribution record date at the time of or prior to the closing of such given account, and (B) a given account which is not open on the record date and from which funds were transferred to a predecessor account under paragraph (d)(1)(iv)(A) of this section at the time of or prior to the closing of such given account;

(v) The term "qualifying deposits" means deposits in accounts open on the distribution record date plus deposits in predecessor accounts; and

(vi) Whenever a fixed date is used, the phrase "or earlier" should be understood, in accordance with paragraph (d)(2) of the section.

(2) The amount of securities to which each eligible accountholder is entitled shall be calculated in accordance with this paragraph (d), whose operation may be summarized in the following table:

[In percent]

Plans of conversion adopted during year	July 13, 1972	Dec. 31, 1972	Average 1973	1974	1975	1976	1977
1972	100						
1973	90	10					
1974	75	15	10				
1975	0	75	15	10			
1976	0	55	20	15	10		
1977	0	30	25	20	15	10	
1978	0	0	30	25	20	15	10

(3) For plans adopted during 1972, 100 percent of the securities will be distributed to eligible accountholders on the basis of their qualifying deposits on July 13, 1972.

(4) For plans adopted during 1973, the distribution of securities will be made to persons having accounts on December 31, 1972. Ninety percent of the securities will be distributed on the basis of their qualifying deposits on July 13, 1972; and 10 percent on the basis of their qualifying deposits on December 31, 1972.

(5) For plans adopted during 1974, the distribution of securities will be made to persons having accounts on December 31, 1973. Seventy-five percent of the securities will be distributed on the basis of their qualifying deposits on July 13, 1972; 15 percent on the basis of their qualifying deposits on December 31, 1972; and 10 percent on the basis of the quarterly average of their qualifying deposits during 1973.

(6) For plans adopted during 1975, the distribution of securities will be made to persons having accounts on December 31, 1974. Seventy-five percent of the securities will be distributed on the basis of their qualifying deposits on December 31, 1972; 15 percent on the basis of the quarterly average of their qualifying deposits during 1973; and 10 percent on the basis of the quarterly average of their qualifying deposits during 1974.

(7) For plans adopted during 1976, the distribution of securities will be made to persons having accounts on December 31, 1975. Fifty-five percent of the securities wil be distributed on the basis of their qualifying deposits on December 31, 1972; 20 percent on the basis of the quarterly average of their qualifying deposits during 1973; 15 percent on the basis of the quarterly average of their qualifying deposits during 1974; and 10 percent on the basis of the quarterly average of their qualifying deposits during 1975.

(8) For plans adopted during 1977, the distribution of securities will be made to persons having accounts on December 31, 1976. Thirty percent of the securities will be distributed on the basis of their qualifying deposits on December 31, 1972; 25 percent on the basis of the quarterly average of their qualifying deposits during 1973; 20 percent on the basis of the quarterly average of their qualifying deposits during 1974; 15 percent on the basis of the quarterly average of their qualifying deposits during 1975; and 10 percent on the basis of the quarterly average of their qualifying deposits during 1976.

(9) For plans of conversion adopted during any given year following 1977, the distribution of securities will be made, in accordance with paragraph (c) of this section, to persons having accounts on the December 31 of the year preceding such given year. Thirty percent of the securities will be distributed on the basis of the quarterly average of their qualifying deposits during the fifth calendar year preceding such given year; 25 percent on the basis of the quarterly average of their qualifying deposits during the fourth calendar year preceding such given year; 20 percent on the basis of the quarterly average of their qualifying deposits during the third calendar year preceding such given year; 15 percent on the basis of the quarterly average of their qualifying deposits during the second calendar year preceding such given year; and 10 percent on the basis of the quarterly average of their qualifying deposits during the year preceding such given year.

(e) *Permissible variations and special rules.* With respect to the system prescribed by paragraph (d) of this section—

(1) An applicant which had adopted a plan during 1972 may refile during 1973 and employ the 1973 percentages if the applicant can show that no unusual inflows of funds occurred during the period between July 13, 1972 and December 31, 1972;

(2) An applicant may employ percentages different than those specified in paragraph (d) of this section if such different percentages do not operate to give greater weight to any more recent deposits. An applicant may, for example, employ 85 percent, 10 percent, and 5 percent for plans adopted during 1974, but may not employ 70 percent, 20 percent, 10 percent for plans adopted during 1974;

(3) An applicant may compute averages on a basis more frequent than quarterly;

(4) If the qualifying deposits or quarterly average of the qualifying deposits of any officer, director, or associate thereof on a 10 percent date or during a 10 percent period are greater than his qualifying deposits or the quarterly average of his qualifying deposits during the preceding 90 percent date, 15 percent date, or 15 percent period, as the case may be, the excess is to be disregarded in determining the amount of securities that is to be distributed to him for such 10 percent date or period.

(5) If the quarterly average of the qualifying deposits of any eligible accountholder (other than an officer, director, or associate thereof) during a 10 percent period is greater than his qualifying deposits or the quarterly average of his qualifying deposits on the preceding 15 percent date or during the preceding 15 percent period, as the case may be, the distribution with respect to the 10 percent period shall be based on the cumulative average of his qualifying deposits during such 10 percent period and during such 15 percent period or during such 10 percent period and on such 15 percent date, as the case may be; and

(6) In determining the amount of qualifying deposits or the quarterly average of qualifying deposits, the applicant shall deduct the amount of any share loans and may deduct or include interest and dividends provided such deduction or inclusion is performed consistently for all accounts.

(f) *Dividend and repurchase restrictions.* Without the prior approval of the Corporation, no insured institution that has converted under this part shall for 5 years after the date of such conversion (1) repurchase any of its capital stock from any director, officer, former director or officer, or associate thereof or (2) declare or pay a cash dividend on, or repurchase, any of its capital stock in an amount exceeding 25 percent of its earned surplus accumulated after the date of conversion; except that there shall be no such declaration, payment or repurchase unless the insured institution, upon giving effect thereto, shall satisfy the net worth requirements contained in § 563.13(b) of this subchapter.

(g) *Manipulative and deceptive devices.* In the offer, sale or purchase of stock issued incident to its conversion, no insured institution, or any director, officer or employee thereof, shall (1) employ any device, scheme, or artifice to defraud, or (2) obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) engage in any act, transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

(h) *Reports and trading.* No plan of conversion shall be aproved, unless the applicant has furnished to the Corporation an agreement, in form satisfactory to the Corporation, from each of the applicant's present directors and officers and each person who incident to the conversion will become directly or indirectly the beneficial owner of more than 10 percent of its capital stock, that (1) each such person will file statements with the Corporation in the same manner as such person would be required to file with the Securities and Exchange Commission if section 16(a) of the Securities Exchange Act of 1934, as amended, and the rules and regulations under such section, applied to the applicant immediately upon conversion and (2) any profit realized by such person from any purchase and sale, or any sale and purchase, of any equity security of the applicant within any period of less than 6 months shall inure to and be recoverable by the applicant as if section 16(b) of the Securities Exchange Act of 1934, as amended, and the rules and regulations under such section, applied to the applicant immediately upon conversion. No plan of conversion shall be approved, unless the applicant has furnished to the Corporation an agreement, in form satisfactory to the Corporation, that the applicant will promptly obtain and furnish to the Corporation similar agreements from each person who subsequent to the conversion becomes a director, officer or beneficial owner directly or indirectly of more than 10 percent of the applicant's capital stock. The requirements of this paragraph shall automatically terminate whenever the applicant becomes registered under section 12(g) of the Securities Exchange Act of 1934, as amended.

§ 563b.6 Solicitation of proxies and use of proxy and information statement.

(a) *Solicitations to which rules apply.* This section applies to every solicitation of a proxy from an association member of an insured institution for the meeting at which a conversion plan will be voted upon, except the following:

(1) Any solicitation made otherwise than on behalf of the management of the insured institution where the total number of persons solicited is not more than 50;

(2) Any solicitation through the medium of a newspaper advertisement which informs association members, following preliminary approval of the plan of conversion, of a source from which they may obtain copies of a proxy and information statement, form of proxy, or any other soliciting material and does no more than (i) name the insured institution, (ii) state the reason for the advertisement, (iii) identify the proposal or proposals to be acted upon by association members, and (iv) urge the member to vote at the meeting.

(b) *Use of proxy soliciting material to be authorized.* No proxy soliciting material required to be filed with the Corporation prior to use shall be furnished to association members or otherwise released for distribution until the use of such material has been authorized in writing by the Corporation.

(c) *Information to be furnished association members.* No solicitation subject to this section shall be made unless each person solicited is concurrently furnished, or has previously been furnished, a written proxy and information statement the use of which has been authorized by the Corporation.

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in bold face type whether the proxy is solicited on behalf of the management, (ii) shall provide specifically designated blank spaces for dating and signing the proxy, (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, (iv) shall be clearly labeled "Revocable Proxy" in bold face type (at least as large as 18 point), (v) shall describe any charter or State law requirement restricting or conditioning voting by proxy, (vi) shall contain an acknowledgement by the person giving the proxy that he has received a proxy and information statement prior to signing the form of proxy, (vii) shall contain the date, time and place of meeting, if practicable, and (viii) shall provide by a box or otherwise, a means whereby the person solicited is afforded an opportunity to specify by ballot a choice between approval or disapproval of each matter referred to therein as intended to be acted upon.

(2) No proxy subject to this section shall confer authority to vote at any meeting other than the meeting (or any adjournment thereof) to vote on conversion. A proxy may be deemed to confer authority to vote with respect to matters incident to the conduct of such meeting. If the plan of conversion is considered at an annual meeting, existing proxies may be voted with respect to matters not related to the plan of conversion.

(3) The proxy and information statement or form of proxy shall provide that the votes represented by the proxy will be voted and that, where the person solicited specifies by means of a ballot provided pursuant to paragraph (d)(1)(viii) of this section a choice with respect to any matter to be acted upon, the votes will be voted in accordance with the specifications so made.

(e) *Material required to be filed.* (1) Applicants shall file preliminary copies of such proxy materials as are required by the appropriate form for applying for preliminary approval to convert under this part.

(2) Ten preliminary copies of any additional soliciting material subject to this section including soliciting material in the form of press releases, and radio or television scripts, to be used or furnished to association members subsequent to furnishing the proxy and information statement, shall be filed with the Corporation at least 5 business days prior to the date on which the Corporation is requested to authorize the use of such material. Speeches may, but need not be, filed with the Corporation prior to use.

(3) Twenty-five copies of the proxy and information statement and 10

copies of the form of proxy and all other soliciting material, in the form in which such material is furnished to association members, shall be filed with or mailed for filing to the Corporation not later than the date such material is first sent or given to association members. All materials filed pursuant to this paragraph (e)(3) of this section shall be accompanied by a statement of the date on which copies of such materials are to be released to association members.

(4) If the solicitation is to be made in whole or in part by personal solicitation, 10 preliminary copies of all written instructions or other material which discusses or reviews, or comments upon the merits of, any matter to be acted upon and which is to be furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Corporation at least 5 days prior to the date on which the Corporation is requested to authorize the use of such material.

(5) All preliminary copies of material filed pursuant to subparagraphs (1), (2), and (4) of this paragraph (e) shall be clearly marked on the cover page "Preliminary Copy." Such preliminary copies shall be for the information of the Corporation only and shall not be deemed available for public inspection except that such material may be disclosed to any department or agency of the U.S. Government or appropriate State government and the Corporation may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Corporation.

(6) Unless requested by the Corporation, copies of replies to inquiries from members of the insured institution and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this paragraph (e).

(7) Where any proxy and information statement, form of proxy or other material filed pursuant to this paragraph (e) is amended or revised, four copies of such amended or revised material filed with the Corporation shall be marked to indicate clearly and precisely the changes effected therein subsequent to the last prior filing.

(f) *Mailing communications for association members.* If the management of the applicant has adopted a plan of conversion, the applicant shall perform such of the following acts as may be duly requested in writing with respect to a matter to be considered at the meeting to vote on the plan of conversion by any association member who will defray the reasonable expenses to be incurred by the applicant in the performance of the act or acts requested.

(1) The applicant shall mail or otherwise furnish to such association member the following information as promptly as practicable after the receipt of such request:

(i) A statement of the approximate number of association members who have been or are to be solicited on behalf of the management, or any group of such holders which the association member shall designate.

(ii) An estimate of the cost of mailing a specified proxy and information statement, form of proxy or other communication to such association members.

(2)(i) Copies of any proxy and information statement, form of proxy or other communication furnished by the association member and as approved by the Corporation shall be mailed by the applicant to such of the association members specified in paragraph (f)(1)(i) of this section as the association member shall designate.

(ii) Any such material which is furnished by the association member shall be mailed with reasonable promptness by the applicant after receipt of the material to be mailed, envelopes or other containers therefor and postage or payment for postage.

(iii) Neither the management nor the applicant shall be responsible for such proxy and information statement, form of proxy or other communication.

(g) *False or misleading statements.* (1) No solicitation of a proxy by the applicant, its management, or any other person for the meeting to vote on conversion shall be made by means of any proxy and information statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for such meeting which has become false or misleading.

(2) The fact that a proxy and information statement, form of proxy or other soliciting material has been filed with or examined by the Corporation and authorized for use shall not be deemed a finding by the Corporation that such material is accurate or complete or not false or misleading, or that the Corporation has passed upon the merits of or approved any proposal contained therein. No representation contrary to the foregoing shall be made by any person.

(3) If a solicitation by management violates any provision of this section, the Corporation may require remedial measures including:

(i) Correction of any such violation by means of a retraction and new solicitation;

(ii) Rescheduling of the meeting for a vote on the conversion;

(iii) Withholding final approval of the conversion; and

(iv) Any other actions the Corporation may deem appropriate in the circumstances in order to insure a fair vote.

(4) If a nonmanagement solicitation violates any provision of this section, the applicant shall be entitled with the concurrence of the Corporation to disregard any proxy given in response to such solicitation and may employ any other remedy available to it.

(h) *Prohibition of certain solicitations.* No person soliciting a proxy from an association member for the meeting to vote on conversion shall solicit:

(1) Any undated or post-dated proxy; or

(2) Any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the association members; or

(3) Any proxy which is not revocable at will by the association member giving it; or

(4) Any proxy which is part of any other document or instrument (such as an account card).

§ 563b.7 Form and content of financial statements.

(a) *Application of this section.* This section states the requirements as to the form and content of all financial statements to be furnished with forms pursuant to this part. The term "financial statements" shall be deemed to include all notes to the statements and related schedules.

(b) *Definitions of terms used in this § 563b.7.* Unless the context otherwise requires, terms defined in § 563b.2 or in the instructions to the applicable form, when used in this § 563b.7 shall have the respective meanings given in such sections or instructions. In addition, the following terms shall have the meanings indicated in this section unless the context otherwise requires.

(1) *Accountant's report.* The term "accountant's report", when used in regard to financial statements, means a document in which an independent public or certified public accountant indicates the scope of the audit (or examination) which he has made and sets forth his opinion regarding the financial statements taken as a whole, or an assertion to the effect that an overall opinion cannot be expressed.

(2) *Audit (or examination).* The term "audit" (or "examination"), when used in regard to financial statements, means an examination of the statements by an independent accountant in accordance with generally accepted auditing standards for the purpose of expressing an opinion thereon.

(3) *Fifty-percent-owned person.* The term "50-percent-owned person", in relation to a specified person, means a person approximately 50 percent of whose outstanding voting shares is owned by the specified person either directly, or indirectly through one or more intermediaries.

(4) *Fiscal year.* The term "fiscal year" means the annual accounting period or if the applicant has previously used an audit period in connection with its certified financial statements which does

not coincide with its fiscal year, such audit period may be used in place of any fiscal year requirement provided it covers a full 12 months' operations and is used consistently.

(5) *Majority-owned subsidiary.* The term "majority-owned subsidiary" means a subsidiary more than 50 percent of whose outstanding voting shares is owned by its parent and/or the parent's other majority-owned subsidiaries.

(6) *Parent.* A "parent" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

(7) *Principal holder of equity securities.* The term "principal holder of equity securities", used in respect of an applicant or other person named in a particular statement or report, means a holder of record or a known beneficial owner of more than 10 percent of any class of equity securities of the applicant or other person, respectively, as of the date of the related balance sheet filed.

(8) *Share.* The term "share" means a share of stock in a corporation or unit of interest in an unincorporated person.

(9) *Significant subsidiary.* The term "significant subsidiary" means a subsidiary or a subsidiary and its subsidiaries, which meet either of the conditions described below based on the most recent annual financial statements, including consolidated financial statements, of such subsidiary which would be required to be filed if such subsidiary were an applicant and the most recent annual consolidated financial statements of the applicant being filed:

(i) The parent's and the parent's other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary, or their investments in and advances to the subsidiary exceed 10 percent of the total assets of the parent and consolidated subsidiaries.

(ii) The parent's and the parent's other subsidiaries' proportionate share of the total sales and revenues (after intercompany eliminations) of the subsidiary exceed 10 percent of the total sales and revenues of the parent and consolidated subsidiaries.

(10) *Totally held subsidiary.* The term "totally held subsidiary" means a subsidiary (i) substantially all of whose outstanding equity securities are owned by its parent and/or the parent's other totally held subsidiaries, and (ii) which is not indebted to any person other than its parent and/or the parent's other totally held subsidiaries, excepting indebtedness incurred in the ordinary course of business which is not overdue and which matures within 1 year from the date of its creation, whether evidenced by securities or not. Indebtedness of a subsidiary which is secured by its parent by guarantee, pledge, assignment or otherwise is to be excluded for purposes of paragraph (a)(10)(ii) of this section.

(11) *Wholly owned subsidiary.* The term "wholly-owned subsidiary" means a subsidiary substantially all of whose outstanding voting shares are owned by its parent and/or the parent's other wholly owned subsidiaries.

(c) *Qualifications of accountants.* (1) For the purpose of this part, the Corporation will not recognize any person as a certified public accountant who is not duly registered and in good standing as such under the laws of the place of his residence or principal office. For the purposes of this part, the Corporation will not recognize any person as a public accountant who is not in good standing and entitled to practice as such under the laws of the place of his residence or principal office.

(2) For the purposes of this part, the Corporation will not recognize any certified public accountant or public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates (i) in which, during the period of his professional engagement to examine the financial statements being reported on or at the date of his report he or his firm or a member thereof had, or was committed to acquire, any direct financial interest or any material indirect financial interest or (ii) with which, during the period of his professional engagement to examine the financial statements being reported on, at the date of his report or during the period covered by the financial statements, he or his firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will not be deemed not independent in regard to a particular person if a former officer or employee of such person is employed by the firm and such individual has completely disassociated himself from the person and its affiliates and does not participate in auditing financial statements of the person or its affiliates covering any period of his employment by the person. For the purposes of this section the term "member" means all partners in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit.

(3) In determining whether an account may in fact be not independent with respect to a particular person, the Corporation will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Corporation.

(d) *Accountants' reports*—(1) *Technical requirements.* The accountant's report (i) shall be dated; (ii) shall be signed manually; (iii) shall indicate the city and state where issued; and (iv) shall identify without detailed enumeration the financial statements covered by the report.

(2) *Representations as to the audit.* The accountant's report (i) shall state whether the audit was made in accordance with generally accepted auditing standards; and (ii) shall designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case, which have been omitted, and the reasons for their omission. Nothing in this subparagraph shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by subparagraph (3) of this paragraph.

(3) *Opinion to be expressed.* The accountant's report shall state clearly: (i) The opinion of the accountant in respect of the financial statements covered by the report and the accounting principles and practices reflected therein; and (ii) the opinion of the accountant as to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements as required to be set forth in the appropriate proxy and information statement.

(4) *Exceptions.* Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

(e) *Examination of financial statements of persons other than the applicant.* If an applicant is required to file financial statements of any other person, such statements need not be examined if examination of such statements would not be required if such person were itself an applicant.

(f) *Examination of financial statements by more than one accountant.* If, with respect to the examination of the financial statements of the applicant, the principal accountant relies on an audit made by another accountant of certain of the accounts of such applicant or its subsidiaries, the report of such other accountant shall be filed (and the provisions of paragraphs (c) and (d) of this section shall be applicable thereto); however, the report of such other accountant need not be filed (1) if no reference is made directly or indirectly to such other accountant's audit in the principal accountant's report, or (2) if, having referred to such other accountant's audit, the principal accountant states in his report that he assumes responsibility for such other accountant's audit in the same manner as if it had been made by him.

(g) *Form, order, and terminology.* (1) Financial statements may be filed in such form and order, and may use generally accepted terminology, as will best indicate their significance and character in the light of the provisions applicable thereto.

(2) All money amounts required to be shown in financial statements may be expressed in whole dollars, in thousands of dollars or in hundred thousands of dollars, as appropriate: *Provided*, That when stated in other than whole dollars,

an indication to that effect is inserted immediately beneath the caption of the statement or schedule, or at the top of the money columns, or at an appropriate point in narrative material.

(3) Negative amounts (red figures) shall be shown in brackets or parentheses and so described in the related caption, columnar heading or a note to the statement or schedule, as appropriate.

(h) *Items not material.* If the amount which would otherwise be required to be shown with respect to any item is not material, it need not be separately set forth.

(i) *Inapplicable captions and omission of unrequired or inapplicable financial statements.* (1) No caption need be shown in any financial statements as to which the items and conditions are not present.

(2) Financial statements not required or inapplicable because the required matter is not present need not be filed.

(3) Financial statements omitted and the reasons for their omission shall be indicated in the list of financial statements required by the applicable form.

(j) *Omission of substantially identical notes.* If a note covering substantially the same subject matter is required with respect to two or more financial statements relating to the same or affiliated persons, for which separate sets of notes are presented, the required information may be shown in a note to only one of such statements: *Provided,* That a clear and specific reference thereto is made in each of the other statements with respect to which the note is required.

(k) *Additional information.* The information required with respect to any statement shall be furnished as a minimum requirement to which shall be added such further material information as is necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(l) *Changes in accounting principles and practices and retroactive adjustments of accounts.* (1) Any change in an accounting principle or practice, or in the method of applying any accounting principle or practice, made during any period for which financial statements are being filed which materially affects comparability of such financial statements with those of prior periods, and the effect thereof upon the net income of the period in which such change is made and, if practicable, of the prior periods for which financial statements are being filed, shall be disclosed in an appropriate manner.

(2) Any material retroactive adjustment made in income statements during any period for which financial statements are being filed, and the effect thereof upon net income of prior periods shall be disclosed in a note to the appropriate financial statements.

(m) *Summary of accounting principles and practices.* Information required in notes as to accounting principles and practices reflected in the financial statements may be presented in the form of a single statement. In such case, specific references shall be made in the appropriate financial statements to the applicable portion of such single statement.

(n) *Valuation and qualifying accounts.* Valuation and qualifying accounts shall be shown separately in the financial statements as deductions from the specific assets to which they apply.

(o) *Basis of determining amounts—book value.* If an instruction requires a statement as to "the basis of determining the amount," the basis shall be stated specifically. The term "book value" will not be sufficiently explanatory unless, in a particular instruction, it is stated to be acceptable with respect to a particular item.

(p) *General notes to financial statements.* If present in regard to the applicant for which the financial statements are filed, the following shall be set forth on the face of the appropriate statement or in notes appropriately captioned and referred to in such statement. The information shall be provided for each statement required to be filed, except that the information required by paragraphs (p) (4), (6), (7), and (8) of this section, shall be provided as of the most recent audited statement of financial condition and any subsequent unaudited balance sheet being filed. When specific statements are presented separately the pertinent notes shall be attached unless cross-referencing is appropriate.

(1) *Principles of consolidation or combination.* With regard to consolidated or combined financial statements, refer to paragraph (q) of this section for requirements for supplemental information in notes to the financial statements.

(2) *Plan of conversion.* A brief description of the plan of conversion and the financial statement implications including any subsequent dividend restrictions. Reference may be made to other descriptions contained in the form.

(3) *Principles of translation of items in foreign currencies.* When items in foreign currencies are included in the financial statements being presented, there shall be stated (i) a brief description of the principles followed in translating the foreign currencies into United States currency and (ii) the amount and disposition of the unrealized gain or loss.

(4) *Assets subject to lien.* Assets mortgaged, pledged, or otherwise subject to lien, and the approximate amounts thereof, shall be designated and the obligations collateralized briefly identified.

(5) *Intercompany profits and losses.* The amount, and the effect upon any balance sheet item, of profits or losses resulting from transactions with affiliated companies and not eliminated shall be stated. If impracticable of accurate determination without unreasonable effort or expense, give an estimate or explain.

(6) *Defaults.* The facts and amounts concerning any default in principal, interest, sinking fund, or redemption provisions with respect to any issue of securities or credit agreements, or any breach of covenant of a related indenture or agreement, which default or breach existed at the date of the most recent balance sheet being filed and which has not been subsequently cured, shall be stated. Notation of such default or breach of covenant shall be made in the financial statements and the entire amount of obligations to which the default or breach relates shall be classified as a current liability if said default or breach accelerates the maturity of the obligations and makes it current under the terms of the related indenture or agreement. If a default or breach exists, but acceleration of the obligation has been waived for a stated period of time beyond the date of the most recent balance sheet being filed, state the amount of the obligation and the period of the waiver.

(7) *Pension and retirement plans.* A brief description of the essential provisions of any employee pension or retirement plan and of the accounting and funding policies related thereto shall be given. The estimated cost of the plan for each period for which an income statement is presented shall be stated.

(8) *Restrictions which limit the availability of reserves and undivided profits for dividend purposes.* Describe the most restrictive of any such restrictions, indicating briefly its source, its pertinent provisions, and, where appropriate and determinable, the amount of reserves and undivided profits (i) so restricted or (ii) free of such restrictions. These restrictions would include absolute restrictions, such as those imposed by State laws or credit agreements as well as those restrictions resulting from any additional income tax requirements before payment of dividends and disclose the amount of income tax which would become payable.

(9) *Commitments and contingent liabilities.* (i) If material in amount, there shall be disclosed the pertinent facts relative to firm commitments for the acquisition of permanent or long-term investments (excluding normal commitments made during the ordinary course of business) and property, plant and equipment and for the purchase, repurchase, construction, or rental of assets under material leases.

(ii) Where the annual rentals or obligations under noncancelable leases which have not been recorded as assets and liabilities are in excess of 1 percent of total sales and revenues of the most recent fiscal year, there shall be shown (A) the minimum annual rentals for the current and each of the 5 succeeding years; (B) the nature and effect of any provisions that would cause the annual rentals to vary from the minimum rentals; and (C) a description of the types of property leased, important obligations assumed or guarantees made, and any other significant provisions of such leases.

(iii) A brief statement as to contingent liabilities not reflected in the balance sheet shall be made.

(10) *Bonus, profit sharing, and other similar plans.* Describe the essential provisions of any such plans in which only directors, officers or key employees may participate, and state, for each of the fiscal periods for which income statements are required to be filed, the aggregate amount provided for all plans by charges to expense.

(11) *Significant changes in bonds, mortgages, and similar debt.* Any significant changes in the authorized or issued amounts of bonds, mortgages and similar debt since the date of the latest balance sheet being filed for a particular person or group shall be stated.

(12) *Depreciation, depletion, obsolescence, and amortization.* State the policy followed with respect to:

(i) The provision for depreciation, depletion, obsolescence, and amortization of physical properties and capitalized leases, including the methods and, if practicable, the rates used in computing the annual amounts;

(ii) The provision for depreciation and amortization of intangible assets or the lack of such provision, including the methods and, if practicable, the rates used in computing the annual amounts;

(iii) The accounting treatment for maintenance, repairs, renewals, and betterments; and

(iv) The adjustment of accumulated depreciation, depletion, obsolescence, and amortization at the time the properties are retired or otherwise disposed of, including the disposition of any gain or loss on sale of such properties.

(13) *Capital stock optioned, sold or offered for sale to directors, officers and key employees.* (i) A brief description of the terms of each option arrangement shall be given including (A) the title and amount of securities subject to option; (B) the year or years during which the options were granted; and (C) the year or years during which the optionees became, or will become, entitled to exercise the options.

(ii) State (A) the number of shares under option at the balance sheet date, and the option price and the fair value thereof, per share and in total, at the dates the options were granted; (B) the number of shares with respect to which options became exercisable during each period presented, and the option price and the fair value thereof, per share and in total, at the dates the options became exercisable; (C) the number of shares with respect to which options were exercised during each period, and the option price and the fair value thereof, per share and in total, at the dates the options were exercised; and (D) the number of unoptioned shares available, at the beginning and at the close of the latest period presented, for the granting of options under an option plan.

(iii) A brief description of the terms of each other arrangement covering shares sold or offered for sale to only directors, officers, and key employees shall be given, including the number of shares, and the offered price and the fair value thereof per share and in total, at the dates of sale or offer to sell, as appropriate.

(iv) The required information should be summarized and tabulated, as appropriate, with respect to all option plans as a group and other plans for shares sold or offered for sale as a group.

(v) State the basic of accounting for such arrangements and the amount of charges, if any, reflected in income with respect thereto.

(14) *Income tax expense.* Disclosure shall be made, in the income statement or a note thereto, of the components of income tax expense, including: (i) Taxes currently payable; (ii) the net tax effects, as applicable, of (iii) timing differences and (iv) operating losses; and (v) the net deferred investment tax credits. The applicant's status as a "savings and loan association" as defined in section 593 of the Internal Revenue Code, as amended, shall be stated in a note referred to in the appropriate statements. Such note shall also indicate briefly the principal present assumptions on which the applicant has relied in making or not making provisions for such taxes. Amounts applicable to Federal income taxes and to other income taxes shall be stated separately for each component, unless the amounts applicable to other income taxes do not exceed 5 percent of the total for the component and a statement to that effect is made.

(15) *Warrants or rights outstanding.* Information with respect to warrants or rights outstanding at the date of the related balance sheet shall be set forth as follows:

(i) Title of issue of securities called for by warrants or rights.

(ii) Aggregate amount of securities called for by warrants or rights outstanding.

(iii) Date from which warrants or rights are exercisable and expiration date.

(iv) Price at which warrant or right is exercisable.

(q) *Consolidated and combined financial statements.* This section shall govern the presentation of consolidated and combined financial statements.

(1) *Consolidated financial statements of the applicant and its subsidiaries.* (i) The applicant shall follow in the consolidated financial statements principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations of the applicant and its subsidiaries: *Provided, however,* That the applicant shall not consolidate:

(*A*) Any subsidiary which is not majority owned; or

(*B*) Any subsidiary whose financial statements are as of a date or for periods different from those of the applicant, unless all the following conditions are met: (*1*) Such difference is not more than 93 days; (2) the closing date of the subsidiary is expressly indicated; and (3) the necessity for the use of different closing dates is briefly explained.

(ii) Notwithstanding the 93-day requirement specified in paragraph (q)(1)(i)(*B*)(*1*) of this section, in connection with the retroactive combination of the financial statements of entities following a "pooling of interests," the financial statements of the constituents may be combined even if their respective fiscal periods do not end within 93 days, except that the financial statements for the latest fiscal year shall be recast to dates which do not differ by more than 93 days, if practicable. Disclosure shall be made of the periods combined and of the sales or revenues, net income before extraordinary items and net income of any interim periods excluded from or included more than once in results of operations as a result of such recasting.

(iii) The 93-day requirement specified in paragraph (q)(1)(i)(*B*)(*1*) of this section is not applicable to the recognition of earnings or losses of 50 percent or less owned persons, the investments in which are accounted for by the equity method of accounting.

(2) *Group financial statements of subsidiaries not consolidated and 50 percent or less owned persons.* There may be filed financial statements in which majority-owned subsidiaries not consolidated with the parent are consolidated or combined in one or more groups, and 50 percent or less owned persons the investments in which are accounted for by the equity method are consolidated or combined in one or more groups, pursuant to principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations of the group or groups.

(3) *Statement as to principles of consolidation or combination followed.* (i) A brief description of the principles followed in consolidating or combining the separate financial statements, including the principles followed in determining the inclusion or exclusion of (A) subsidiaries in consolidated or combined financial statements and (B) companies in consolidated or combined financial statements, shall be stated in the notes to the respective financial statements.

(ii) As to each consolidated financial statement and as to each combined financial statement, if there has been a change in the persons included or excluded in the corresponding statement for the preceding fiscal period which has a material effect on the financial statements, the persons included and the persons excluded shall be disclosed. If there have been any changes in the respective fiscal periods of the persons included made during the periods of the report which have a material effect on the financial statements, indicate clearly such changes and the manner of treatment.

(4) *Reconciliation of investment of a person in subsidiaries not consolidated and 50 percent or less owned persons accounted for by the equity method, and equity of such person in their net assets.* A statement shall be made in a note to the latest balance sheet of the amount and the accounting treatment of any difference between (i) the investment of a person and its consolidated subsidiaries, as shown in the consolidated balance sheet, in the unconsolidated subsidiaries and 50 percent or less owned persons accounted for by the equity method and (ii) their equity owned persons as shown in their financial statements.

(5) *Intercompany items and transactions.* In general, there shall be eliminated intercompany items and transactions between persons included in the (i) consolidated financial statements being filed and, as appropriate, (ii) unrealized

intercompany profits and losses on transactions between persons for which financial statements are being filed and persons the investment in which is presented in such statements by the equity method. If such eliminations are not made, a statement of the reasons and the methods of treatment shall be made.

(6) *Consolidation of financial statements of an applicant and its subsidiaries engaged in diverse financial activities.* (i) If the applicant and its subsidiaries are engaged in one or more types of financial activities, e.g., banking, insurance, finance, and savings and loan subsidiaries, consolidated financial statements may be filed unless deemed inappropriate: *Provided*, That, when more than one type of financial activity is involved, separate audited financial statements for each significant financial subsidiary or each significant group of financial subsidiaries shall be presented. Savings and loan and other direct or indirect subsidiaries of savings and loan holding companies engaged in savings and loan related finance activities are considered to be one type of financial activity for the purpose of this rule.

(ii) If the applicant and its subsidiaries are engaged in (A) manufacturing, merchandising or other nonfinancial activities as well as in (B) financial activities as described in paragraph (q)(6)(i) of this section, the subsidiaries related to whichever of group (A) or (B) is less significant shall not be consolidated with the operations of the major group; however, the group of lesser significance may be included in the consolidated financial statements if its activities are principally for the benefit of the operations of the major group. In interpreting the significance of the groups above, the applicant should consider factors in addition to those in the definition of significant subsidiary including the primary business activities of the registrant, trends, and other pertinent matters.

(r) *Financial statements for savings and loan associations*—(1) *Application of this section.* All financial statements shall be prepared in accordance with generally accepted accounting principles and practices applicable to the savings and loan industry and the accounting rules prescribed by the Board. Except as otherwise permitted by the Corporation, applicants shall comply with the following provisions:

STATEMENTS OF FINANCIAL CONDITION ASSETS

(2) *Cash and cash items.* State separately (i) cash on hand and demand deposits; (ii) funds subject to repayment on call or immediately after the date of the balance sheet required to be filed; (iii) time deposits; and (iv) other funds, the amounts of which are known to be subject to withdrawal or usage restrictions, e.g., as compensating balances or special purpose funds. The general terms and nature of such repayment provisions and withdrawal or usage restrictions shall be described in a note referred to herein.

(3) *U.S. Government and Federal agency obligations.* State, parenthetically or otherwise, the basis of determining the amount shown in the balance sheet and state the alternate of the aggregate cost or the aggregate amount on the basis of market quotations at the balance sheet date. When the original cost of securities purchased on a yield basis has been properly adjusted to reflect amortization of premium or accumulation of discount since acquisition, the basis of determining their amount may be described "as cost" with appropriate footnote disclosures. Show separately (*a*) other securities and investments and (*b*) securities of affiliates.

(4) *Loans secured by savings accounts.* Include the balance of loans secured by the pledge of its savings account.

(5) *Mortgage loans.* State separately here, or in a note referred to herein, each major class, such as FHA and VA loans, conventional loans, loans to facilitate sales of real estate foreclosed, unimproved land, contracts to facilitate the sale of real estate. Indicate any amounts pledged to secure debt.

(6) *Other loans.* Include (i) improvement loans both insured and uninsured, (ii) education loans, (iii) mobile home loans, (iv) other loans. Show separately any significant category.

(7) *Accrued interest receivable on loans.* Accrued interest receivable should be shown separately.

(8) *Valuation allowance.* Loans known to be uncollectible shall be excluded from the assets as well as from the valuation allowance.

(9) *Real estate owned.* State, parenthetically or otherwise, (i) the basis of determining the amount shown on the balance sheet, (ii) a description of the real estate owned including if it was acquired by foreclosure, by deed in lieu of foreclosure, in judgment and subject to redemption, or for development or resale. Any accumulated depreciation or valuation allowances should be shown separately.

(10) *Accounts and notes receivable.* (i) State separately amounts receivable from (*a*) parents and subsidiaries; (*b*) other affiliates and other persons the investments in which are accounted for by the equity method; (*c*) underwriters, promoters, directors, officers, employees, and principal holders (other than affiliates) of equity securities of the person and its affiliates; and (*d*) others. Exclude from (*c*) amounts for purchases by such persons subject to usual trade terms, for ordinary travel and expense advances and for other such items arising in the ordinary course of business. With respect to (*c*) and (*d*), state separately in the applicant's balance sheet the amounts which in the related consolidated balance sheet are eliminated and not eliminated.

(ii) For receivables maturing after 1 year, state in a note to the financial statements the amount thereof and, if practicable, the amounts maturing in each year. Interest rates on major receivable items maturing after 1 year, or classes of receivables so maturing, shall be set forth, or an indication of the average interest rate, or the range of rates, on all receivables shall be given.

(iii) Receivables from a parent, a subsidiary, an affiliate or other person designated under subdivisions (i)(*c*) and (i)(*d*) above shall not be considered as current unless the net current asset position of such person justifies such treatment.

(iv) If the aggregate amount of notes receivable exceeds 10 percent of the aggregate amount of receivables, the above information shall be set forth separately for accounts receivable and notes receivable.

(11) *Securities of affiliates and other persons.* Include under this caption amounts representing investments in affiliates and investments in other persons which are accounted for by the equity method, and state the basis of determining these amounts. State separately in the applicant's statement of financial condition the amounts which in the related consolidated statement of financial condition are eliminated and not eliminated.

(12) *Other security investments.* State the basis of determining the amount shown in the balance sheet and state, parenthetically or otherwise, the alternate of the aggregate cost or the aggregate amount on the basis of market quotations at the balance sheet date.

(13) *Investment in stock of the Federal Home Loan Bank.* Indicate basis for determining amount shown in the balance sheet.

(14) *Other Investments.* State separately, by class of investments, any items in excess of 5 percent of total assets.

(15) *Premises and equipment.* State separately here, or in a note referred to herein, if practicable, each major class, such as land, buildings, machinery and equipment, leaseholds, or functional grouping such as revenue producing equipment or industry categories, and the basis of determining the amounts.

(16) *Accumulated depreciation, depletion and amortization of property, plant and equipment.* Show separately on the statement of financial condition or in a separate note.

(17) *Prepayment to FSLIC Secondary Reserve.* In a separate note indicate the nature of this asset.

(18) *Intangible assets.* State separately each major class, such as goodwill, franchises, patents or trademarks, and the basis of determining their respective amounts. Indicate if any of these amounts have been required to be written off for purposes of reports to the Corporation and the consequent effect on net worth requirements.

(19) *Accumulated amortization of intangible assets.* Show separately any applicable amortization indicating the policy for such amortization.

(20) *Other assets.* State separately (i) each pension or other special fund; and (ii) any other item not properly classed in one of the preceding asset captions which is in excess of 5 percent of total assets.

(21) *Preoperating expenses deferred organization expense and similar deferrals.* State separately each major class and, in a note referred to herein, the policy for deferral and amortization. Indicate whether any of these amounts have been required to be written off for purposes of the Corporation.

(22) *Deferred debt expense.* State, in a note referred to herein, the policy for deferral and amortization.

(23) *Deferred commissions and expense on capital shares.* State, in a note referred to herein, the policy for deferral and amortization. These items may be shown as deductions from additional capital.

(24) *Total assets and, when appropriate, other debits.*

LIABILITIES, RESERVES AND STOCKHOLDERS' EQUITY

(25) *Savings Accounts.* Include accrued interest, if appropriate.

(26) *Loans in Process.* Include the amount of all undisbursed loan proceeds only where a clear liability exists.

(27) *Advance payments by Borrowers for Taxes and Insurance.*

(28) *Advances from Federal Home Loan Bank.* State separately here, or in a note referred to herein, such information as will indicate (i) the general character of each type of debt including the rate of interest, (ii) the date or dates of maturity and the amounts maturing as of each date. Any assets pledged should be noted.

(29) *Accounts and notes payable.* (i) State separately amounts payable to (*a*) banks, for borrowings; (*b*) trade creditors; (*c*) parents and subsidiaries; (*d*) other affiliates and other persons the investments in which are accounted for by the equity method; (*e*) underwriters, promoters, directors, officers, employees, and principal holders (other than

affiliates) of equity securities of the person and its affiliates; and (*f*) others. Exclude from (*e*) amounts for purchases from such persons subject to usual trade terms, for ordinary travel expenses, and for other such items arising in the ordinary course of business. With respect to (*c*) and (*d*), state separately in the applicant's balance sheet the amounts which in the related consolidated balance sheet are eliminated and not eliminated.

(ii) If the aggregate amount of notes payable exceeds 10 percent of the aggregate amount of payables, the above information shall be set forth separately for accounts payable and notes payable.

(30) *Accrued liabilities.* State separately (i) payrolls; (ii) taxes, indicating the current portion of deferred income taxes; (iii) interest (indicating nature of accrual); and (iv) any other material items, indicating any liabilities to affiliates.

(31) *Other liabilities.* State separately (i) dividends declared; (ii) any other item in excess of five percent of liabilities, indicating any liabilities to affiliates. The remaining items may be shown in one amount.

(32) *Bonds, mortgages and similar debt.* State separately here, or in a note referred to herein, each issue or type of obligation and such information as will indicate (i) the general character of each type of debt including the rate of interest; (ii) the date of maturity, or if maturing serially, a brief indication of the serial maturities, such as "maturing serially from 1980 to 1990"; (iii) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (iv) a brief indication of priority; (v) if convertible, the basis; and (vi) the combined aggregate amount of maturities and sinking fund requirements for all issues, each year for the 5 years following the date of the balance sheet. For amounts owed to affiliates, state separately in the applicant's balance sheet the amounts which in the related consolidated balance sheet are eliminated and not eliminated.

The amounts of unamortized debt discount and premium applicable shall be deducted from or added to the face amounts of the issues under the particular caption either individually or in the aggregate, but if the aggregate method is used the face amounts of the individual issues and the applicable unamortized discount or premium shall be shown parenthetically or otherwise.

(33) *Deferred credits.* State separately amounts for (i) deferred income taxes, (ii) deferred tax credits, and (iii) material items of deferred income.

(34) *Commitments and contingent liabilities.* (See § 563b.7(p)(9).)

MINORITY INTERESTS

(35) *Minority interests in consolidated subsidiaries.* State separately in a note referred to herein, amounts represented by preferred stock and the applicable dividend requirements if the preferred stock is material in relation to the consolidated stockholders equity.

STOCKHOLDERS' EQUITY

(36) *Capital shares.* State for each class of shares the title of issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate, and the dollar amount thereof, and, if convertible, the basis of conversion. Show also the dollar amount, if any, of capital shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show here, or in a note or statement referred to herein, the changes in each class of capital shares for each period for which an income statement is required to be filed.

(37) *Other stockholders' equity.* (i) Separate captions shall be shown for (*a*) paid-in additional capital, (*b*) other additional capital, and (*c*) retained earnings (*1*) appropriated and (*2*) unappropriated.

(ii) If undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons are included, state the amount in each category parenthetically or in a note referred to herein.

(iii) For a period of at least 10 years subsequent to the effective date of a quasi-reorganization, any description of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least 3 years shall indicate the total amount of the deficit eliminated.

(iv) A summary of each account under this caption setting forth the information prescribed in 563b.7(r)(39) shall be given for each period for which a statement of operations is being filed.

(38) *Total liabilities, and stockholders' equity.*

STATEMENT OF STOCKHOLDERS' EQUITY

(39) A summary shall be given for each class of stockholders' equity set forth in the related statement of financial condition.

(i) *Balance at beginning of period.* State separately the adjustments to the statement of financial condition at the beginning of the first period of the report for items which were retroactively applied to periods prior to that period.

(ii) *Net income or loss from statement of operations.* (See § 563b.7(r)(55).)

(iii) *Other additions.* State separately any material amounts, indicating clearly the nature of the transactions out of which the items arose.

(iv) *Dividends.* For each class of shares state the amount per share and in the aggregate. Show separately cash and other (specify) dividends.

(v) *Other deductions.* State separately any material amounts, indicating clearly the nature of the transactions out of which the items arose.

(vi) *Balance at end of period.* The balance at the end of the most recent period shall agree with the related statement of financial condition caption.

STATEMENT OF OPERATIONS

All items of profit and loss given recognition in the accounts during each period covered by the statement of operations, except retroactive adjustments, shall be included in the statement of operations for each such period (see § 563b.7(1)). Only items entering into the determination of net income or loss may be included.

INCOME

(40) *Interest on loans.* Include amortization of any premium.

(41) *Interest and Dividends on Investments.* Show separately interest or dividends from affiliates. Exclude from this caption dividends from both subsidiaries and investments which are accounted for by the equity method.

(42) *Loan Origination Fees.* Include fees and charges received in connection with the making or acquisition of mortgage loans not subject to deferral by regulation.

(43) *Other fees.* Include loan servicing fees, prepayment charges, late charges, etc. showing separately, if material, any significant items.

(44) *Other income.* State separately any material amounts indicating clearly the nature of the transaction out of which the items arose. Other income may be stated net of applicable expenses, provided that any material amounts are set forth separately.

EXPENSES

(45) *Interest on Savings Accounts.* Include all interest or dividends paid or accrued on savings accounts.

(46) *Interest on Borrowings.* Include all interest paid or accrued on borrowings.

(47) *General and Administrative Expenses.* (See § 563b.7(r)(58).)

(48) *Other expenses.* Indicate separately any material items.

(49) *Income or loss before income tax expense and appropriate items below.*

(50) *Income Tax Expense.* (See § 563b.7(p)(14).) This caption only taxes based on income. Show separately current and deferred income taxes, if significant. Explain the nature of major items relating to deferred income taxes. Explain the method of calculating the bad debt deduction and the fact that the allowable deduction will be declining in future years. Include the amount of stockholders' equity for which no income taxes have been paid and explain the significance in terms of dividend payments on capital stock.

(51) *Minority interest in income of consolidated subsidiaries.*

(52) *Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned person.* The amount reported under this caption shall be stated net of any applicable tax provisions. State, parenthetically or in a note referred to herein, the amount of dividends received from such persons. If justified by circumstances, this item may be presented in a different position and a different manner.

(53) *Extraordinary items, less applicable tax.* State separately any material items and disclose, parenthetically or otherwise, the tax applicable to each.

(54) *Cumulative effects of changes in accounting principles.* State separately, any material items and disclose parenthetically or otherwise, the tax applicable to each.

(55) *Net income or loss.* (See § 563b.7(r)(39)(ii).)

(56) *Allocation of net income.* Indicate the amounts of net income allocated to (i) appropriated retained earnings and (ii) unappropriated retained earnings.

(57) *Earnings per share data.* Show separately: (i) Earnings before any extraordinary items, (ii) earnings applicable to extraordinary items, and (iii) net earnings per share. In connection with any subsequent capital stock distributable to eligible account holders pursuant to a plan of conversion, reflect earnings per share data on a retroactive basis. Set forth in reasonable detail the computation of per share earnings.

(58) *Supplementary Information to the Statement of Operations.* Furnish the following schedule for each statement of operations in which operating revenues were of significant amount. This schedule may be omitted if the information required by Column B and instructions 3 and 4 thereof is furnished in the statement of operations or in a note thereto. This information shall be provided for each of the 3 fiscal years preceding the date of the latest statement of financial condition filed and for the period, if any, between the close of the latest of such fiscal years and the date of the latest statement of financial condition filed.

SUPPLEMENTARY INFORMATION TO THE STATEMENT OF OPERATIONS [1]

Item	Column A	Column B [2] Charged to general and administrative expenses and other accounts
1. Maintenance and repairs		
2. Depreciation, depletion and amortization of premises and equipment		
3. Depreciation and amortization of intangible assets		
4. Taxes, other than income taxes [3]		
5. Rents [4]		
6. Royalties		
7. Advertising costs [5]		
8. Provision for doubtful accounts and notes		
9. Expenses of conversion		

STATEMENT OF CHANGES IN FINANCIAL CONDITION

(59) The statement of changes in financial condition shall summarize the sources from which funds have been obtained and their application. Material changes in the components of net funds shall be shown in the statement or in a supporting tabulation. As a minimum, the following shall be reported:

(i) Sources of funds:

(a) Funds provided from operations (showing separately net income or loss and the addition and deduction of specific items which did not require the expenditure or receipt of funds; e.g., depreciation and amortization, deferred income taxes, undistributed earnings or losses of unconsolidated persons, etc.).

(b) Principal payments on loans.

(c) Sale of loans, if material.

(d) Sale of other assets (identifying separately such items such as real estate owned, fixed assets, intangibles, etc.).

(e) Issuance of longterm debt.

(f) Increase in savings accounts.

(g) Loan fees deferred.

(ii) Application of funds:

(a) Origination and purchase of loans (showing separately if material).

(b) Purchase of other assets (identifying separately such items as investments, fixed assets, intangibles, etc.).

(c) Repayment of longterm debt.

(60) *Schedules to financial statements.* No schedules to financial statements, other than Supplemental Information to the Statement of Operations, are required to be furnished. However, the Corporation may request that additional schedules be filed in order that the financial statements not be misleading or to insure that all information as would be meaningful be included. The applicant may consider the furnishing of such schedules as are required for any additional filings with the Securities and Exchange Commission.

[1] State, for each of the items noted in Column A which exceeds 1 percent of total revenues as reported in the related statement of operations, the amount called for in Column B.

[2] Indicate amounts charged to other accounts indicating account such as real estate owned or other income—from real estate operations.

[3] State separately each category of tax which exceeds 1 percent of total revenues.

[4] Include rents applicable to leased personal property.

[5] This item shall include all costs related to advertising the company's name, products or services in newspapers, periodicals or other advertising media.

§ 563b.8 Vote by members; application to the Corporation for final approval.

(a) *Vote at special meeting.* Following Corporation approval of an application for preliminary approval, the plan shall be submitted to a special meeting of members, unless State law requires that the plan be considered at an annual meeting of members.

(b) *Determining members eligible to vote.* The record date for determining those members eligible to vote at the meeting called to consider a plan of conversion shall be not more than 60 nor less than 35 days prior to the date of such meeting, unless State law requires a different voting record date.

(c) *Notice to members.* Notice of the meeting to consider a plan of conversion shall be given by the proxy and information statement authorized for use by the Corporation not more than 50 nor less than 30 days prior to the date of the meeting to each association member and each eligible account holder, postage prepaid, at his last address as shown on the books of the applicant, unless State law requires a different notice period.

(d) *Required vote.* The plan shall be approved by a vote of at least two-thirds of the total outstanding votes of the applicant's association members, unless State law requires a higher percentage, in which case the higher percentage shall be used. Voting may be in person or by proxy.

(e) *Application for final approval.* (1) Upon approval by the association members of the plan of conversion in accordance with the vote required by paragraph (d) of this section, the applicant shall submit to the Corporation an application for final approval of the plan of conversion on the appropriate form prescribed by the Corporation, as soon as practicable after the meeting.

(2) No plan of conversion under this part shall be implemented following approval of the plan by the members, unless an application for final approval shall have been approved by the Corporation.

(3) Approval by the Corporation of the application for final approval terminates the Federal charter of an applicant effective upon the issuance to it of a stock charter under the laws of the State in which the home office of the applicant is located. Such Federal charter shall promptly be surrendered to the Board for cancellation.

(4) Every applicant under this part shall promptly file with the Corporation a copy of the stock charter issued to it. Conversion shall be deemed to have occurred on the date of issuance of the stock charter. Upon the granting of final approval by the Corporation the accounts of the converted institution shall be insured to the same extent and in the same manner as the accounts of the converting institution. The certificate of insurance of the converting institution shall promptly be surrendered to the Corporation for cancellation, and the Corporation shall promptly issue a new certificate of insurance to the converted association.

§ 563b.9 Pricing and distribution of securities.

(a) *General.* No sale or distribution of securities of the applicant pursuant to the plan of conversion may be made prior to final approval of the plan pursuant to § 563b.8. No offer to sell or offer to buy such securities may be made prior to preliminary approval of the applicant's plan of conversion by the Corporation. This paragraph shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with the applicant.

(b) *Distribution of proxy and information statement.* The appropriate proxy and information statement shall be distributed to eligible account holders at the same time it is mailed to association members pursuant to § 563b.8 (c). Only one proxy and information statement need be distributed to any person who is both an eligible account holder and an association member.

(c) *Specification of price in proxy and information statement.* The proxy and information statement shall set forth a price range for the securities of the applicant to be distributed to eligible account holders under the plan of conversion. The maximum of such price range shall be no more than 10 percent above the average of the minimum and maximum of such price range and the minimum shall be no more than 10 percent below such average.

(d) *Final pricing.* Prior to or at the time of final approval the applicant shall fix an actual price or a final price range for the securities to be distributed under the plan of conversion. The maximum of the price range under this paragraph shall be no more than 3 percent above the average of the minimum and maximum of such price range and the minimum shall be no more than 3 percent below such average. Following final approval only an actual price within such range may be used.

(e) *Representations as to pricing.* The Corporation will review the price ranges and actual prices described in paragraphs (c) and (d) of this section in determining whether to give preliminary and final approval to plans of conversion. No representations may be made in any manner by the applicant that such price ranges or actual prices have been approved by the Corporation.

(f) *Underwriting expenses.* The price ranges and actual prices described in paragraphs (c) and (d) of this section shall be net of any actual or estimated underwriting commissions, fees and discounts. Such underwriting commissions, fees and discounts shall not exceed an amount or percentage per share acceptable to the Corporation.

(g) *Pricing materials.* (1) In considering price ranges and actual prices under paragraphs (c) and (d) of this section, the Corporation will apply the following guidelines to the materials in support of such price ranges and prices:

(i) The materials shall be prepared by persons independent of the applicant.

experienced and expert in the area of corporate appraisal, and acceptable to the Corporation;

(ii) The materials shall contain data which are sufficient to support the conclusions reached therein;

(iii) The materials shall contain a complete and detailed description of the appraisal methodology employed; and

(iv) To the extent that the appraisal is based on comparison of the proposed securities of the applicant with outstanding securities of existing stock associations, the materials must demonstrate the appropriate comparability of the form and substance of such outstanding securities and the appropriate comparability of such existing stock associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(2) In addition to the information required in paragraph (g)(1) of this section, the applicant shall submit information demonstrating to the satisfaction of the Corporation the independence and expertise of any person preparing materials under this paragraph. However, a person will not be considered as lacking independence for the reason that such person will participate in effecting a distribution of securities under the plan of conversion.

(h) *Order forms.* (1) Concurrently with or after the distribution of the appropriate proxy and information statement pursuant to paragraph (b) of this section, the applicant may distribute to all eligible account holders and such association members who may have rights under the plan of conversion forms upon which such account holders and members may indicate decisions as to choices exercisable under the applicant's plan of conversion.

(2) The applicant may make provision for such order forms to be binding on such account holders and members even though such order forms, as permitted in paragraph (c) of this section, state a price range. However, an order form stating a price range as permitted in paragraph (c) of this section shall not be binding if it orders the purchase of securities, and if the actual price fixed by the applicant under paragraph (d) of this section is not within such range. Eligible account holders and association members may also revise a choice made on an earlier form up to the time of the meeting. If the form is distributed after the meeting, the minimum exercise period shall be 16 calendar days after completion of the mailing of the forms. The appropriate proxy and information statement shall contain a description of the conditions under which order forms will be binding and of the circumstances under which order forms may be revised.

(3) Forms distributed pursuant to paragraph (h)(1) of this section shall (i) indicate the total number of securities apportioned to the particular eligible account holder to whom the form is addressed, (ii) indicate the period for exercise of the form, (iii) state the price range or actual price of the securities determined in accordance with paragraph (c) or (d) of this section, (iv) provide specifically designated blank spaces for dating and signing the form, (v) contain an acknowledgment by the person completing the form that he has received a proxy and information statement prior to signing the form, (vi) indicate the effect of failing to complete and return the form, and (vii) describe the eligible account holder's right to revise a choice made on an earlier form.

(i) *Exercise and distribution periods.* The minimum exercise period for subscription warrants and rights shall be 16 calendar days after the mailing of such warrants or rights is completed. Distribution of the converted association's capital stock and such cash or credits to accounts as may be payable under the plan of conversion shall be completed as promptly as possible but no later than 30 calendar days after the later of (1) final approval of the conversion by the Corporation, or (2) the expiration date of such warrants or rights, or (3) commencement of a public offering of the applicant's securities, if any, pursuant to the plan of conversion.

§ 563b.10 Post-conversion reports.

(a) *Itemized expenses.* Within 90 days after distribution of capital stock under this part, the insured institution shall file the information required by the item in the appropriate proxy and information statement form relating to expenses incurred in converting to a stock association. Such information shall be final, and the expenses shall be separately stated to the extent required by such form.

(b) *Additional reports.* The insured institution shall file such other reports concerning its conversion as the Corporation may require.

PART 571—STATEMENTS OF POLICY

3. It is proposed to adopt a new Statement of Policy, § 571.8, as follows:

§ 571.8 Maintenance of records for conversions.

(a) Section 563b.5 of the rules and regulations for insurance of accounts requires in part that, in the conversion of an insured institution to the stock form, specified percentages of conversion securities be distributed on the basis of eligible accountholders' qualifying deposits and/or the quarterly average of their qualifying deposits over certain periods. This system of time adjustment for determining the amount of conversion securities to which each eligible accountholder is entitled is basically a system of forward time averaging and weighting, as opposed to back time averaging and weighting. This system was selected because it appears that most insured institutions do not have internal controls sufficient to trace predecessor accounts, as defined in § 563b.5 of this chapter, for any extended period prior to July 13, 1972, except at prohibitive cost. A system of forward time averaging or weighting thus gives insured institutions desiring to convert ample notice that they should establish the necessary internal controls.

(b) The Corporation nevertheless anticipates that there will be insured institutions which will form an intent to convert at a later date and which will not have previously established the necessary internal controls. Such institutions will then be in the posture of having to trace predecessor accounts as though the Corporation had initially adopted a requirement of back time averaging and weighting with respect to them. The Corporation therefore anticipates that it will receive requests from such institutions for a relaxation of time weighting and averaging requirements.

(c) It will be the policy of the Corporation not to consider such requests favorably. The Corporation is of the view that only a system of time adjustment which is applied on a uniform and consistent basis is sufficient to discourage shifts of savings funds on a destabilizing scale as a result of conversions. The Corporation encourages insured institutions to establish promptly the internal controls necessary to trace predecessor accounts whether or not the institution has any plans to convert.

4. In connection with proposed new Part 563b, the Board proposes to adopt and employ the following forms:

FORM PA

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation

Washington, D.C. 20552

Application for Preliminary Approval of Conversion

(Exact name of applicant as specified in charter)

(Street address of applicant)

(City, State, and ZIP code)

(Date of application)

GENERAL INSTRUCTIONS

A. RULE AS TO USE OF FORM PA

Form PA shall be used by any insured institution seeking Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation preliminary approval of conversion from the mutual to the stock form of organization pursuant to Part 563b of the rules and regulations for insurance of accounts.

B. APPLICATION OF RULES AND REGULATIONS

Attention is directed to insurance § 563b.3. That section contains general requirements regarding preparation and filing of this form. The definitions in insurance § 563b.2 also should be noted.

Item 1. *Form of application.* Set forth an application for preliminary approval of the applicant's plan of conversion in the following form:

---, ---

(City) (State)

(Date)

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Washington, D.C.

The undersigned hereby makes application for preliminary approval to convert into a stock association, and submits herewith a statement of its proposed plan of conversion and other information and exhibits as required by Part 563b of the rules and regulations for insurance of accounts of the Federal Savings and Loan Insurance Corporation.

In submitting this application the applicant understands and agrees that, if further examinations or appraisals, or both, are required by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, they will be conducted by, or as approved by, the Board or the Corporation at the expense of the applicant; and applicant will pay the costs thereof as computed by the Board or the Corporation.

This application has been approved by at least two-thirds of the board of directors of the applicant. In accordance with § 563b.3(c)(4) of the rules and regulations for insurance of accounts, by the filing of this application, the applicant by its duly authorized representative, the undersigned officers and each member of the applicant's board of directors severally represent, except to the extent otherwise provided in said section, (1) that each such person has read this application; (2) that in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that this application complies to the best of his knowledge and belief with the applicable requirements of Part 563b of the rules and regulations for insurance of accounts and forms thereunder; and (3) that each such person holds such informed opinion.

Attest:

Applicant

By ---

(Duly Authorized Representative)

(Principal Executive Officer)

(Principal Financial Officer)

(Principal Accounting Officer)

(Two-thirds of the Board of Directors)

Item 2. *Plan of conversion.* Furnish the complete formal written plan adopted by the board of directors of the applicant for conversion of the applicant to the stock form of organization. The terms of the plan submitted pursuant to this Item will be a basis for the Corporation's approval and the plan as approved will be distributed as an attachment to the proxy and information statement distributed to association members and to eligible account holders.

Item 3. *Proxy and information statement.* Furnish preliminary copies of the proxy and information statement to be distributed by the applicant to association members and to eligible account holders. Attention is directed to § 563b.6(e) regarding additional requirements for filing of proxy solicitation materials.

Item 4. *Form of proxy.* Furnish preliminary copies of the form of proxy to be distributed to association members by the applicant's management.

Item 5. *Sequence and timing of the plan.* Set forth the expected chronological order of the events connected with the applicant's plan of conversion beginning with the filing of this application through distribution of the capital stock certificates pursuant to § 563b.9(1). Indicate the expected timing of any requisite approvals by State authorities. If there will be an underwritten public offering of the applicant's securities as part of the plan of conversion, indicate the proposed timing of all aspects of such offering beginning with the distribution of preliminary offering circulars. For purposes of completing this item, the applicant should allow a minimum of 30 business days after filing of this application for receipt of comments from the Corporation's staff and a minimum of 10 business days after filing amendments in response to such comments for preliminary approval of the plan of conversion by the Corporation.

Item 6. *Record date and percentages.* If the applicant's plan of conversion contains a distribution record date earlier than the latest such date approved by the Corporation, state the reasons for the selection of the earlier date. If the applicant's plan contains more than one distribution record date, a distribution record period, or distribution record periods, state the reasons for the selection of such provisions. If the applicant's plan of conversion contains percentages for allocation of stock which vary from the percentages specified in the table contained in § 563b.5, state the reasons for such variation. It should be noted that such percentage variation may be made only in accordance with § 563b.5(e)(2).

Item 7. *Savings account balances of personnel.* In the case of plans of conversion adopted during 1972 through 1977, for each director and officer of the applicant, and for each employee of the applicant whose total account balances, including the balances of each associate of such employee, as of the distribution record date were more than $20,000, set forth in tabular form his total account balances as of (1) the end of each quarterly period during 1972, unless the end of any such quarterly period is subsequent to the distribution record date under the applicant's plan of conversion; (2) the distribution record date under the applicant's plan of conversion; and (3) any other date or dates during 1972 as of which stock is to be allocated under the plan of conversion. This item need not be completed as to any officer, director, employee, or associate who is not an eligible account holder under the applicant's plan of conversion.

Item 8. *Management syndicate.* If the directors and officers of the applicant propose to form a group or syndicate for the purpose of purchasing the applicant's securities pursuant to the plan of conversion, give a detailed description of any financing arrangements to be employed. If the applicant presently proposes to issue new stock within 1 year following conversion and if the directors and officers of the applicant are to receive any priority right to purchase such stock, give a detailed description of such proposal and of any financing arrangements to be employed.

Item 9. *Subscription warrants or rights.* If subscription warrants or rights are to be employed pursuant to the applicant's plan of conversion, give a complete and detailed description of the operation and the feasibility of the use of such warrants or rights in addition to the information summarized in the proxy and information statement. The information called for by this item should explain fully how the applicant proposes to insure that fair value will be received by persons who do not exercise their warrants or rights.

Item 10. *Expenses of conversion.* With respect to the applicant's estimated expenses of conversion set forth pursuant to Item 5 of Form PS, describe briefly any transactions or proposed transactions giving rise to such expenses in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(a) Any director or officer of the applicant; and

(b) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant.

Instructions. 1. No information need be given in response to this Item 10 as to any remuneration or other transaction reported in response to Item 7 of Form PS.

2. No information need be given in answer to this Item 10 as to any specified person if the total direct and indirect material interest of such person in transactions or proposed transactions giving rise to the applicant's conversion expenses is less than $5,000.

3. It should be noted that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the applicant related to the applicant's conversion expenses may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material interest in a transaction within the meaning of this Item 10 where—

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in paragraphs (a) and (b) of this Item 10, in the aggregate, of less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the applicant or any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

Item 11. *Indemnification of Directors and Officers.* State the general effect of any charter provisions, bylaw, contract, arrangement, statute, or regulation to be in effect after conversion under which any director or officer of the converted association will be insured or indemnified in any manner against any liability which he may incur in his capacity as such.

EXHIBITS

The following exhibits shall be attached to this form.

Exhibit 1. *Resolution of Board of Directors.* Set forth a certified copy or copies of a resolution or resolutions of the applicant's board of directors (1) adopting the plan of

conversion filed with this application; (2) authorizing the filing of this application; and (3) applying for continued insurance of accounts by the Federal Savings and Loan Insurance Corporation and continued membership in the appropriate Federal Home Loan Bank. The action adopting the plan of conversion and authorizing the filing of this application must be approved by two-thirds of the applicant's board of directors.

Exhibit 2. *Copies of documents, contracts and agreements.* Furnish the following documents, contracts and agreements: (a) Proposed capital stock certificates to be issued; (b) proposed order forms, and the subscription warrants and rights; (c) proposed charter and bylaws of the applicant to take effect upon conversion; (d) any proposed stock option plan and form of option, any proposed stock purchase plan and form of agreement, and any proposed management employment contracts; (e) any contract described in response to Item 7(e) of Form PS; (f) the agreements executed pursuant to § 563b.5(h); (g) contracts or agreements with paid solicitors described in response to Item 3(b) of Form PS; (h) any material loan agreements relating to borrowings by the applicant other than from a Federal Home Loan Bank and other than subordinated debt securities approved by the Corporation; (i) proposed underwriting contracts and agreements among underwriters; (j) any contracts or agreements among the members of the group or syndicate regarding the purchase of the applicant's securities described in response to Item 9(g) of Form PS; and (k) any documents referred to in the answer to Item 11 of this form. Documents, contracts, and agreements which are furnished in proposed form pursuant to this item, shall be furnished in final form prior to final approval by the Corporation.

Exhibit 3. *Opinions of Counsel.* Furnish opinions by counsel for the applicant regarding each of the following matters: (a) The legal sufficiency of the applicant's proposed capital stock certificates, order forms, and subscription warrants and rights, (b) State law requirements applicable to the applicant's plan of conversion including citations to applicable State law and whether such requirements will be fulfilled by the plan, (c) the legal sufficiency of the applicant's proposed charter and bylaws, (d) the effect of any State escheat law or other applicable law on securities or cash distributions to eligible account holders who cannot be located by the applicant, (e) the type and extent of each class of voting rights in the applicant after conversion, including any requirement of State law that savings account holders or borrowers have voting rights in the converted institution, and (f) the legality and Federal income tax effect to the applicant of any proposed stock option plan or stock purchase plan described in response to Item 14 of Form PS.

Exhibit 4. *Federal and State tax opinions and rulings.* (a) Furnish an opinion of the applicant's tax advisor as to the Federal income tax consequences of the applicant's plan of conversion to the applicant, to eligible account holders, and to such association members who may have rights under such plan.

Instructions. 1. The applicant should obtain its Federal income tax opinion prior to adoption of the plan of conversion by the board of directors.

2. The Corporation recommends that all applicants obtain a ruling from the Department of Treasury Internal Revenue Service regarding the Federal income tax consequences of the applicant's plan of conversion. The Corporation may require that such a ruling be obtained if the applicant's plan of conversion is not substantially similar to plans of conversion which have received favorable rulings. The Corporation may also require that such a ruling be obtained if the applicant's plan of conversion contains novel provisions or there is otherwise a question as to the Federal income tax consequences of the plan.

(b) Furnish an opinion of the applicant's tax advisor as to any tax consequences of the plan of conversion under the laws of the State in which the applicant will be chartered upon conversion. Such opinion should relate to the applicant, to eligible account holders, and to such association members who may have rights under such plan.

Exhibit 5. *Appraisal materials.* Furnish the materials required by § 563b.9(g) regarding appraisal of the applicant.

Exhibit 6. *Notice to members prior to filing.* Furnish the notice to the applicant's members required by § 563b.4(b)(2).

Exhibit 7. *Statement as to account balances of management.* Attach a statement by an independent public accountant that he has reviewed the information furnished pursuant to Item 7 of this Form relating to account balances of officers, directors, employees and their associates and the procedures followed to obtain that information, and that, based on such review, he is aware of no reason to believe that the information furnished was misleading.

Exhibit 8. *Other materials.* (a) If information required by an appropriate form is not given for the reasons specified in § 563b.3(h), furnish the statement required for each such omission by § 653b.3(h)(2).

(b) Furnish all consents required to be filed by § 563b.3 (n) and (o).

(c) If applicable, furnish the statement required by the Instruction to Item 6(e) of Form PS regarding events which occurred within the last ten years to directors of the applicant.

(d) If information required by Item 17(h) of Form PS relating to historical financial information is omitted, furnish the statement required by Item 17(h)(1) of Form PS.

(e) Furnish any powers of attorney employed pursuant to § 563b.3(c)(3).

(f) Furnish the cross reference sheet referred to in § 563b.3(e).

FORM PS

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation

Washington, D.C. 20552

Proxy and Information Statement

(Exact name of Applicant as specified in charter)

(Street address of applicant)

(City, State and Zip Code)

PROXY AND INFORMATION STATEMENT FORM

INDEX TO ITEMS

FORM PS

INFORMATION REQUIRED IN CONVERSION PROXY AND INFORMATION STATEMENT

NOTE: A. Except as otherwise specifically provided, where any item calls for information for a specified period in regard to directors, officers or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which such person did not hold any such position or relationship provided a statement to that effect is made.

Item 1. *Notice of meeting.* The cover page of the proxy and information statement shall give notice of the meeting of the association members called by the board of directors to act upon the conversion. The cover page shall include the date, time, and place of the meeting, a brief description of each matter to be acted upon at the meeting, the date of record for association members entitled to vote at the meeting, the date of the statement, and the full address, zip code and telephone number of the applicant.

Item 2. *Revocability of proxy.* State that the person giving the proxy has the power to revoke it before the proxy is exercised at the meeting. If the right of revocation is subject to compliance with any formal procedure, briefly describe such procedure. Briefly describe any charter or State law requirement otherwise restricting voting by proxy. State that the proxy is solicited for that meeting, and any adjournment thereof, and will not be used for any other meeting. (See also § 563b.6(d)(3).)

Item 3. *Persons making the solicitation.* (a) State whether the solicitation is made by the management of the applicant. Give the name of any director of the applicant who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(b) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state the material features of any contract or arrangement for such solicitation and identify the parties.

(c) If the solicitation is made otherwise than by the management of the applicant, so state and give the names of the persons by whom and on whose behalf it is made. Any such solicitation normally need not respond to items 6 through 19, but must include such information as to make such solicitations comply with § 563b.6(g)(1).

Item 4. *Voting rights and vote required for approval.* (a) Describe briefly the voting rights of each class of association members. State the approximate total number of votes entitled to be cast at the meeting, and the approximate number of votes to which each class is entitled.

(b) As part of the description give the date of record for association members entitled to vote at the meeting.

(c) As to each matter which will be submitted to a vote of association members, state the vote required for its approval.

Item 5. *Expenses incident to the conversion.* (a) Provide in substantially the tabular form indicated below the estimated expense of the conversion and the estimated expense to the applicant of the public offering, if any, of the applicant's securities incident to the conversion:

	Allocable to conversion	Allocable to public offering	Total
Legal			
Postage and mailing			
Printing			
Escrow or agent fees			
Underwriting fees			
Appraisal fees			
Transfer agent fees			
Auditing and accounting			
Proxy solicitation fees			
Advertising			
Other expenses			
Total			

(b) State by whom the costs itemized above are to be borne, directly or indirectly. If the solicitation is conducted other than by management of the applicant, the information required in paragraph (a) shall be limited to the cost of such solicitation.

Instructions—1. As to paragraph (a), the applicant shall exclude costs represented by salaries and wages of regular employees and officers, and a statement to that effect shall be included in the proxy statement. The cost of solicitation by specially engaged employees or paid solicitors under paragraph (b) of Item 3 shall be stated under "Proxy Solicitation Fees" in paragraph (a) of this item.

2. If the applicant has any category of expense exceeding $10,000 which is not specified in paragraph (a), such expense shall be itemized rather than including it under the category "Other Expenses."

Item 6. *Directors and Executive Officers.* (a) List the names and ages of all directors of the applicant, indicate all positions and offices with the applicant held by each such person, state his term of office as director and the period during which he has served as such and briefly describe any arrangement or understanding between him and any other person pursuant to which he was selected as a director.

(b) List the names and ages of all executive officers of the applicant and indicate all positions and offices held with the applicant by each such person.

Instruction. The term "executive officer" means the president, vice president, secretary, treasurer, controller, principal accounting officer, any officer in charge of a principal lending or savings function, and any other officer or person who performs similar policy making functions for the applicant.

(c) State the nature of any family relationship between any director or executive officer and any other director or executive officer.

Instruction. The term "family relationship" means any relationship, by blood, marriage, or adoption, not more remote than first cousin.

(d) Give a brief account of the business experience during the past 5 years of each director and each executive officer, including his principal occupations and employments during that period and the name and principal business of any corporation or other organization in which such occupations and employments were carried on.

(e) Describe any of the following events which occurred during the past 10 years and which are material to an evaluation of the ability and integrity of any director of the applicant:

(1) A petition under the Bankruptcy Act or any State insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of, such person, or any partnership in which he was a general partner at or within 2 years before the time of such filing, or any corporation or business association of which he was an executive officer at or within 2 years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is the subject of a criminal proceeding which is presently pending (excluding proceedings for traffic violations and other minor offenses); or

(3) Such person was the subject of any order, judgment, or decree of any court of competent jurisdiction permanently or temporarily enjoining him from acting as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank or insurance company, or removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of an insured institution, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security, or was the subject of any order of a Federal or State authority barring or suspending, for more than 60 days, the right of such person to be engaged in any such activity, which order has not been reversed or suspended.

Instruction. If any event specified in paragraph (e) has occurred but information in regard thereto is omitted on the ground that it is not material, the applicant shall furnish, as supplemental information and not as a part of the statement the reasons for the omission of information in regard thereto.

(f) State whether control of the applicant has been exercised through the use of proxies and the nature of such control.

Item 7. *Remuneration and other transactions with management and others.* NOTE: Refer to Note 2 of Item 17 of this form.

(a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the applicant and its subsidiaries during the applicant's last fiscal year to the following persons for services in all capacities:

(1) Each director of the applicant whose aggregate direct remuneration exceeded $30,000, and each of the three highest paid officers of the applicant whose aggregate direct remuneration exceeded that amount, naming each such director and officer.

(2) All directors and officers of the applicant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Capacities in which remuneration was received	(C) Aggregate direct remuneration

Instructions. (1) The information is to be given on an accrual basis if practicable. The tables required by this paragraphs (a) and (b) below may be combined if the applicant so desires.

(2) Do not include remuneration paid to a partnership to which any director or officer was a partner, but see paragraph (e) below.

(b) Furnish the following information in substantially the tabular form indicated as to all annuity, pension or retirement benefits proposed to be paid to the following persons in the event of retirement at their normal retirement dates pursuant to any existing plan provided or contributed to by the applicant or any of its subsidiaries:

(1) Each director or officer named in answer to paragraph (a)(1), naming each such person.

(2) All directors and officers of the applicant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Amount set aside or accrued during applicant's last fiscal year	(C) Estimated annual benefits upon retirement

Instructions. (1) The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

(2) Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified number of years of service. In such case, Columns (A) and (C) need not be answered with respect to directors and officers as a group.

(3) The information called for by Column (C) may be given in the form of a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

(4) In the case of any plan (other than those specified in Instruction (2) where the amount set aside each year depends upon the amount of earnings of the applicant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported in (a) or (b) of this Item) proposed to be made in the future, directly or indirectly, by the applicant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a)(1), naming each such person, and (ii) all directors and officers of the applicant as a group without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount set aside or accrued to date in respect of such payments shall be stated, together with an explanation of the basis for future payments.

(d) State as to each of the following persons who was indebted to the applicant or its subsidiaries at any time during the last 3 years, (i) the largest aggregate amount of indebtedness and the nature of the transaction in which it was incurred, (ii) the amount thereof outstanding as of the latest practicable date, and (iii) the annual percentage rate paid or charged thereon (as computed under 12 CFR Part 226):

(1) Each director and officer of the applicant; and

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant.

Instructions. (1) Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

(2) This paragraph does not apply to amounts due a person for ordinary travel and expense advances and similar transactions.

(3) If the loans to such persons (a) are secured by a first lien on a single-family dwelling owned and occupied by a director or officer of the applicant at the time of making the loan and such loan at such time did not exceed the amount then specified in section 5(c) of the Home Owners' Loan Act of 1933, as amended, with respect to single-family dwellings if applicable or (b) are fully secured by a savings account, and if the lender is the applicant, such disclosure may consist of a statement, if such is the case, that the loans to such persons (i) were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (iii) did not involve more than normal risk of collectibility or present other unfavorable features.

(4) Computation of the annual percentage rate under paragraph (d)(iii) is to be done as though 12 CFR Part 226 was applicable to the transaction.

(e) Describe briefly any transactions during or since the applicant's last 3 fiscal years or any proposed transactions, to which the applicant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant.

Instructions. 1. No information need be given in response to this Item 7(e) as to any remuneration or other transaction reported in response to Item 7 (a), (b), (c), or (d), or as to any transaction with respect to which information may be omitted pursuant to instructions relating to such Items.

2. No information need be given in answer to this Item 7(e) as to any transaction where—

(a) The amount involved in the transaction or a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $30,000; or

(b) The interest of the specified person arises solely from the ownership of savings accounts of the applicant and the specified person receives no extra or special benefit not shared on a pro rata basis by all savings account holders as a class.

3. It should be noted that this Item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the applicant or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 7(e) where—

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) and (2) of paragraph (e), above, in the aggregate, of less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the applicant or any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

5. In describing any transaction involving the purchase or sale of the assets to the purchaser and, if acquired by the seller within 2 years prior to the transaction, the cost thereof to the seller.

6. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering paragraph (e) of this item. There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item.

(f) Describe briefly any transactions during or since the applicant's last 3 fiscal years or any presently proposed transactions, to which any pension, retirement or similar plan provided by the applicant or any of its subsidiaries, was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant; or

(3) The applicant or any of its subsidiaries.

Instructions. 1. Instructions 2, 3, 4, and 5 to Item 7(e) shall apply to this Item 7(f).

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this Item 7(f) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to this paragraph (f) with respect to—

(a) Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) Payment of remuneration for services not in excess of 5 percent of the aggregate remuneration received by the specified person during the applicant's last fiscal year from the applicant and its subsidiaries; or

(c) Any interest of the applicant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

Item 8. *Business of the applicant*—(a) *Organization.* State the year in which the applicant was organized and whether its present charter was issued by the State or Federal Government. Describe briefly any previous conversion of the applicant.

(b) *Selected statement of financial condition and other items.* As of the end of each of the periods covered by the statements of operations required by item 17(b)(1) and as of the date of the latest statement of financial condition required by item 17(a), set forth in tabular form the amounts of the following items: (1) total assets, (2) real estate loans outstanding, (3) savings accounts, (4) advances from the Federal Home Loan Bank, (5) other borrowed money, if material, (6) net worth and (7) number of offices indicating any which are less than full service. The applicant may use other substantially similar captions, and may include other items such as number of real estate loans outstanding and number of savings accounts.

(c) *Mergers and acquisitions.* Indicate in tabular form, any mergers, bulk purchase of assets and similar acquisitions which have occurred in the periods covered by statements of operations required by item 17(b). With respect to each such acquisition, give names of the association involved, its location, its total assets immediately prior to such acquisition, the number of offices acquired, the method of accounting for such acquisition, and any excess of cost over the net assets acquired (goodwill) included in the latest balance sheet. The information provided in this section should be referenced to any appropriate notes to the financial statements required by item 17.

(d) *Lending activities.* (1) Describe briefly applicable regulations (both State and Federal) on the lending activities of the applicant including any applicable State usury laws or any other Federal or State laws affecting mortgage loan interest rates. Describe the applicant's general policy concerning loan to value ratios. Describe briefly the applicant's customary methods of obtaining loan originations such as the use of loan consultants and approval of security properties and use of a loan committee, if any. Describe briefly the applicant's policies as to requiring title insurance and fire and casualty insurance on security properties.

(2) As of the end of the periods covered by the statements of operations required by item 17(b)(1) and as of the date of the latest statement of financial condition required by item 17(a), set forth in tabular form the amount and percentage of the loan portfolio of the applicant (i) by type of loan and (ii) by type of security.

Instructions. 1. For the classification required by subparagraph (2)(i), separate types of loans into real estate loans and loans for other purposes. Also, separate real estate loans into conventional loans and FHA–VA loans, and conventional loans shall be separated into loans for construction, loans on existing property and loans refinanced.

2. For the classification required by subparagraph (2)(ii), type of security shall be separated into residential and other types. Residential loans shall be separated into single-family dwellings, two-to-four family dwellings, and other dwelling units. Also, indicate any material classification of other loans such as mobile home loans, home improvement loans, home equipping loans, passbook loans, commercial or industrial loans, and undeveloped land loans.

3. For each of the periods covered by the statements of operations required by item 17(b), set forth in tabular form the amount for each period of (i) loans originated, (ii) loans purchased, (iii) loans sold, and (iv) total net loan activity. Also describe briefly the applicant's total activity as of the date of the latest statement of financial condition required by item 17(a), and the applicant's

intended future activities in secondary mortgage markets including transactions with the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or mortgage bankers. If significant, indicate loan service fee income as a percentage of gross income for the year ended as of the latest statement of financial condition required by item 17(a).

Instructions. 1. For the classification required by subparagraph (3)(i), loans originated shall be separated into real estate loans, loans for other purposes, and total loans originated. Real estate loans shall be further separated into conventional loans and FHA-VA loans, and conventional loans shall be separated into loans for construction, loans on existing property, and loans refinanced.

2. For the classification required by subparagraph (3)(ii), loans purchased shall be separated into real estate loans, loans for other purposes, and total loans purchased. Real estate loans shall be further separated into conventional loans and FHA-VA loans.

3. For the classification required by subparagraph (3)(iii), loans sold shall be separated into whole loans, participation loans, and total loans sold.

4. For the classification required by subparagraph (3)(iv), total net loan activity shall be equal to total loans originated plus total loans purchased minus total loans sold.

(4) As to the lending area of the applicant, describe briefly (i) the lending area restrictions applicable to the applicant, (ii) the areas in which the applicant normally lends and areas in which it has a policy not to lend, and (iii) any material loan concentration areas of the applicant. Such descriptions may include a map illustrating one or more of these areas. Furnish an estimate of the housing vacancy rates in areas where the applicant's loan concentrations are located, if practicable.

(5) Describe briefly the general long term nature of investment in mortgage loans and the consequent effect upon the earnings spread of savings and loan associations. State the normal maturity of loans made by the applicant on the security of single-family dwellings and furnish an estimate as to the average length of time such loans are outstanding.

(6) As of the end of each of the periods covered by the statements of operations required by Item 17(b)(1) and as of the date of the latest statement of financial condition required by Item 17(a), set forth in tabular form, excluding origination fees, discounts and premiums on real estate loans originated, the following: (i) weighted average of return on loans originated and purchased during each period, (ii) weighted average rate of return on loans held at the end of each period, (iii) weighted average interest cost of savings at the end of each period, (iv) weighted average interest cost of Federal Home Loan Bank advances and other borrowings during the period, (v) total weighted average interest cost of savings and borrowings for the period (the total of (iii) and (iv)), and (vi) the gross margin ((ii) minus (v)).

Instruction. As an example of the calculation of the weighted average rate, the following method should be used to calculate the weighted average interest rate on savings:

1. Determine the percentage of total savings represented by each type of savings instrument,

2. Multiply these percentages by the contractual interest rate the applicant is committed to pay on such instruments.

3. The resulting percentages are then totaled, giving the weighted rate.

(7) As of the end of each of the periods covered by the statements of operations required by Item 17(b)(1) and as of the date of the latest statement of financial condition required by Item 17(a), set forth in tabular form loan origination fees charged to borrowers expressed as a percentage of the total amount of loans originated.

(8) Describe briefly the applicant's method of loan origination fee and discount amortization and the total of such balances deferred by the applicant as of the date of the latest statement of financial condition required by Item 17(a). Describe briefly the volatile nature of loan fee income.

(9) Describe briefly the regulatory classifications of scheduled items and the applicant's customary procedures regarding delinquent loans. As of the end of each of the periods covered by the statements of operations required by Item 17(b)(1) and as of the date of the latest statement of financial condition required by Item 17(a), set forth in tabular form the amounts and categories (slow loans, real estate owned, loans to facilitate, and others) of scheduled items and the ratio of such scheduled items to specified assets and to total assets. Where real estate owned is a significant portion of scheduled items, include a brief description of the major properties included therein and a statement as to the applicant's probable loss, if any, upon disposition of such properties.

(e) *Savings activities.* (1) As of the date of the latest statement of financial condition required by Item 17(a), set forth in tabular form the amounts and percentages of savings accounts by categories of interest rate. As to certificates of deposit, indicate the term and minimum balances required for each. As of the date of the latest statement of financial condition required by Item 17(a), also set forth in tabular form the amounts of such certificates maturing by quarter for each of the subsequent five quarters and the total maturing thereafter, the percentage of such amounts to total savings.

(2) Describe the applicant's methods of computing and paying interest for both passbook savings accounts and certificates of deposit. State that the maximum rate of interest which the applicant may pay is established by the Board. State that in the event of liquidation of the applicant after conversion, savings account holders will be entitled to full payment of their accounts prior to payment to stockholders. Also, indicate the percentage of total savings accounts which are from out-of-state sources, if such total is significant.

(f) *Insurance of accounts.* (1) Describe briefly insurance of accounts and the general regulatory authority of the Corporation.

(2) Describe the Federal insurance reserve requirements, the results of failure to meet those requirements, and the applicant's Federal insurance reserve account position in relation to those requirements. Also describe the annual insurance premium payment and prepayment requirements.

(g) *Federal Home Loan Bank System.* (1) Describe briefly the Federal Home Loan Bank System and state that the applicant is a member. Such description shall include (i) limitations on borrowings, (ii) recent loan policies of the applicant's Federal Home Loan Bank and current interest rates, and (iii) Federal Home Loan Bank stock purchase requirements and the applicant's position with respect to those requirements.

(2) Describe briefly applicable liquidity requirements under section 5A of the Federal Home Loan Bank Act, as amended, the regulations thereunder, and State law. State the applicant's position with respect to those requirements.

(h) *State Savings and Loan Association Law.* Describe briefly applicable provisions of State law which have a material effect on the business of the applicant.

(i) *Federal and State taxation.* Describe briefly the Federal income tax laws applicable to the applicant including (1) permissible bad debt reserves, (2) the applicant's position with respect to the maximum bad debt reserve limitations as of the date of the latest statement of financial condition required under Item 17(a), (3) future increases in the effective income tax rate, (4) the date through which the applicant's Federal income tax returns have been audited by the Internal Revenue Service, and (5) the tax effect to the applicant of the payment of cash dividends on capital stock of the applicant after conversion. Also describe briefly the State taxation of the applicant.

(j) *Competition.* Describe the material sources of competition for savings and loan associations generally and indicate to the extent practicable the applicant's position in its principal lending and savings markets.

(k) *Office and other material properties.* (1) Furnish the location of the applicant's home office and each existing and approved branch office and other office facilities (such as mobile or satellite offices). State the total net book value of all such offices as of the date of the latest statement of financial condition required by Item 17(a). If any such office is leased, state the expiration dates of such leases.

(2) Describe briefly undeveloped land owned by the applicant, including location, net book value, and prospective use and holding period. If the applicant or a subsidiary owns or leases electronic data processing equipment principally for its own use, describe briefly such equipment indicating net book value if owned or the principal lease terms if leased.

(l) *Employees.* State the number of persons employed fulltime by the applicant including executive officers listed under Item 6. State whether employes are represented by a collective bargaining group and whether the applicant's relations with its employees is satisfactory. Describe briefly any loans, profit sharing, retirement, medical, hospitalization or other remuneration plans provided for employees not already included pursuant to Item 7.

(m) *Service corporations.* Describe briefly the applicant's investment in any subsidiary and the major lines of business (including any joint ventures) of the subsidiary which are material to its operations.

(n) *Pending legal proceedings.* Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the applicant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underly the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

(o) *Additional information.* The Corporation may, upon the request of the applicant, and where consistent with the protection of eligible account holders and others, permit the omission of any of the information required by this item or the furnishing in substitution therefor of appropriate information of comparable character. The Corporation may also require the furnishing of other information in addition to, or in substitution for, the information required

by this item in any case where such information is necessary or appropriate for an adequate description of the applicant's business done or intended to be done.

Item 9. *Description of the applicant's plan of conversion.* (a) The following statement shall be inserted in the proxy and information statement immediately preceding the information required by this item: "The Federal Home Loan Bank Board (FHLBB) has given preliminary approval to this plan of conversion. However, the FHLBB preliminary approval does not constitute a recommendation or endorsement of this plan. Final approval of this plan will not be given by the FHLBB unless at least two-thirds of the outstanding votes of the association's members are cast for this plan."

(b) The proxy and information statement shall contain a description of the applicant's plan of conversion. Such description shall contain the information required by paragraphs (c) through (h) of this Item and such additional information as may be necessary to accurately describe the material provisions of the plan.

(c) Briefly describe the effects of conversion from a mutual association to a stock association including the following information: (1) Describe the ownership interest of a savings member of a mutual association and state that the purpose of the plan is to preserve that ownership interest on an equitable basis in conjunction with converting the applicant to a stock institution; (2) state that savings accounts of the applicant will not be affected by the conversion with respect to such matters as balances in the accounts and the extent of FSLIC insurance of savings accounts; (3) state whether savings and borrowing members of the applicant will continue to have voting rights in the applicant after conversion, and describe the voting rights they will have; (4) state that the rights and obligations of borrowers from the applicant will not be changed in any manner; (5) state that capital stock issued by the applicant will not be insured by the Corporation; (6) state that none of the assets of the applicant will be distributed in order to effect the conversion other than to pay expenses incident thereto; (7) state briefly the reasons why management is recommending the conversion, including any advantages to the community served by the applicant.

(d) With respect to the determination, valuation and distribution of the ownership of eligible account holders, furnish the following information:

(1) State (i) the record date(s) or record period(s) for determining the savings account holders eligible to receive a distribution of the ownership interest, and (ii) the formula used to determine the pro-rata ownership interest for each eligible account holder.

(2) As to the valuation of the ownership interest of eligible account holders, (i) describe briefly the results of the appraisal of the association made by an independent appraiser, (ii) as of the end of each of the periods covered by the profit and loss statements required by Item 17(b)(1) and as of the date of the latest balance sheet required by Item 17(a), set forth in tabular form the earnings per share of capital stock representing the ownership interest of eligible account holders on a pro-forma basis, and (iii) as of the date of the latest balance sheet required by Item 17(a), state the book value per share of capital stock representing the ownership interest of eligible account holders on a pro-forma basis.

(3) If capital stock is to be distributed, or is to be distributable, to eligible account holders, (i) state to what extent fractional shares will be computed (i.e., tenths, hundredths, etc.), that fractional shares will not be issued, and what provision will be made for disposition of fractional share interests on behalf of eligible account holders, (ii) state the minimum number of shares which will be issued and describe the provision under which eligible account holders will be entitled to purchase additional shares to reach the minimum, or to sell allocated shares less than the minimum, and (iii) furnish an example of the computation of the capital stock entitlement to a hypothetical eligible account holder.

(4) If rights or warrants to purchase capital stock are to be distributed, or are to be distributable, to eligible account holders, (i) furnish the information called for by subparagraph (3) above, (ii) describe in detail the nature of such rights or warrants including such matters as transferability and expiration, (iii) state the price at which the rights or warrants may be exercised, and (iv) describe briefly the reasons for using rights or warrants.

(5) In addition to the information furnished under paragraph (d), (1) describe briefly the use of the order forms which are enclosed with the proxy and information statement or which will be mailed to eligible account holders at a later date, (2) describe to the extent practicable present management intentions with respect to listing the capital stock on an exchange or otherwise providing a market for the purchase and sale of the capital stock in the future, (3) describe briefly the tax effect of the conversion both to the applicant and to eligible account holders, and (4) state that the plan of conversion as approved by the Corporation is attached as an exhibit to the proxy and information statement and should be consulted for further information.

(f) If the applicant proposes at or shortly after the time of conversion to issue capital stock in addition to the capital stock representing the ownership interest of eligible account holders, (1) state the number of additional shares which will be offered and state the expected price or price range of such additional shares or how that price will be determined, (2) state whether such additional capital stock will be offered on a preferential basis to eligible account holders and other members, and describe the terms of the offer, and (3) describe the dilution of the ownership interest of eligible account holders as a result of issuing such additional shares.

(g) If in connection with making a market for capital stock, rights, or warrants to be distributed, or for additional capital stock, directors and officers of the applicant and their associates, intend to purchase as a group or individually more than 5 percent of the total capital stock to be outstanding, state the price per share that will be paid and set forth in tabular form the name of each such purchaser, his position or relationship with the applicant, and the number of shares he intends to purchase.

(h) Furnish the following information in substantially the tabular form indicated below as to capital stock representing the ownership interest of eligible accountholders to be allocated to the directors and officers of the applicant, in their capacities as eligible accountholders, under the plan of conversion:

(1) As to each director and officer named in Item 7(a)(1), name him, state his position, and state the number of shares allocated to him.

(2) As to any director or officer not named in Item 7(a)(1) but who will be allocated 100 shares or more, name him, state his position, and state the number of shares to be allocated to him.

(3) State the number of shares to be allocated to all directors and officers of the applicant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Positions held in association	(C) Total shares to be allocated

Item 10. *Description of capital stock.* Furnish the following information concerning the capital stock of the applicant to be issued upon conversion:

(a) Outline briefly (1) dividend rights and restrictions; (2) voting rights; (3) liquidation rights; (4) preemptive rights; (5) liability to further calls or to assessment by the applicant; and (6) other material provisions.

(b) If the rights of holders of such capital stock may be modified otherwise than by a vote of a majority or more of the capital stock outstanding, voting as a class, so state and explain briefly.

(c) Outline briefly any restrictions on the repurchase or redemption of capital stock, or any part thereof, by the applicant.

Instructions. 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the capital stock will be materially limited or qualified by the rights of savings account holders or borrowers, include such information regarding such limitation or qualification as will enable investors to understand the rights evidenced by the capital stock.

Item 11. *Opposition to the plan of conversion.* (a) If any association member furnishes to the applicant within 10 days after publication of notice of filing for preliminary approval under § 563b.4(c) a statement in opposition to the applicant's plan of conversion, or any part thereof, the applicant, upon the written request of the association member, shall include such statement in its proxy and information statement. Any statement in opposition so included by the applicant need not be longer than 100 words exclusive of the name and address of the association member or members who furnished such statement.

(b) The proxy and information statement shall either include the name and address of the association member who submitted the statement in opposition or state that such information will be furnished by the applicant, orally or in writing as requested, promptly upon receipt of any oral or written request therefor. If the name and address is omitted from the proxy and information statement, it shall be furnished to the Corporation at the time of filing the preliminary proxy and information statement with the appropriate application for preliminary approval, or as an amendment thereto.

(c)(i) The applicant shall not include in its proxy and information statement any statement in opposition which, if implemented, would have the result of causing the applicant's plan of conversion to violate any applicable State or Federal law or regulation. (ii) The applicant may omit any statement in opposition with the prior approval of the Corporation. (iii) The applicant may combine statements in opposition which are substantially similar.

(d) The applicant may set forth a response to any statement in opposition included in

the proxy and information statement pursuant to paragraph (a) of this item.

(e) Neither the applicant nor its management shall be responsible for any statement in opposition included in the proxy and information statement, and a statement to that effect shall be set forth in the proxy and information statement immediately after the statements in opposition included pursuant to paragraph (a) of this item.

Item 12. *Capitalization.* Set forth in substantially the tabular form indicated below the dollar amounts of the capitalization of the applicant:

	(A) Capitalization as of latest balance sheet date	(B) Adjustments as a result of conversion	(C) Pro-forma capitalization after giving effect to the conversion	(D) Adjustments for additional stock (if applicable)	(E) Capitalization after issuance of additional stock (if applicable)
1. Savings accounts	$	$	$	$	$
2. FHLB bank advances					
3. Subordinated debt securities					
4. Other borrowings					
5. Capital stock					
6. Paid in capital					
7. Federal insurance reserve					
8. Other reserves and undivided profits					
9. Total					

Instruction.—With respect to capital stock, indicate in the table or in a footnote the total number of shares to be authorized, the par or stated value of such shares, the number of shares to be issued as part of the conversion and the number of additional shares, if any, to be issued.

Item 13. *Use of proceeds.* If in connection with the conversion the applicant will issue securities for cash, state the principal purposes for which the net proceeds to the applicant from such securities are intended to be used and the approximate amount for each such purpose.

Instruction. Details of proposed expenditures are not to be given. There need be furnished, for example, only a brief statement of any activity of the applicant which will be affected materially by availability of the proceeds.

Item 14. *Options, warrants, or rights.* If action is to be taken with respect to the granting to directors, officers and employees of any options, warrants or rights to purchase capital stock of the converted association to take effect after conversion, furnish the following information:

(a) State (1) the title and amount of securities to be called for by such options, warrants or rights; (2) the prices, expiration dates, and other material conditions upon which the options, warrants or rights may be exercised; (3) the consideration to be received by the converted association for the granting of the options, warrants or rights; and (4) in the case of options, the Federal income tax consequences of the issuance and exercise of such options to the recipient and to the converted association.

(b) State separately the amount of options, warrants or rights to be received by the following persons, naming each such person: (i) each director or officer named in answer to Item 7(a); (2) each associate of such directors or officers; and (3) each other person who is to receive five percent or more of such options, warrants or rights to be received by all directors and officers of the converted association as a group, without naming them.

(c) Furnish such information, in addition to that required by Item 7, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 7(a) who may participate in the plan to be acted upon; (ii) all directors and officers of the applicant as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

Instructions. 1. The term "plan" as used in this Item means any plan as defined in Instruction 1 to Item 7(b).

2. Paragraphs (b) and (c) do not apply to warrants or rights to be issued to stockholders of the converted association as such on a prorata basis.

3. If the options described in answer to this Item are to be issued pursuant to a plan which is set forth in a written document, three copies of such documents are to be filed at the time the proxy statement and form of proxy are filed with the appropriate form for preliminary approval.

Item 15. *New charter, bylaws or other documents.* Describe briefly any material differences between the provisions of existing charter, bylaws and any similar documents of the applicant and those which will take effect after conversion.

Instructions. This Item requires only a brief summary of the provisions which are pertinent from both an investment standpoint and a voting standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions verbatim; only a succinct resume is required.

Item 16. *Other matters.* (a) State conditions under which the applicant will be required to register its capital stock under the Securities Exchange Act of 1934, as amended, and that upon such registration the applicant will be subject to the proxy rules, insider trading restrictions, reporting, and other requirements of that Act.

(b) Describe briefly the general terms and effect of the agreements executed by directors and officers of the applicant pursuant to section 563b.5(h).

Instruction. The instruction to Item 15 applies to paragraph (b) of this Item.

Item 17. *Financial statements.*

NOTE: 1. The following instructions specify the statements of financial condition, the statement of operations and statements of stockholders' equity required to be included in the proxy and information statement. Section 563b.7 governs the certification, form and content of such financial statements including the basis of consolidation.

2. If the applicant has previously used an audit period in connection with its certified financial statements which does not coincide with its fiscal year, such audit period may be used in place of any fiscal year requirement provided it covers a full 12 months' operations and is used consistently. The Board understands that this procedure is also acceptable to the Securities and Exchange Commission in fulfilling the requirements of the Commission's Form 10 for registration of the applicant's capital stock under section 12(g) of the Securities Exchange Act of 1934.

(a) *Statements of financial condition of the applicant.* (1) Furnish a certified statement of financial condition as of the close of the applicant's latest fiscal year. (2) If the statement furnished under (1) is in excess of 120 days from the date of filing for preliminary approval, furnish an additional statement of financial condition as of a date within 120 days of such filing. This additional statement need not be certified.

Instruction. The capital section of the statements of financial condition should give retroactive effect for the stock to be issued to eligible account holders in connection with the conversion, if practicable, with an explanation of the financial statement implications of the plan in a separate footnote.

(b) *Statements of operations and statements of stockholders' equity.* Furnish in comparative columnar form statements of operations and statements of stockholders' equity of the applicant (1) for each of the 5 fiscal years preceding the date of the statement of financial condition filed under paragraph (a) and (2) for the period, if any, between the close of the latest of such fiscal years and the date of the statement of financial condition filed under paragraph (a). Furnish a statement of operations for the period comparable to (b)(2) in the immediately preceding fiscal year. Statements for the three latest fiscal years under (b)(1) shall be certified.

Instructions. 1. Reflect information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the proxy and information statement. Include comparable data for any additional fiscal years necessary to keep the statements from being misleading. The statements shall reflect the retroactive adjustment of any material items affecting the comparability of the results.

2. In connection with capital stock distributable to the eligible account holders pursuant to the plan of conversion, the statements shall reflect earnings that would have been applicable to such outstanding stock.

(c) *Statements of changes in financial position.* Furnish certified statements of changes in financial position (1) for each of the 3 fiscal years preceding the date of the latest statement of financial condition filed under paragraph (a) and (2) for the period, if any, between the close of the latest of such fiscal years and the date of the latest statement of financial condition filed under paragraph (a).

(d) *Omission of applicant's statements in certain cases.* Notwithstanding paragraphs (a), (b), and (c), the individual financial statements of the applicant may be omitted if (1) the conditions specified in either of the following paragraphs are met, and (2) the Corporation is advised as to the reasons for such omission.

(1) The applicant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally-held subsidiaries; or

(2) The applicant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85 percent or more of the total assets shown by the consolidated statement of financial condition filed and the applicant's total gross revenues for the period for which its statements of operations would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85 percent or

more of the total gross revenue shown by the consolidated statements of operations filed.

(e)(1) *Consolidated statements.* Furnish consolidated statements for the same periods and as of the same dates as would be required for the applicant. These statements shall be certified as would be required for the applicant's statements. (Paragraphs (a), (b), and (c) above.)

(2) *Unconsolidated subsidiaries and other persons.* Subject to § 563b.7(q)(2) regarding group statements of unconsolidated subsidiaries, there shall be set forth for each majority owned subsidiary of the applicant not consolidated the financial statements which would be required if the subsidiary were itself an applicant. Insofar as practicable, these financial statements shall be as of the same dates or for the same periods as those of the applicant.

(3) *Fifty-percent-owned persons and other persons.* If the applicant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned directly or indirectly by another single interest, or if the applicant takes up the equity in undistributed earnings of any other unconsolidated person, there shall be set forth for each such person the financial statements which would be required if it were an applicant, subject to § 563b.7(q)(2) regarding group statements. The statements set forth for each person shall identify the other single interest, or other interests in any person operated jointly.

(4) *Omission of statements required by paragraphs (2) and (3).* Notwithstanding paragraphs (2) and (3), there may be omitted from the proxy and information statement all financial statements of any one or more unconsolidated subsidiaries or 50-percent-owned persons or other persons: (i) If all such subsidiaries and 50-percent-owned and other persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary; or (2) if the income from the subsidiary reported by the applicant does not exceed 10 percent of the consolidated net income for the latest fiscal year for which income statements are filed.

(f) *Special provisions—(1) Succession to other business.* (i) If during the period for which its statements of operations are required, the applicant has by merger, consolidation or otherwise succeeded to one or more businesses, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the statements of financial condition set forth. In addition, statements of operations for each constituent business, or combined statements if appropriate, shall be set forth for such period prior to the succession as may be necessary when added to the time, if any, for which statements of operations after the succession are set forth to cover the equivalent of the period specified in paragraphs (a), (b), and (c) above.

(ii) If the applicant by merger, consolidation or otherwise is about to succeed to one or more businesses, there shall be filed for the constituent businesses financial statements, combined, if appropriate, which would be required by these instructions. In addition, there shall be set forth a statement of financial condition of the applicant giving effect to the plan of succession. These statements of financial condition shall be set forth in such form, preferably columnar, as will show in related manner the statements of financial condition of the constituent business, the changes to be effected in the succession and the statement of financial condition of the applicant after giving effect to the plan of succession. By a footnote or otherwise, a brief explanation of the changes shall be given.

(iii) This subparagraph (1) shall not apply with respect to the applicant's succession to the business of any totally held subsidiary, or to the acquisition of one or more businesses by purchase if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(2) *Acquisition of other businesses.* (i) There shall be set forth for any business directly or indirectly acquired by the applicant after the date of the statement of financial condition set forth pursuant to paragraph (a) and for any business to be directly or indirectly acquired by the applicant, the financial statements which would be required if such business were an applicant.

(ii) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control. In addition, the acquisition of securities which will extend the applicant's control of a business shall be deemed the acquisition of the business if any of the capital stock of the applicant is to be offered in exchange for the securities to be acquired.

(iii) No financial statements need be set forth pursuant to this subparagraph (2), however, for any business acquired or to be acquired from a totally held subsidiary. In addition, the statements of any one or more businesses may be omitted if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(g) *Filing of other statements in certain cases.* The Corporation may, upon the request of the applicant, and where consistent with the protection of eligible account holders and others, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Corporation may also require the inclusion of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of eligible account holders and others.

(h) *Historical financial information—(1) Applicability of paragraph (h).* The information required by this paragraph (h) shall be included in the proxy and information statement if in the opinion of the applicant it is material to the understanding of its financial condition. If the applicant determines to omit the information required by this paragraph, it shall file with the appropriate form for preliminary approval a statement briefly explaining such omission.

(2) *Scope of paragraph (h).* The information required by paragraph (h) shall be furnished for the 7-year period preceding the period for which statements of operations are set forth, as to the accounts of each person whose statement of financial condition is set forth. The information is to be given as to all of the accounts specified whether they are presently carried on the books or not. Paragraph (h) does not call for an audit, but only for a survey or review of the accounts specified. It should not be detailed beyond a point material to eligible accountholders and others.

(3) *Revaluation of property.* (i) If there were any material increases or decreases in investments, in property, plant and equipment, or in intangible assets, resulting from revaluing such assets, state: (a) In what year or years such revaluations were made; (b) the amounts of such increases or decreases, and the accounts affected, including all related entries; and (c) if in connection with such revaluations any related adjustments were made in reserve accounts, state the accounts and amounts with explanations.

(ii) Information is not required as to adjustments made in the ordinary course of business, but only as to major revaluations made for the purpose of entering on the books current values, reproduction cost, or any values other than original cost.

(iii) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect to the reversal of a revaluation entry recorded prior to the period if a statement as to the reversal is made.

(4) *Other changes in surplus.* If there were any material increases or decreases in surplus, other than those resulting from transactions specified above, the closing of the profit and loss account or the declaration of payment of dividends, state (i) the year or years in which such increases or decreases were made; (ii) the nature and amounts thereof; and (iii) the accounts affected, including all material related entries. Paragraph (3)(iii) shall also apply here.

(5) *Predecessors.* The information shall be furnished, to the extent it is material, as to any predecessor of the applicant from the beginning of the period to that date of succession, not only as to the entries made respectively in the books of the predecessor or the successor, but also as to the changes effected in the transfer of the assets from the predecessor. However, no information need be furnished as to any one or more predecessors which, considered in the aggregate, would not constitute a significant predecessor.

(6) *Omission of certain information.* (i) No information need be furnished as to any subsidiary, whether consolidated or unconsolidated, for the period prior to the date on which the subsidiary became a majority-owned subsidiary of the applicant or of the predecessor for which information is required above.

(ii) No information need be furnished to any one or more unconsolidated subsidiaries for which separate financial statements are filed if all subsidiaries for which the information is so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(iii) Only the information specified in paragraph (3) need be given as to any predecessor or any subsidiary thereof if immediately prior to the date of succession thereto by a person for which information is required, the predecessor or subsidiary was in insolvency proceedings.

Item 18. *Consents of experts and reports.* (a) The proxy and information statement shall briefly describe all consents of experts filed pursuant to section 563b.3(n).

(b) The statement shall contain a report of the independent public accountants who have certified the financial statements and other matters in the statement.

Instruction. The instruction to item 15 shall apply to paragraph (a) of this item.

Item 19. *Attachments.* There shall be attached to the proxy and information statement distributed to eligible account holders and association members a copy of the applicant's plan of conversion as preliminarily approved by the Corporation. There may also be attached to such statement a copy of any stock option or stock purchase plan described under item 14.

FORM FA

[FACING SHEET]

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation

Washington, D.C. 20552

Application for Final Approval of Conversion

(Exact name of applicant as specified in charter)

(Street address of applicant)

(City, State, and zip code)

(Date of application)

ITEMS

Item 1. With respect to each matter voted upon at the meeting of members to consider the plan of conversion and related to such plan, state the total number of votes eligible to be cast; the total number of votes cast in favor of each such matter; and the percentage of votes necessary to approve each such matter.

Item 2. State the actual price proposed by the applicant pursuant to § 563b.9(d). If it is not feasible to state such actual price, state the final price range pursuant to § 563b.9(d).

EXHIBITS

Exhibit 1. Attach a statement by an independent public accountant or independent transfer agent that: (1) Such accountant or transfer agent has mailed, or supervised the mailing of, the proxy and information statements, order forms, proxy forms, and warrants or rights, if applicable, to eligible account holders and association members in accordance with §§ 563b.8 and 563b.9; (2) such accountant or transfer agent has received the completed proxy forms; (3) such accountant or transfer agent has reviewed the applicant's systems and procedures for calculating the pro rata entitlement of eligible account holders, has completed a test check of such calculation and has reviewed written inquiries received by the applicant respecting the amount of the securities allocated to inquiring eligible account holders on a test basis for the purpose of stating that, based on his review, he is aware of no indications that the entitlements were calculated in a manner inconsistent with the plan; (4) all votes cast by proxy were cast in accordance with the choice or choices made on each proxy form; and (5) in his opinion, the results reported pursuant to Item 1 of this form accurately reflect such choices.

Exhibit 2. Attach an opinion of counsel to the effect that: (1) The meeting of members was held in accordance with all requirements of applicable State and Federal law and regulation; and (2) all requirements of State law applicable to the conversion, including State and Canadian securities laws, have been complied with, except to the extent that the granting of final approval by the Corporation is such a requirement.

Exhibit 3. Attach a copy of the pricing materials required by section 563b.9(g) in support of the information contained in Item 2.

Exhibit 4. Attach a certified copy of each resolution adopted at the meeting of the members to consider the plan of conversion.

Exhibit 5. Attach copies of all exhibits and other information required by Form PA and Part 563b and not previously submitted.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260 as amended; 12 U.S.C. 1725, 1726, 1730; sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan. No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

Interested persons are invited to submit written data, views, and arguments, to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by March 12, 1973, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.73-461 Filed 1-10-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

PLANS OF CONVERSION

Change in Distribution Record Date

JANUARY 3, 1973.

Pursuant to section 5 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464), and title IV of the National Housing Act, as amended (12 U.S.C. 1724, et seq.), the Federal Home Loan Bank Board hereby gives notice that the latest date the Board will approve as the date for determining the eligibility of account holders to receive stock under a plan to convert a federally insured mutual savings and loan association to the stock form of organization is changed from July 13, 1972, or earlier to December 31, 1972, or earlier.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc.73-462 Filed 1-10-73;8:45 am]

federal register

THURSDAY, JANUARY 11, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 7

PART III

ENVIRONMENTAL PROTECTION AGENCY

■

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Notice of Proposed Rule Making

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 125]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Environmental Protection Agency. The proposed regulations describe, pursuant to the authority contained in sections 402 and 405 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 et seq.; Public Law 92-500 (1972)) (hereinafter referred to as the "Act"), the policy and procedures for issuing or denying permits under sections 402 and 405 of the Act.

Section 402 of the Act creates a National Pollutant Discharge Elimination System under which the Administrator of the Environmental Protection Agency may, after opportunity for public hearing, issue permits for the discharge of any pollutant or combination of pollutants, upon condition that such discharge will meet all applicable requirements of the Act relating to effluent limitations, water quality standards and implementation plans, new source performance standards, toxic and pretreatment effluent standards, inspections, monitoring and entry provisions, and guidelines establishing ocean discharge criteria.

Prior to the promulgation of guidelines specifying the requirements of the Act indicated in the preceding paragraph, the Administrator may issue permits under conditions which he determines are necessary to carry out the provisions of the Act. Permit holders (for all point sources, other than publicly owned treatment works) are required to achieve, not later than July 1, 1977, effluent limitations which require the application of best practicable (waste) control technology currently available. Publicly owned treatment works are required to achieve secondary treatment by the same date. In addition, all point source dischargers must comply with applicable water quality standards requirements.

All discharges from point sources into the navigable waters, the waters of the contiguous zone, and the oceans are unlawful unless the discharger possesses a valid permit or is excluded from coverage by law or regulation. Dischargers required to obtain permits include, among other point sources, municipal and other publicly owned waste treatment works, industries discharging directly to navigable waters, and concentrated animal feeding operations.

Industrial, commercial, and residential discharges to municipal or other publicly owned waste treatment works, properly functioning marine engines, and certain discharges to wells associated with oil and gas production, among other exclusions listed in these regulations, do not require discharge permits.

These proposed regulations do not apply in any State where the Administrator has granted authority to a State to carry out a State permit program pursuant to section 402(a)(5) of the Act or where the Administrator has approved a State program pursuant to section 402(b) of the Act. In such cases, the Administrator will suspend issuance of permits pursuant to his authority, except with respect to Federal agencies and instrumentalities, for which the Administrator will continue to process permit applications in accordance with these regulations and will be the exclusive source of permits.

Section 405 of the Act provides that any discharge of sewage sludge that results in any pollutant from the sewage sludge entering the navigable waters is prohibited, except in accordance with a permit issued by the Administrator under section 405. These proposed regulations apply to the discharge of sewage sludge.

Prior to the adoption of the proposed regulations consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Office of Enforcement and General Counsel, Washington, D.C. 20460 by February 12, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator.

JANUARY 5, 1973.

Subpart A—General

Subpart B—Processing of Permits

Subpart C—Terms and Conditions of Permits

Subpart D—Notice and Public Participation

Subpart E—Miscellaneous

AUTHORITY: Secs. 402, 405 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 et. seq.; Public Law 92-500).

Subpart A—General

§ 125.1 Definitions.

Except as otherwise specifically provided,

(a) The term "Act" means the Federal Water Pollution Control Act, as amended, Public Law 92-500.

(b) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(c) The term "applicable effluent standards and limitations" means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

(d) The term "applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (1) approved or permitted to remain in effect by the Administrator following submission to him pursuant to section 303(a) of the Act, or (2) promulgated by the Administrator pursuant to section 303(b) or 303(c) of the Act.

(e) The term "contiguous zone" means the entire zone established or to be established by the United States under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(f) The term "discharge" when used without qualification includes a discharge of a pollutant and a discharge of pollutants.

(g) The term "discharge of pollutant" and the term "discharge of pollutants" each means: (1) Any addition of any pollutant to navigable waters from any point source, (2) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(h) The term "effluent limitations" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(i) The term "Environmental Protection Agency" means the U.S. Environmental Protection Agency.

(j) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(k) The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated

and approved management agency under section 208 of the Act.

(l) The term "National Pollutant Discharge Elimination System" (hereinafter referred to as "NPDES") for the purpose of these regulations means the system for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans, by the Administrator of the Environmental Protection Agency pursuant to section 402 of the Federal Water Pollution Control Act, as amended.

(m) The term "navigable waters" means the waters of the United States including the territorial seas.

(n) The term "new source" means any building, structure, facility, or installation from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under section 306 of the Federal Water Pollution Control Act, as amended, which will be applicable to such source, if such standard is thereafter promulgated in accordance with section 306.

(o) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(p) The term "permit" means any permit or equivalent document or requirement issued to regulate the discharge of pollutants.

(q) The term "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(r) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(s) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean (1) "sewage from vessels" or (2) water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(*Comment.* The legislative history of the Federal Water Pollution Control Act amendments reflects that the term "radioactive materials" as included within the definition of "pollutant" in section 502 of the Act covers only radioactive materials which are not encompassed in the definition of source, by-product or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated pursuant to the latter Act. Examples of radioactive materials not covered by the Atomic Energy Act and, therefore, included within the term "pollutant" are radium and accelerator produced isotopes. (H.R. Rep. 92-911, 92d Cong. 2d sess., 131, Mar. 11, 1972; 117 Cong. Rec. 17401, daily ed., Nov. 2, 1971; 118 Cong. Rec. 9115, daily ed., Oct. 4, 1972.))

(t) The term "pollution" means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

(u) The term "Regional Administrator" means one of the Regional Administrators of the U.S. Environmental Protection Agency.

(v) The term "schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(w) The term "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

(x) The term "sewage sludge" shall mean the solids and precipitates separated from wastewater by unit processes.

(y) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(z) The term "State water pollution control agency" means the State agency designated by the Governor, having responsibility for enforcing State laws relating to the abatement of pollution.

(aa) The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles.

(bb) The term "trade secrets" shall mean a secret method or process, not patented, but known only to certain individuals using it in compounding some article of trade having a commercial value.

(cc) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extension, improvement, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

§ 125.2 Scope and purpose.

(a) These regulations prescribe the policy and procedures to be followed in connection with applications for federally issued permits authorizing discharges into the navigable waters, the waters of the contiguous zone, and the oceans, during the periods that the Administrator of the Environmental Protection Agency may be authorized to issue such permits pursuant to sections 402 and 405 of the Act.

(b) These regulations do not prescribe policy or procedures where the Administrator has authorized a State program pursuant to section 402(a)(5) of the Act or where the Administrator has approved a State program pursuant to section 402(b) of the Act.

§ 125.3 Law authorizing permits.

(a) Section 301(a) of the Act provides that discharges without permits are unlawful. This section states, in part, that "Except in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful."

(b) Section 402 of the Act establishes the National Pollutant Discharge Elimination System (NPDES). This section provides in part that "the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, * * * upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of (the) Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of (the) Act."

(c) Section 405 of the Act prohibits the discharge of sewage sludge into navigable waters except in accordance with a permit issued by the Administrator under section 405. This section provides in part that "in any case where the disposal of sewage sludge resulting from the operation of a treatment works * * * (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering into the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under this section."

(d) Unless specifically noted to the contrary, all provisions of these regulations concerning permits under section 402 of the Act, are applicable to permits under section 405 of the Act.

§ 125.4 Exclusions.

The NPDES does not apply to:

(a) Sewage from vessels (section 502(6));

(b) Any addition of any pollutant to the waters of the contiguous zone or the ocean from any vessel or other floating craft (section 502(12)(B));

(c) Discharges from properly functioning marine engines[1];

(d) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources (section 502(6));

(e) Aquaculture projects (section 318); and

(f) Dredged or fill material (section 404).

§ 125.5 Delegation of authority.

(a) Subject to the appeal provisions of § 125.34 and the national security responsibility provision of § 125.35(c), the authority to issue and condition permits or to deny applications for discharges covered by the NPDES and by section 405 of the Act, is hereby delegated to each of the Regional Administrators of the Environmental Protection Agency for the area which he administers.

(b) The authority granted to the Administrator by sections 308(a) and 308 (b) of the Act, is hereby delegated to each of the Regional Administrators for the area which he administers.

Subpart B—Processing of Permits

§ 125.11 General provisions.

(a) All discharges of pollutants or combination of pollutants from all point sources into the navigable waters, the waters of the contiguous zone, or the ocean are unlawful and subject to the penalties provided by the Act, unless the discharger has a permit or is specifically relieved by law or regulation of the obligation of having a permit. When a permit has been issued, discharges must be consistent with the terms and conditions of such permit. Discharges in violation of permit terms and conditions may result in the institution of proceedings under the Act.

(b) The decision as to whether or on what conditions a permit authorizing a discharge will issue will be based upon an evaluation as to how such discharge will meet applicable requirements under the Act, or other applicable laws and regulations. Subsequent to the taking of necessary implementing actions relating to such requirements, all discharges in order to receive a permit must meet the requirements of sections 301, 302, 306, 307, 308, and 403, and all regulations pertaining thereto.

(c) In the period of time prior to the taking of necessary implementing actions relating to all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of the Act, the Administrator may issue permits under such conditions as he determines are necessary to carry out the provisions of the Act. Any permit issued shall include any conditions necessary to insure compliance with any applicable requirements of sections 301, 302, 306, 307, 308, and 403 that become applicable prior to the issuance of the permit. Foremost among other factors to be considered prior to the taking of the necessary implementing actions is the requirement for abatement measures designed to achieve, not later than July 1, 1977, best practicable (waste) control technology currently available for the particular point source (other than publicly owned treatment works) as determined by the Regional Administrator based upon information available to him to date and his professional judgment taking into account the intent of sections, 301, 302, 306, 307, 308, and 403 of the Act. Likewise, publicly owned treatment works must achieve secondary treatment by July 1, 1977, or in accordance with the period specified in section 301(b)(1)(B) of the Act. Furthermore, any permit issued shall include any more stringent condition pursuant to section 301(b)(1)(C) of the Act necessary to insure compliance with any limitation, including those necessary to meet applicable water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulation (under authority preserved by section 510 of the Act) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. The likely impact or the existing impact of the discharge on the quality and uses of the receiving body of water where no adequate water quality standards exist also may have to be taken into account. In many cases the possibility of occurrence and the probability of effects of spills of materials from the point source are very important. In those cases spills should be considered. The objections of any State or interstate agency whose waters may be affected by the discharge shall be duly considered when making any permit decision.

§ 125.12 Application for a permit.

(a) An applicant for a permit must secure the required application form(s) from the Regional Administrator. Application form(s) must also be filed with the Regional Administrator.

(b) Any person who applied for a permit under the Refuse Act Permit Program operating under rules promulgated in the FEDERAL REGISTER on April 7, 1971 (33 CFR 209.131) and whose application has not been denied need not reapply for a permit under these regulations unless the discharge described in the application for a Refuse Act permit has substantially changed in nature, volume, or frequency. Such Refuse Act permit application shall be considered to be an application under the NPDES and shall be treated accordingly.

(c) Any person now discharging whose discharge was not covered by the Refuse Act Permit Program but which is now covered under the NPDES must apply for a permit on or before April 16, 1973.

(d) Any persons wishing to discharge into waters covered by the NPDES on or after June 16, 1973 (but who is not now discharging into such waters) must apply for a permit not later than 180 days in advance of the date on which it is desired to commence the discharge. If persons desire to discharge on or before June 15, 1973, they shall give at the minimum a 60-day notice; and if such notice is impossible they shall apply to the Regional Administrator for a variance.

(e) An application submitted by a corporation must be signed by an official of the rank of corporate vice president or above. In the case of a partnership or a sole proprietorship the application must be signed by a general partner or the proprietor respectively. In the case of a municipal, State, Federal, or other public facility, the application must be signed by the official having responsibility for the overall operation of the facility.

(f) Except as provided below, a fee of $100 will be charged in connection with each application for a permit which involves no more than one outlet from which a discharge will flow. If there is more than one outlet from which the discharge will flow, an additional $50 will be charged for each additional outlet. Agencies or instrumentalities of Federal, State, or local governments will not be required to pay any fee in connection with the filing of an application for a permit.

(g) Minor discharges are those whose discharge on every day of the year is less than 50,000 gallons unless their environmental impact, as determined by the Regional Administrator, is not insignificant. If there is more than one discharge from a facility and the total aggregate discharge from all discharges exceed 50,000 gallons on any day of the year then no discharge will be considered minor. Minor discharges will pay a fee of $10 per application. Where an application is filed for a permit for a minor discharge and where after review of the application the Regional Administrator believes that due to the particular characteristics of this discharge, it should not be considered to be a minor discharge, the applicant shall be advised of this determination and within a reasonable period of time, of not less than 30 days, shall be required to complete the normal application forms and provide the normal fees specified in these regulations.

(h) The fee structure set forth above will be reviewed from time to time as experience with the program is developed, and such fees may be revised. Fees collected shall be used to help defray the cost of administering the program. Checks should be made out to the order of "Environmental Protection Agency."

(i) Permittees who wish to continue to discharge subsequent to the expiration date of their permit must apply for reissuance of the permit using proper

[1] See Congressional Record for Oct. 10, 1972; page E8454, Extension of Remarks; Congressman Robert E. Jones of Alabama, Chairman of the Conference Committee "(The Conference Committee) would not expect the Administrator to require permits to be obtained for any discharges from properly functioning marine engines."

forms, not less than 180 days prior to the permit expiration date.

§ 125.13 Access to facilities and further information during evaluation of the application.

Permit application forms are designed to fit the normal situation for most facilities in the United States. Therefore, in many cases, further information including site visits may be necessary in order to evaluate the discharge completely and accurately. When the Regional Administrator determines that either further information or a site visit is necessary in order for the Environmental Protection Agency to evaluate the discharge, he shall so notify the applicant and in addition provide a date no later than 60 days hence by which time the requested information will be received and/or the site visit will be accomplished. In the event that a satisfactory response is not received the permit application may be issued or denied and the applicant so notified. Sections 308, 309, and 402(k) of the Act, also provide for sanctions in the event of noncompliance with reasonable requests for additional information.

§ 125.14 Distribution of application and permit.

(a) When an application for a permit is received Regional Administrators shall determine if the applicant has provided all of the information required by the application form and by this section.

(b) In order to assure that the Secretary of the Army acting through the Chief of Engineers has adequate time to evaluate the impact of the proposed discharge on anchorage and navigation, Regional Administrators will forward to the District Engineer in the appropriate District one copy of the application form immediately upon its receipt in the Regional Office in completed form. Accompanying the application will be notice that the Environmental Protection Agency has received a request for a permit to discharge and that the District Engineer has a stated number of days to evaluate the impact of granting such permit upon anchorage and navigation and to advise the Regional Administrator of his evaluation. District Engineers of the Corps of Engineers will normally be given 30 days to evaluate the impact on anchorage and navigation. Where the Regional Administrator finds that less time should be allowed he should so advise the District Engineer of such lesser period of time while at the same time outlining his reasons for such lesser period of time. In all cases the Regional Administrator should advise the District Engineer that failure to answer within the allotted period of time will be deemed to be a finding that anchorage and navigation will not be substantially impaired by granting of this permit. Where the District Engineer advises the Regional Administrator that anchorage and navigation of any of the navigable waters would be substantially impaired by the granting of a permit, such permit will be denied and the applicant shall be so notified. Where the District Engineer advises the Regional Administrator that the imposition of specified conditions upon the permit is necessary to avoid any substantial impairment of any of the navigable waters, then the Regional Administrator shall impose upon the permit those conditions so specified by the District Engineer. Where the District Engineer notifies the Regional Administrator that more time is needed for his evaluation, more time will be granted where it appears that the public interest warrants such extension.

(c) Upon receipt of an application which does not include a State certification where such certification is required by section 401 of the Act, the Regional Administrator will make available one copy of the application form to the State water pollution control agency for the State in which the discharge will occur. Accompanying the application will be a statement by the Regional Administrator that a request for a permit has been received by the Environmental Protection Agency, and that before such permit can issue, the State must certify that the discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 or that there are no applicable effluent or other limitations under sections 301 and 302 and there are no applicable standards under sections 306 and 307, or deny such certification or waive its right to certify or deny. The Regional Administrator must also state that such certification or denial must be received within a reasonable period of time or a waiver will be deemed to have occurred.

(d) If a permit issues, a copy of the permit and, if not previously transmitted, a copy of the application forms, shall be transmitted to the State in which the discharge is located. Copies of these documents shall be available for observation and reproduction by the public in the Regional Office.

(e) Regional Administrators shall assist applicants for permits in coordinating the requirements of the Act, with those of appropriate public health agencies.

(f) Whenever the provisions of the Fish and Wildlife Coordination Act, 16 U.S.C. 662, apply, Regional Administrators shall consult with appropriate officials of the U.S. Department of the Interior and the U.S. Department of Commerce, and with the head of the agency exercising administration over the wildlife resources of the State in which the discharge will occur.

§ 125.15 State certification.

(a) Section 401(a)(1) of the Act, provides that "Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, the State shall so certify." Where certification is required, no license or permit shall be granted until the certification has been obtained or has been waived. A waiver occurs when the certifying agency fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed 1 year) after receipt of such request. Three months shall generally be considered to be a reasonable period of time. If, however, special circumstances identified by the Regional Administrator require that action on a permit application be taken within a more limited period of time, the Regional Administrator shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by the date established, it will be considered that the requirement for certification has been waived. Similarly, if it appears that circumstances may reasonably require a period of time longer than 3 months, the Regional Administrator may afford the certifying agency up to 1 year to provide the required certification before determining that a waiver has occurred. Where such extension of time is made at the request of the certifying agency, the request must be in writing and must include the reasons for the request. The Regional Administrator shall check with the certifying agency at the end of the allotted period of time before determining that a waiver has occurred.

(b) Any certification provided shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to insure compliance with any applicable effluent limitations and other limitations, under section 301 or 302 of the Act, standard of performance under section 306 of the Act, or prohibition, effluent standard, or pretreatment standard under section 307 of the Act, and with any other appropriate requirement of of State law set forth in such certification.

(c) Discharges from agencies or instrumentalities of the Federal Government, as provided in section 401(a)(6) of the Act, do not require certification pursuant to section 401. Regional Administrators will, however, make available one copy of any application from any Federal point source to the State in which the discharge is located and will request that the State, within a reasonable time, comment upon compliance of the discharge with the provisions of sections 301, 302, 306, and 307 and any other applicable State and local water quality requirements.

Subpart C—Terms and Conditions of Permits

§ 125.21 Prohibitions.

(a) No permit shall issue in cases where the applicant, pursuant to section 401 of the Act, is required to obtain a State or other appropriate certification that the discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 and such certification was denied (section 401(a)).

(b) No permit shall issue where pursuant to section 401(a)(2) of the Act, the imposition of conditions cannot insure compliance with the applicable water quality requirements of all involved States.

(c) No permit shall issue if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, anchorage and navigation of any of the navigable waters would be substantially impaired by the discharge (section 402(b)(6)).

(d) No permit shall issue for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters (section 301(f)).

(e) No permit shall issue for any discharge from a point source in conflict with a plan approved pursuant to section 208(b) of the Act (section 208(e)).

(f) No permit shall issue for any discharge to the territorial sea, the waters of the contiguous zone, or the oceans prior to the promulgation of guidelines under section 403(c) of the Act unless the Regional Administrator determines it to be in the public interest (section 403(a)).

(g) No permit shall issue for any discharge to the territorial sea, the waters of the contiguous zone, or the oceans after promulgation of guidelines under section 403(c) except in compliance with such guidelines (section 403(a)).

(h) No permit shall issue for any discharge to the territorial sea, the waters of the contiguous zone, or the oceans, subsequent to the promulgation of guidelines pursuant to section 403(c) of the Act, where insufficient information exists to make a reasonable judgment as to whether the discharge complies with any such guidelines (section 403(c)(2)).

§ 125.22 Conditions of permits.

(a) Regional Administrators shall insure that the terms and conditions of all issued permits provide for and insure the following:

(1) That all discharges authorized by the permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submitting a new application; that the discharge of any pollutant not identified and authorized by the permit or the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit;

(2) That the permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the permit;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and,

(iii) A change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge;

(3) That the permittee shall permit the Regional Administrator or his authorized representative, and/or the authorized representative of the State water pollution control agency in the case of non-Federal facilities, upon the presentation of his credentials:

(i) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(ii) To have access to and copy any records required to be kept under terms and conditions of the permit;

(iii) To inspect any monitoring equipment or method required in the permit; or,

(iv) To sample any discharge of pollutants.

(4) That the permit may not be transferred to a third party without the prior written approval of the Regional Administrator. Such prior written approval will be granted by the Regional Administrator where the transferee acquires a property interest in the point source and agrees in writing to fully comply with all the terms and conditions of the permit and the Act. Where the discharge is not in compliance with the terms and conditions of the permit or the Act at the time of the transfer, the transferee must agree in writing to bring the discharge into compliance with the terms and conditions of the permit and the Act, within the shortest reasonable period of time as determined by the Regional Administrator.

(5) That the permittee shall at all times maintain in good working order and operate at maximum efficiency any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

(6) The issuance of a permit does not convey any property rights either in real estate or material, or any exclusive privileges, nor does it authorize any injury to private property or invasion of rights, nor any infringement of Federal, State, or local laws or regulations; nor does it obviate the necessity of obtaining State or local assent required by law for the discharge authorized.

(7) That each permittee shall within 30 days from the day the permit was issued agree in writing to comply with all the terms and conditions of the permit and the Act. Such agreement of the permittee may be subject to the reservation of all of the permittee's rights under section 509 of the Act.

(b) Permits shall also include such special conditions as the Regional Administrator considers necessary or appropriate to specify and to assure compliance with applicable effluent limitations or other water quality requirements including schedules of compliance, treatment standards and such other conditions as the Regional Administrator considers necessary or appropriate to carry out the provisions of the Act. Permits shall also contain such other conditions as the District Engineer of the Corps of Engineers considers to be necessary to insure that navigation and anchorage will not be substantially impaired. Also, conditions recommended by State water pollution control officials or other governmental officials may be added to permits if the Regional Administrator believes such recommended conditions will aid in carrying out the purposes of the Act. Furthermore, all permits will be conditioned upon achieving compliance with any applicable effluent limitations and other limitations, and monitoring requirements set forth on any certification pursuant to section 401 of the Act.

§ 125.23 Schedules of compliance in permits.

Regional Administrators shall follow the procedures below in setting schedules of compliance in permits:

(a) With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, and other applicable requirements, the permittee shall be required to take specific steps to achieve compliance with the following:

(1) Any schedule of compliance contained in (i) applicable effluent standards and limitations; or, (ii) water quality standards, if more stringent; or (iii) any other applicable requirements, if more stringent; or

(2) In the absence of any applicable schedule of compliance in the shortest, reasonable period of time, such period not to be extended beyond July 1, 1977.

(b) In any case where the period of time for compliance specified in paragraph (a) of this section exceeds 9 months one or more interim dates shall be specified for which the permittee shall achieve interim requirements; in no event shall more than 9 months elapse between interim dates. Interim dates and the final date for compliance shall fall on the last day of February, April, June, August, October, and December.

(c) Not later than fourteen (14) days following each interim date and the final date of compliance the permittee shall provide the Regional Administrator with written notice of the permittee's compliance or noncompliance with the interim or final requirements.

§ 125.24 Effluent limitations in permits.

In the application of effluent standards and limitations, water quality standards, and other applicable requirements, the Regional Administrator shall for each permit, specify average and maximum daily quantitative limitations for the

level of pollutants in the authorized discharge of terms of weight or other appropriate expression. Where a schedule of compliance is included as a condition in a permit, effluent limitations shall be included for the interim period as well as for the period following the final compliance date.

§ 125.25 Duration of permit.

(a) No permit will issue for a period longer than 5 years.

(b) Permits of less than 5 years duration may issue in appropriate cases and Regional Administrators shall give great weight to the advice of State or interstate water pollution control officials on the appropriate duration for particular permits.

(c) All permits will be for a fixed term.

§ 125.26 Special categories of permits.

(a) *Disposal of pollutants into wells.* If an applicant for a permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of a permit, the Regional Administrator shall specify additional terms and conditions in the permit which shall (1) prohibit the proposed disposal, or (2) control the proposed disposal in order to prevent pollution of ground and surface waters and to protect the public health and welfare.

(b) *Discharges from publicly owned treatment works.* (1) If the permit is for a discharge from a publicly owned treatment works, the Regional Administrator shall require the permittee to provide notice to the Regional Administrator of the following:

(i) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the Act if such source were discharging pollutants;

(ii) Any new introduction of pollutants which exceeds 10,000 gallons on any one day into such treatment works from a source which would be subject to section 301 of the Act if such source were discharging pollutants; and

(iii) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

(2) Such notice shall include information on—

(i) The quality and quantity of effluent to be introduced into such treatment works, and

(ii) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

(3) The permittee shall require any industrial user of such treatment works to comply with the requirements of sections 204(b), 307, and 308 of the Act. Any industrial user subject to the requirements of section 307 of the Act shall be required by the permittee to prepare and transmit to the Regional Administrator periodic notice (over intervals not to exceed 9 months) of progress toward full compliance with section 307 requirements.

§ 125.27 Monitoring, recording and reporting.

(a) Any permit shall be subject to such monitoring requirements as may be reasonably required by the Regional Administrator, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods).

(b) Any discharge which

(1) Averages more than 50,000 gallons per operating day,

(2) The Regional Administrator requires to be monitored, or

(3) Contains toxic pollutants for which an effluent standard has been established by the Administrator pursuant to section 307(a) of the Act, shall be monitored by the permittee for at least the following:

(i) Flow (in gallons per day); and

(ii) All of the following pollutants;

(A) Pollutants (measured either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;

(B) Pollutants which the Regional Administrator finds, on the basis of information available to him, could have a significant impact on the quality of navigable waters;

(C) Pollutants specified by the Administrator, in regulations issued pursuant to the Act, as subject to monitoring;

(c) Each effluent flow or pollutant required to be monitored pursuant to Paragraph (b) of this section shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels shall be monitored at more frequent intervals than relatively constant effluent flow and pollutant levels which may be monitored at less frequent intervals.

(d) The Regional Administrator shall specify recording requirements for any permit which requires monitoring of the authorized discharge consistent with the following:

(1) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his permit;

(2) Any records of monitoring activities and results shall include for all samples;

(i) The date, exact place, and time of sampling;

(ii) The dates analyses were performed;

(iii) Who performed the analyses;

(iv) The analytical techniques/methods used; and,

(v) The results of such analyses;

(3) The permittee shall be required to retain for a minimum of 3 years any records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Regional Administrator.

(e) The Regional Administrator shall require periodic reporting (at a frequency of not less than once per year) on the proper NPDES reporting form of monitoring results obtained by a permittee pursuant to monitoring requirements in a permit. Such reporting periods, whose length shall be determined by the Regional Administrator, shall end on the last day of February, April, June, August, October, and/or December.

Subpart D—Notice and Public Participation

§ 125.31 Formulation of tentative determinations.

The Regional staff shall formulate and prepare tentative determinations with respect to a permit in advance of public notice of the proposed issuance or denial of the permit. Such tentative determinations shall include at least the following:

(a) A proposed determination to issue or to deny a permit for the discharge described in the application; and,

(b) If the determination proposed in paragraph (a) of this section is to issue the permit, the following additional tentative determinations;

(1) Proposed effluent limitations for those pollutants proposed to be limited;

(2) A proposed schedule of compliance, as explained in § 125.23, including interim dates and requirements, for meeting the proposed effluent limitations; and,

(3) A brief description of any other proposed special conditions (other than those required by § 125.22) which will have a significant impact upon the discharge described in the application.

§ 125.32 Public notice.

(a) Public notice of every complete application for a permit shall be circulated in a manner designed to inform interested and potentially interested persons of the discharge and of the proposed determination to issue or to deny a permit for the discharge. Public notice of public hearings shall be circulated in a manner designed to inform interested and potentially interested persons of the discharge and of the intention to hold a public hearing on the matter of a permit being issued for the discharge. Procedures for the circulation of public notice shall include at least the following:

(1) Notice shall be circulated within the geographical area of the proposed discharge; such circulation shall include any one of the following:

(i) Posting in the post office and public places of the municipality nearest the premises of the applicant in which the effluent source is located;

(ii) Posting near the entrance to the applicant's premises and in nearby places; and,

(iii) Publishing in local newspapers and periodicals, or, if the local newspaper is not a daily newspaper, in a daily newspaper of general circulation;

(2) Notice shall be mailed to any person or group upon request; and

(3) The Regional Administrator shall add the name of any person or group upon request to a mailing list to receive copies of notices for all applications within the State or within a certain geographical area.

(4) Regional Administrators shall notify other appropriate government agencies of each complete application for a permit and of public hearings and shall provide such agencies an opportunity to submit their written views and recommendations on each complete application.

(b) (1) Where notice is being given of an application for a permit, the Regional Administrator shall provide a period of not less than thirty (30) days following the date of the public notice during which time interested persons may submit their written views concerning the tentative determinations or request that a public hearing be held. All written comments submitted during the 30-day comment period shall be retained by the Regional Administrator and considered in the formulation of his final determinations with respect to the application.

(2) Where notice is being given of a public hearing, the Regional Administrator shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may prepare themselves for the hearing.

(c) The contents of public notice shall include at least the following:

(1) Name, address, phone number of Regional Office issuing the public notice;

(2) Name and address of each applicant;

(3) Brief description of each applicant's activities or operations which result in the discharge described in the application (e.g., municipal waste treatment plant, steel manufacturing, drainage from mining activities);

(4) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(5) A statement of the Regional staff's tentative determination to issue or deny a permit for the discharge described in the application;

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph (b) of this section and any other means by which interested persons may influence or comment upon those determinations; and

(7) Address and phone number of premises at which interested persons may obtain further information, request a copy of the fact sheet described in § 125.33, and inspect and copy all application forms and related documents.

(d) If individual States in connection with applications for certification required by section 401 of the Act wish to enter into agreements for joint public notice concerning proposed discharges, the Regional Administrator may, after consulting with Headquarters, approve mutually satisfactory agreements and such agreements, once published in the FEDERAL REGISTER, shall supersede this § 125.32.

(e) Any public notice issued under this section may describe more than one discharge except that each discharge will be described separately.

§ 125.33 Fact sheets.

Prior to issuance of public notice the Regional Administrator shall prepare and, following public notice, shall send, upon request to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information:

(a) A sketch or detailed description of the location of the discharge described in the application;

(b) A quantitative description of the discharge described in the application which includes at least the following:

(1) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day;

(2) The average summer and winter temperatures of the discharge in degrees Fahrenheit; and,

(3) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under sections 301, 302, 306, or 307 of the Act and regulations published thereunder;

(c) The tentative determinations required under § 125.31;

(d) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applied to the proposed discharge; and,

(e) A more detailed description of the procedures for the formulation of final determinations than that given in the public notice including:

(1) The term of the 30-day comment period required by § 125.32 and the address where comments will be received;

(2) Procedures for requesting a public hearing and the nature thereof; and

(3) Any other procedures by which the public may participate in the formulation of the final determinations.

§ 125.34 Hearings and appeals.

(a) *Definitions.* (1) "Party" means any affected person who files a request for a hearing meeting the requirements of paragraph (b) of this section and whose request is not denied.

(2) "Affected person" means the Environmental Protection Agency; the water pollution control agency of any State or States in which the discharge or proposed discharge shall originate, or which may be affected by such discharge; the applicant; and any foreign country, or other interested person or persons.

(b) *Initiation of hearings.* Any affected person may within 30 days of the first day of public notice of an application for a permit pursuant to § 125.32 request the Regional Administrator to hold a public hearing to consider the issuance of a permit under this part. Upon receipt of any such request, stating with particularity any objections to the issuance of the proposed permit, and the issues of fact, law, or policy which are proposed to be considered at the hearing, the Regional Administrator shall fix a time and place for the public hearing. After the filing of the initial request, any other affected person may file a request under this subsection. Regional Administrators shall deny any requests not meeting the requirements of this subsection. Such denial shall be accompanied by a brief written statement setting forth the reasons for his denial.

(c) *Location of hearings.* All proceedings conducted pursuant to this section shall be held in the State of the discharge or other appropriate area.

(d) *Notice of hearing.* Public notice of the public hearing shall be given as provided for by § 125.32.

(e) *Presiding Officer.* After granting a public hearing in accordance with paragraph (b) of this section the Regional Administrator shall appoint a qualified person to serve as Presiding Officer for such hearing. No official who participated in the development of proposed conditions for the permit to be considered at such hearing may serve as Presiding Officer.

(f) *Hearing file.* Upon his appointment pursuant to paragraph (e) of this section, the Presiding Officer shall establish a hearing file. The hearing file shall include the permit application and supporting data, the staff recommendation for proposed permit conditions, the request or requests for the hearing, any data or material submitted in justification thereof, and such other material as the Presiding Officer deems relevant to the hearings. The hearing file shall be available for inspection by any person subject to the requirements of § 125.35.

(g) *Representation.* At the hearing, any party may appear on his own behalf, or may be represented by counsel or by any other authorized representative.

(h) *Prehearing conferences.* (1) In the discretion of the Presiding Officer, prehearing conferences may be held prior to any hearing or hearing on appeal held pursuant to this section. All parties will be given reasonable notice of not less than 10 days of the time and location of the conference. In the discretion of the Presiding Officer, persons other than parties may be included in attendance. At the conference, the Presiding Officer may:

(i) Obtain stipulations and admissions, and identify disputed issues of fact and law.

(ii) Mark and admit exhibits.

(iii) Set a hearing schedule which includes definite or tentative times for as many of the following as are deemed necessary by the Presiding Officer:

(A) Oral and written statements.

(B) Submission of written direct testimony as required by the Presiding Officer.

(C) Oral direct and cross-examination, if any is permitted.

(D) Oral argument, if any is permitted.

(E) Submission of proposed findings of fact.

(2) The results of any conference shall be reduced to writing by the Presiding Officer and made part of the hearing file.

(i) *Conduct of hearings.* (1) Hearings shall be conducted by the Presiding Officer in an orderly but expeditious manner. Any party shall be permitted to submit oral or written statements concerning the proposed permit, and to present views and recommendations thereon. In the discretion of the Presiding Officer, other persons may be allowed to present oral statements for the hearing record. All persons will be allowed to present written statements for the hearing record.

(2) The Presiding Officer shall have discretion to establish reasonable limits upon the time allowed for statements of witnesses, and for arguments of parties, or their counsel or representatives.

(3) In view of the need for an expeditious hearing, and the cross-examination provided in paragraph (l)(5) of this section, no cross-examination shall be permitted in hearings held pursuant to paragraph (b) of this section, except as provided in paragraph (i)(6) of this section.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by any person from the Environmental Protection Agency.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their relevancy and materiality, be received in evidence and shall constitute a part of the hearing file.

(6) In the discretion of the Presiding Officer exercised before the hearing begins, the hearing may be held in conformity with the requirements of paragraphs (l), (m), (n) of this section. If the hearing is held in conformity with such requirements, no request for a hearing on appeal may be filed under paragraphs (k) and (n) of this section and any issues specified in the requests for hearings shall be considered.

(j) *Initial decision.* On the basis of the hearing file and the evidence adduced at the hearing, the Presiding Officer shall determine whether the proposed permit conditions meet the requirements of the Act. If he determines that the proposed conditions do not meet such requirements, he shall set forth such conditions as he determines are necessary to comply with the requirements of the Act, or shall determine that the permit should be denied. The decision of the Presiding Officer shall be provided to all parties and be available to the public within 20 days of the completion of the hearing. Such initial decision shall constitute the final decision of the Regional Administrator with regard to the application for a permit unless within 10 days of the date of the Presiding Official's decision, any party files with the Regional Administrator a request for a hearing on appeal or for findings and opinion. If no such request is filed, the Regional Administrator shall issue the permit promptly with conditions established by the Presiding Officer or shall deny the permit according to the decision of the Presiding Officer.

(k) *Availability of hearing on appeal.* (1) Any party requesting a hearing on appeal shall submit his request in writing to the Administrator through the Regional Administrator. Any such request shall set forth in detail the basis of the request, and shall identify any expert witnesses which are requested to testify, and any issues of fact concerning the proposed discharge with respect to which cross-examination of further testimony of witnesses, or further evidence or argument in rebuttal is necessary. The Administrator shall grant the request for a hearing on appeal if he determines:

(i) That the request presents material issues of fact relating to the issuance of the proposed permit; and

(ii) That such issues require cross-examination or further evidence, testimony, or argument.

(2) Upon granting a request for a hearing on appeal the Administrator shall specify in writing those issues which meet the requirements of paragraphs (k)(1) (i) and (ii) of this section.

(l) *Conduct of hearing on appeal.* (1) The Administrator shall designate an official of the Environmental Protection Agency to serve as Presiding Officer for the hearing on appeal. No official who participated in the initial hearing and decision under this section, or who participated in the development of proposed conditions for the permit considered at such hearing, may serve as Presiding Officer on appeal.

(2) The Presiding Officer shall conduct the hearing on appeal in an orderly but expeditious manner. The parties may offer oral or written testimony, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(3) The hearing on appeal shall be confined to those issues specified by the Administrator pursuant to paragraph (k)(2) of this section.

(4) Witnesses shall be required to make oath or affirmation.

(5) Witnesses may, in the discretion of the Presiding Officer, be examined or cross-examined by the Presiding Officer, the parties, or their representatives. Among the factors to be considered by the Presiding Officer in determining whether or not to allow cross-examination are:

(i) Whether witness credibility, veracity, and demeanor are relevant to a fair resolution of factual issues; and

(ii) Whether, without cross-examination, parties would otherwise have an adequate opportunity to rebut opposing evidence.

To insure fair and expeditious consideration of all material issues, the Presiding Officer shall have discretion to limit the time allowed for examination and cross-examination. The Presiding Officer may exclude any testimony not relevant to the issues specified by the Administrator pursuant to paragraph (k)(2) of this section.

(6) Hearings on appeal shall be reported verbatim. Copies of transcripts of proceedings may be purchased by any person from the Environmental Protection Agency.

(7) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their relevancy, and materiality, be received in evidence and shall constitute a part of the hearing file.

(8) Parties shall have the right to present for the record oral argument, and argument or evidence in rebuttal, within reasonable time limits set by the Presiding Officer.

(9) The decision of the Presiding Officer in a hearing on appeal shall be issued according to the provisions of paragraph (j) of this section.

(m) *Official notice.* In any hearing or hearing on appeal under this section, the Presiding Officer may take official notice of any general, technical or scientific fact or material within the specialized knowledge of the Environmental Protection Agency. All parties shall be notified of any fact or material so noticed, and shall be afforded an opportunity to contest such facts or material.

(n) *Findings of fact and opinion.* At any time prior to 10 days following the issuance of the decision of the Presiding Officer in a hearing or hearing on appeal held pursuant to this subpart, any party may request the Presiding Officer to issue findings of fact and an opinion with regard to issues raised at the hearing or hearing on appeal. The party shall specify the issues on which findings and an opinion are requested. In the discretion of the Presiding Officer, parties may be required to submit proposed findings of fact within a period of not more than 20 days. The Presiding Officer shall issue his findings of fact and opinion no later than 20 days following the receipt of a request for such findings and opinion unless he requires the submission of proposed findings of fact. Where the submission of proposed findings of fact are required the Presiding Officer shall issue his findings of fact and opinion no later than 20 days following the end of the period he specified for receipt of such proposed findings. The findings of fact and opinion shall become part of the record, and shall be made available to all parties participating in the hearing or hearing on appeal. In the case of a hearing under paragraph (b) of this section, any party may submit a request for a hearing on appeal within 10 days following the issuance of the findings and opinion.

§ 125.35 Public access to information.

(a) Certifications pursuant to section 401 of the Act, the comments of all governmental agencies on a permit application, and all information and data provided by an applicant or a permittee identifying the nature and frequency of a discharge shall be available to the public without restriction. All other information (other than effluent data) which may be submitted by an applicant in connection with a permit application or which may be furnished by a permittee in connection with required periodic reports shall also be available to the public unless the applicant or permittee specifically identifies and is able to demonstrate to the satisfaction of the Regional Administrator or his authorized representative that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Where the applicant or permittee is able to demonstrate to the satisfaction of the Regional Administrator or his authorized representative that the disclosure of the information or a particular part (other than effluent data) thereof would result in methods or processes entitled to protection as trade secrets being divulged, the Regional Administrator shall treat the information or the particular part (other than effluent data) as confidential and not release it to any unauthorized person. Such information may be divulged to other officers, employees, or authorized representatives of the United States concerned with carrying out the Act.

(c) Notwithstanding paragraphs (a) and (b) of this section, the Administrator, when the national security requires, may withhold any information from the public.

Subpart E—Miscellaneous

§ 125.41 Objections to permit by another State.

(a) Whenever following receipt of the certification described in § 125.14 the Regional Administrator determines that a discharge may affect the quality of the waters of any State other than the State that made the certification, the Regional Administrator shall, within 30 days of such certification, notify such other State and the applicant of his determination and shall transmit to such other State a copy of the fact sheet described in § 125.22 and upon request a copy of the application. If such other State determines that the discharge will affect the quality of its waters so as to violate any water quality requirement in such State such other State shall have a period of 60 days beginning with the date notice from the Regional Administrator was received within which to notify the Regional Administrator in writing of its objection to the issuance of a permit and to request a public hearing on the objection. Upon receipt of such request, the Regional Administrator shall hold a hearing in conformity with § 125.34 herein. Based upon the record, the Regional Administrator shall issue a permit: *Provided*, That if the imposition of conditions cannot assure compliance with the applicable water quality requirements of all of the involved States, the Regional Administrator shall deny the permit.

(b) Each affected State shall be afforded an opportunity to submit written recommendations to the Regional Administrator which the Regional Administrator may incorporate into the permit if issued. Should the Regional Administrator fail to incorporate any written recommendations thus received, he shall provide to the affected State or States a written explanation of his reasons for failing to accept any of the written recommendations.

(c) Where an interstate agency has authority over waters that may be affected by the issuance of a permit, it shall be afforded to rights of a State pursuant to paragraphs (a) and (b) of this section.

§ 125.42 Other legal action.

Except as provided in section 402(k) of the Act, the mere filing of an application for a permit to discharge into waters covered by the NPDES will not preclude legal action in appropriate cases for violation of the Federal Water Pollution Control Act. The institution of either a civil or criminal action by the United States may not preclude the acceptance or continued processing of a permit application.

§ 125.43 Environmental impact statements.

Section 511(c)(1) of the Act provides that with the exception of permits for new sources as defined in section 306, no action of the Administrator taken pursuant to the Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

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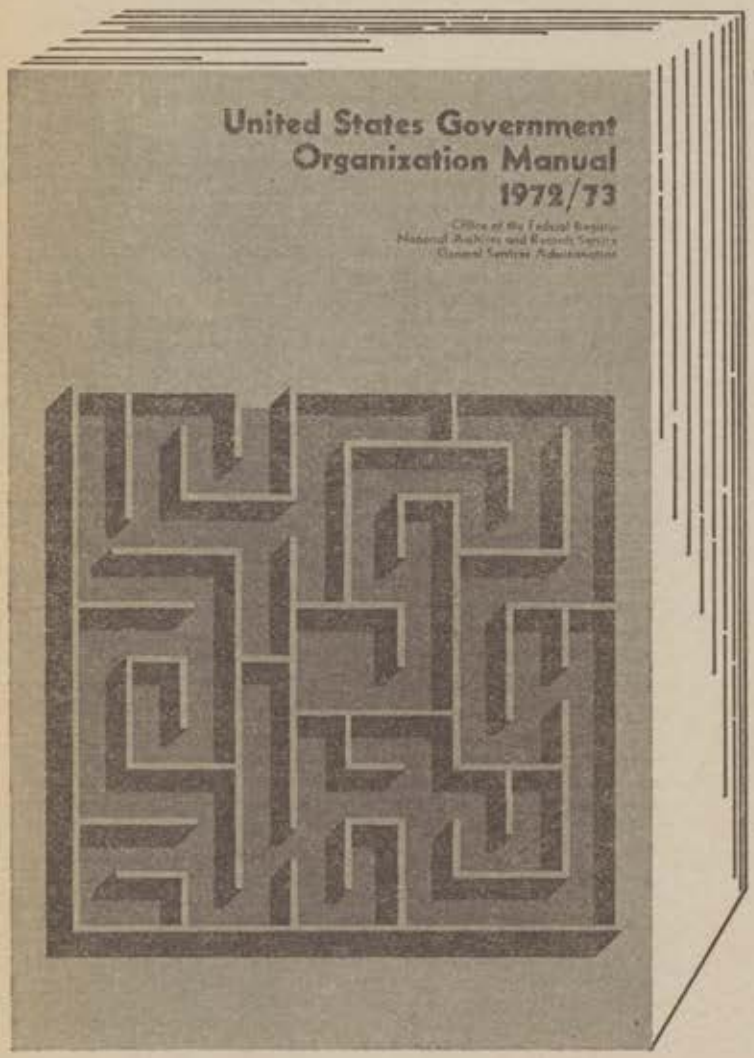

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