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PART I

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HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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REMINDERS

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

federal register

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

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Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11698

Relating to the Implementation of the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters

The Convention on the Taking of Evidence Abroad in Civil or Commercial Matters was ratified by the United States of America and was proclaimed by the President on September 15, 1972. It came into force on October 7, 1972. By Article 2 of the Convention each of the Contracting States undertakes to designate a Central Authority to implement the Convention.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America, it is ordered as follows:

The Department of Justice is designated as the Central Authority to receive Letters of Request coming from a judicial authority of another Contracting State and to transmit them to the authority competent to execute them.

Richard Nixon

THE WHITE HOUSE,
January 19, 1973.

[FR Doc.73-1429 Filed 1-19-73;10:33 am]

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 53—LIVESTOCK, MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart A—Regulations

FEES FOR GRADING SERVICE

This document updates the regulations under which voluntary meat grading and related services are provided by increasing the hourly fees charged to users of this self-supporting service.

The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to the cost of the services, such as Federal meat grading services, rendered under its provisions. Public Law 92-210 and Executive Order 11691 increased salaries paid to Federal employees. Therefore, it has been determined that, in order to cover the increased cost of Federal meat grading services resulting from increases in salaries paid to Federal employees and increases in other costs, the hourly fee must be increased as provided for herein.

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of 7 CFR 53.29(a) prescribing fees in connection with the performance of Federal meat grading services are hereby amended by changing the phrases "$12.40 per hour," "$14.60 per hour," and "$24.80 per hour" to "$13 per hour," "$15.20 per hour," and "$26 per hour" respectively.

The need for the increase and the amount thereby are dependent upon facts within the knowledge of the Agricultural Marketing Service. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other public procedures with respect to this amendment are impractical and unnecessary and good cause is found to make the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective February 4, 1973, with respect to all Federal meat grading services rendered on and after that date, including service under commitment agreement whether heretofore or hereafter made.

(Secs. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Done at Washington, D.C., this 17th day of January 1973.

E. L. PETERSON,
Administrator.

[FR Doc.73-1327 Filed 1-22-73;8:45 am]

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

[Navel Orange Reg. 283, Amdt. 1]

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

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period January 12-18, 1973. The quantity that may be shipped is increased due to improved market conditions for Naval oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(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 same 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) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 283 (38 FR 1270). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, 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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 907.583 (Navel Orange Regulation 283 (38 FR 1270)) are hereby amended to read as follows:

§ 907.583 Navel orange regulation 283.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 891,000 Cartons;

(ii) District 2: 165,000 Cartons;

(iii) District 3: 44,000 Cartons.

* * * * * *

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

Dated: January 17, 1973.

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

[FR Doc.73-1328 Filed 1-22-73;8:45 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 7, Amdt. 3]

PART 123—DISASTER LOANS

Miscellaneous Amendments; Correction

In FEDERAL REGISTER published on December 15, 1972 (37 FR 26709), "Revision 7, Amendment 2" referred to in the heading should have been designated as "Revision 7, Amendment 3."

Dated: January 16, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-1407 Filed 1-22-73;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-25-AD, Amdt. 39-1586]

PART 39—AIRWORTHINESS DIRECTIVES

Helio Models H-250, H-295, H-391, H-391B, H-395, and H-395A Airplanes

Amendment 39-1320 (36 FR 20033, 20034), AD 71-21-11, published in the FEDERAL REGISTER on October 15, 1971, applicable to Helio Models H-250, H-295, H-391, H-391B, H-395, and H-395A airplanes, is an Airworthiness Directive which requires in part, inspection of the lower right and left, main spar, steel carry through fitting P/N 391-030-4072, for cracks or corrosion in accordance with Helio Aircraft Company Service Bulletin No. 36. The initial inspection interval is 3,000 hours' time-in-service for landplanes and 1,500 hours' time-in-service for seaplanes.

Subsequent to the issuance of AD 71-21-11 the agency has been advised that many of the airplanes subject to the AD are operated in both land and sea configurations. Under such circumstances, airplane operators are having a problem in determining the inspection time for such airplanes. Accordingly, it is necessary to amend Paragraph A of the AD to provide for appropriate in-service time for the dual configuration airplanes.

Since this amendment provides for clarification and is in the interest of safety, it imposes no additional burden on any person, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Paragraph A of Amendment 39-1320, AD 71-21-11 is amended so that it now reads as follows:

(A) Within the next 10 hours' time in service, on all land planes with 3,000 or more hours' time in service, or upon accumulation of 3,000 hours' time in service; and on all seaplanes with 1,500 or more hours' time in service, or upon accumulation of 1,500 hours time in service; and on all airplanes operating in both landplane and seaplane configurations with 3,000 or more hours' time in service or upon accumulation of 3,000 hours' time in service,[1] and thereafter on all aircraft listed in this AD at intervals not to exceed 100 hours, gamma ray inspect both the lower left and right, main spar, steel carry through fitting, P/N 391-030-4072, for cracks or corrosion in accordance with Helio Aircraft Company Service Bulletin No. 36 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective January 29, 1973.

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

Issued in Kansas City, Mo., on January 12, 1973.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.73-1336 Filed 1-22-73;8:45 am]

[1] NOTE: To obtain equivalent time in service, multiply seaplane time by two.

[Airspace Docket No. 72-RM-27]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On November 30, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 FR 25401) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would expand the annual time of use and change the controlling agency of restricted area R-7001, Guernsey, Wyo.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No objections were received.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 1, 1973, as hereinafter set forth.

In § 73.70 (38 FR 677) the time of designation and the controlling agency of R-7001 are revised as follows:

WYOMING

R-7001—Guernsey, Wyo.
Time of designation: 0430 to 2400 local time March 1 through November 30.
Controlling agency: Federal Aviation Administration, Denver ARTC Center.

(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 15, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-1337 Filed 1-22-73;8:45 am]

[Airspace Docket No. 72-NE-30]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to reduce the lateral dimensions and to change the name of the using agency of the Camp Edwards, Mass., Restricted Area, R-4101.

The Department of the Army has requested that Restricted Area R-4101 be reduced slightly to afford clearance for aircraft executing instrument approaches to Runway 23 at Otis Air Force Base, Mass., without interrupting firing activities within R-4101. They also requested that the name of the using agency be changed.

Since this amendment restores airspace to the public and relieves a restriction, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective on January 23, 1973, as hereinafter set forth.

Section 73.41 (38 FR 654), R-4101, Camp Edwards, Mass., is amended as follows:

1. In "Boundaries" "to latitude 41°42' 20'' N., longitude 70°30'15'' W.;" is deleted and "to latitude 41°42'23'' N., longitude 70°30'21'' W.;" is substituted therefor.

2. The using agency is changed to "Commander, U.S. Army Garrison, Camp Edwards, Mass."

(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 17, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-1338 Filed 1-22-73;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

Records

Correction

In FR Doc. 73-1059, appearing at page 1730, in the issue of Thursday, January 18, 1973, in the fourth line of the first paragraph, the date reading "January 31, 1973", should read "February 3, 1973".

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 73-28]

PART 153—ANTIDUMPING

Northern Bleached Hardwood Kraft Pulp From Canada

JANUARY 17, 1973.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that prime grade and off-grade northern bleached hardwood

kraft pulp from Canada is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of Sept. 30, 1972 (37 FR 20580-81, FR Doc. 72-16804).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on December 27, 1972, it notified the Secretary of the Treasury that an industry in the United States is being, and is likely to be, injured by reason of the importation of prime grade and off-grade northern bleached hardwood kraft pulp from Canada that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of Jan. 3, 1973 (38 FR 87, FR Doc. 73-103).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to prime grade and off-grade northern bleached hardwood kraft pulp from Canada.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Northern Bleached Hardwood Kraft Pulp—prime grade and off-grade.	Canada	73-28

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

FR Doc.73-1466 Filed 1-22-73;8:45 am

Title 20—EMPLOYEES' BENEFITS

Chapter V—Manpower Administration, Department of Labor

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

Schedule of Remuneration

The issuance of Executive Order 11692, 37 FR 27609, providing increased pay and allowances for members of the uniformed services, makes it necessary to amend § 614.19 of Title 20 of the Code of Federal Regulations, which contains the schedule of remuneration for each pay grade of ex-servicemen used in the administration of the program of unemployment compensation for ex-servicemen established by Subchapter II of Chapter 85 of Title 5 of the United States Code (5 U.S.C. 8521-8525).

The provisions of 5 U.S.C. 553 which require notice of proposed rulemaking, public participation in their adoption, and delay in effective date are not applicable because such notice, public participation, and delay are found not to be in the public interest which in this instance requires the prompt implementation of the amended schedule of remuneration by the several State agencies administering such program. Accordingly this change is effective January 23, 1973.

Section 614.19 of Title 20, Code of Federal Regulations, is revised to read:

§ 614.19 Schedule of remuneration.

(a) The schedule provided in this paragraph applies to first claims under the UCX program filed on or after March 4, 1973.

Pay Grades:	*Monthly rates*
1. Commissioned officer:	
0-10	$3,590
0-9	3,579
0-8	3,259
0-7	2,874
0-6	2,439
0-5	1,977
0-4	1,638
0-3	1,354
0-2	1,033
0-1	794
2. Warrant Officer:	
W-4	$1,570
W-3	1,314
W-2	1,092
W-1	882
3. Enlisted personnel:	
E-9	$1,336
E-8	1,138
E-7	980
E-6	846
E-5	699
E-4	582
E-3	528
E-2	494
E-1	452

(b) The deletion from paragraph (a) of this section of schedules of remuneration applicable to periods of time prior to March 4, 1973, and heretofore published in 37 FR 2434; 36 FR 22975; 36 FR 3456; 35 FR 9000; 34 FR 12434; 33 FR 10086; 33 FR 3635; 32 FR 20974; 30 FR 13120; 29 FR 13102; and 23 FR 8699, does not revoke such schedules.

(5 U.S.C. 8508 and 8521(a)(2))

Signed at Washington, D.C., this 18th day of January 1973.

MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

[FR Doc.73-1399 Filed 1-22-73;8:45 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 55—GRANTS UNDER THE EMERGENCY EMPLOYMENT ACT OF 1971

Miscellaneous Amendments

These amendments to the regulations issued pursuant to the Emergency Employment Act are promulgated in order:

(1) To reflect changes in standards for referral to work contained in the so-called WIN amendments to the Social Security Act, Public Law 92-223, approved December 28, 1971.

(2) To bring priorities for referral of veterans by the Employment Service to public employment under the Act into accord with standards generally used by the Employment Service.

(3) To eliminate the qualifying period of unemployment for recently-discharged veterans.

(4) To clarify the Secretary's authority to waive residency requirements for grants made with discretionary funds and to reserve to him new authority to waive residence requirements for special veterans except under grants made pursuant to section 6.

Because these regulations are either interpretative in nature and already being applied or waive a restriction, I find it unnecessary to publish notice of proposed rulemaking with opportunity for comments or to delay the effective date. Accordingly these regulations will be effective on January 23, 1973.

1. Section 55.1(q)(2) is amended to read as follows:

§ 55.1 Definitions.

* * * * *

(q) "Unemployed person" means—

* * * * *

(2) A person who is 18 years of age or older, and a recipient of money payments pursuant to a State plan approved under the public assistance titles of the Social Security Act or a person whose income, resources or need are counted with that of such a recipient for determining public assistance entitlement, whose need does not arise from a strike or lockout at his usual place of employment, and who (i) has been without work for 1 week or longer and (*a*) volunteers for work, or (*b*) has been deemed job-ready under the Work Incentive Program in accordance with procedures established pursuant to § 56.5 of this chapter; or (ii) is working in a job providing insufficient income to enable him and his family to be self-supporting without welfare assistance.

* * * * *

2. Paragraphs (d), (e), and (f) of § 55.7 are amended to read as follows:

§ 55.7 Selection of participants.

* * * * *

(d) All job vacancies under the program, except those to which former employees are being recalled, shall be listed with the State Employment Security Agency at least 48 hours before such vacancies are filled, during which period the Employment Service will first refer veterans in accordance with its referral priorities. Upon request, the Employment Service will make a special effort to include in its referrals, and if necessary to recruit, special veterans and/or members of the other significant segments of the population as set forth at § 55.7(c). A list of such job openings will also be made available to any other public or private organizations or agencies, including veterans' organizations, for making them known to disabled and special veterans.

(e) Participants may not have been employed by a Program Agent or subagent less than 30 days prior to being reemployed by the same unit of government. All others who qualify as unemployed under § 55.1(q)(1) may not have worked for any employer less than 14 days prior to employment under the Act, except that veterans may be employed immediately after their discharge from active service in the Armed Forces. Recipients of welfare assistance whose eligibility arises under § 55.1(q)(2) are deemed to have been unemployed from the time they qualified for assistance.

(f) Each Program Agent and the employing agencies receiving funds through it shall select all participants from among those eligible individuals who reside in the geographical area over which the Program Agent has jurisdiction for purposes of this Act and shall place them within reasonable commuting distance of such area. When a State government is given funds for expenditure within the geographic area of another Program Agent, the participants it selects must reside in that geographical area. This paragraph is subject to exceptions in individual cases provided the total number of participants residing in each Program Agent's area remains the same. This paragraph does not apply to individuals recalled to their former jobs. The Secretary retains the right to waive the residency requirement insofar as it applies to members of the segment of the unemployed or underemployed described in paragraph (c)(vii) of this section, or to special veterans.

* * * * *

3. Section 55.58 is amended by deleting the last clause reading: "if he finds it might impede the conduct of any demonstration program." As amended the section reads:

§ 55.58 Waiver of requirements by Secretary.

The Secretary may waive any requirement under this subpart that is not specifically required by the Act.

Signed at Washington, D.C., this 17th day of January 1973.

PAUL J. FASSER, JR.,
Deputy Assistant Secretary for Manpower and Manpower Administrator.

[FR Doc.73-1358 Filed 1-22-73;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-3—PROCUREMENT BY NEGOTIATION

Subpart 3-3.51—Selection of Offerors for Negotiation and Award

On pages 18924, 18925, and 18926, of the FEDERAL REGISTER of September 16, 1972, there was published a notice of proposed rule making to issue a regulation establishing policies and procedures for selection of offerors for negotiation and award. After consideration of all such relevant matter as was presented by interested persons, the amendment as so proposed is hereby adopted, subject to the following changes:

1. In the second sentence of § 3-3.5101, Applicability, the phrase "with the product" is changed to read: "with the item being procured."

2. In paragraph (b) of § 3-3.5102, Requests for proposal, the following changes are made:

(a) The following is added to as the beginning of the first sentence: "Unless otherwise authorized by the procedures of the operating agency, * * *"

(b) The phrase "and concurrently with" in the second sentence is deleted.

3. After the first sentence of paragraph (c) of § 3-3.5102, Requests for proposal, the following is added: "(See § 1-3.807-3 for requirements for cost or pricing data.)"

4. That part of paragraph (f) of § 3-3.5102, Requests for proposals, reading "No other factors" is hereby changed to read: "No factors * * *"

5. The following changes are made in § 3-3.5103, Evaluation of technical proposals:

(a) The last sentence of paragraph (d) is deleted and the following is substituted therefor: "Discussions with offerors relative to any aspect of the procurement shall be held only with the contracting officer or his authorized representative."

(b) In the last sentence, the phrase "if the clarification revises his" is hereby changed to read: "if the clarification results in an offeror revising its * * *."

(6) The word "of" is changed to "for" in the third sentence of § 3-3.5104, Technical evaluation report.

(7) The following change is made in paragraph (c) of § 3-3.5106, Competitive range: The comma after the words "price" and "analysis" in the second sentence are deleted.

(8) The word "supplied" in the last sentence of §3-3.5108, Closing of negotiations, is deleted.

(9) Paragraph (b) of § 3-3.5109, Selection of contractor, is hereby relettered (c) and the following is added as the new paragraph (b): "(b) Research and development contracts should be awarded to those organizations, including educational institutions, which have the highest competence in the specific field of science or technology involved. However, awards should not be made for research and development capabilities that exceed those needed for the successful performance of the particular project."

Effective date. These regulations shall become effective on January 23, 1973.

Dated: January 17, 1973.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

The new Subpart 3-3.51 reads as follows:

Subpart 3-3.51—Selection of Offerors for Negotiation and Award

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

§ 3-3.5100 Scope of subpart.

This section provides guidance to all DHEW personnel regarding (a) evaluation of the technical and other aspects of proposals and (b) the requirement for "written or oral discussion" with concerns whose proposals are "within a competitive range," under competitive negotiated procurements.

§ 3-3.5101 Applicability.

This section is applicable to all competitive negotiated procurements conducted by DHEW under the authority of the Federal Procurement Regulations (FPR). Those portions of this section concerning written or oral discussions need not be applied: (a) to procurements in implementation of authorized set-aside programs; (b) to procurements where the existence of adequate competition or accurate prior cost experience with the item being procured clearly demonstrates that acceptance of an initial proposal without discussions would result in fair and reasonable prices, provided the request for proposals notifies all offerors of the possibility that award may be made without discussion and provided award is in fact made without any written or oral discussions.

§ 3-3.5102 Requests for proposals.

(a) Careful drafting of the request for proposals (RFP) is vital to the proper working of the competitive process. Particular efforts must be made to develop an accurate statement of work in order to preclude ambiguities and to avoid misunderstandings which might otherwise surface at later stages of the procurement.

(b) Unless otherwise authorized by the procedures of the operating agency, the RFP shall require that a proposal generally will be in two parts: a "Technical Proposal" and a "Business Proposal." Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently of evaluation of the other. Generally, the RFP will provide that the "Technical Proposal" not contain any reference to cost. Resource information, such as data concerning labor hours and categories, materials, subcontracts, travel, computer time, etc., shall be included in the "Technical Proposal" so that offeror's understanding of the scope of work may be evaluated.

(c) The instructions to the offerors concerning the "Business Proposal" should require submission of cost information in sufficient detail to allow a complete cost analysis. (See 1–3.807–3 of this title for requirements for cost or pricing data.) Categories and amounts of labor, materials, travel, computer time, as well as information with regard to contractor past performance, including contracts or subcontracts for like services or supplies, financial capacity, certifications, and representations, and other pertinent administrative and business information should also be requested.

(d) Evaluation criteria must be developed by technical personnel, at the time of initiation of the procurement request, for inclusion by the contracting officer in the RFP. These criteria and their relative importance or weight require the exercise of judgment on a case-by-case basis, since the criteria must be tailored to the requirements of each particular procurement. These criteria must be submitted to the contracting officer in sufficient time to allow for this review before the issuance of the request for proposal. Since these criteria will serve as the standard against which all proposals will be evaluated, it is imperative that they be chosen carefully to emphasize those factors considered to be critical to the selection of a contractor.

(e) The RFP must inform offerors of all evaluation criteria and of the relative importance or weight attached to each criterion, although there need not be stated a numerical weighting formula. Evaluation criteria shall be described fully enough in each RFP to inform prospective offerors of the significant matters which should be addressed in the proposals. The technical and business proposal instructions of the RFP must inform the offeror of all information deemed essential to proper evaluation of the proposal, so that all competitors are aware of all requirements and so that the difference(s) in proposals will reflect the offeror's differing responses to unambiguous RFP requirements and criteria.

(f) No factors other than those set forth in the request for proposals as the evaluation criteria shall be used in the evaluation of technical proposals.

(g) The RFP evaluation criteria shall not be modified except by a formal amendment to the RFP.

§ 3–3.5103 Evaluation of technical proposals.

(a) The technical proposals received by the contracting officer will be forwarded to the technical evaluators for evaluation; the business portion of the proposal will be retained by the contracting officer for evaluation.

(b) The technical evaluators will evaluate each proposal in strict conformity with the evaluation criteria of the RFP and will assign each proposal a score. A technical ranking will then be compiled. The technical evaluators shall then identity each proposal as either acceptable or unacceptable. Predetermined cutoff scores shall not be employed.

(c) The technical evaluators shall then determine whether any proposal which has been rated as unacceptable might be considered acceptable upon the furnishing of clarifying data by the offeror, and the contracting officer will be so informed. The contracting officer will arrange for the submission of clarifying data in writing or by consultation, and furnish it to the technical evaluators for their consideration.

(d) It is essential to the competitive procurement process that all information contained in offerors' proposals be maintained in strict confidence. In no event during the evaluation period shall any offeror be told the number of proposals received, prices, cost ranges, or the Government cost estimate. Discussions with offerors relative to any aspect of the procurement shall be held only with the contracting officer or his authorized representative.

(e) For the sole purpose of eliminating any uncertainty or ambiguity in an initial proposal, the contracting officer may make inquiry of an offeror. Such inquiry of and clarification furnished by such offeror shall not be considered to constitute "discussions" within the meaning of § 1–3.805–1(g) of this title and shall not necessitate any inquiry of other offerors. However, if the clarification results in an offeror revising its proposal or it would in any way prejudice the interests of other offerors, discussions must be held with all responsible offerors within the competitive range.

§ 3–3.5104 Technical evaluation report.

A technical evaluation report shall be prepared and signed by the technical evaluators, furnished the contracting officer, and maintained as a permanent record in the contract file. The report shall reflect the ranking of the proposals and shall identify each proposal as acceptable or unacceptable in accordance with § 3–3.5103 (b) and (c). The report shall also include a narrative evaluation specifying the strengths and weaknesses of each proposal, and any reservations or qualifications that might bear upon the selection of sources for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any proposal shall be included.

§ 3–3.5105 Evaluation of business proposals.

(a) Each business proposal requires some form of price or cost analysis. The contracting officer must exercise judgment in determining the extent of analysis in each case. In high-dollar value procurements, the analysis should be thorough and the record carefully documented to disclose the extent to which the various elements of costs, fixed fee, or profit contained in the contractor's proposals were analyzed. The negotiation memorandum should also reflect the consideration given to the recommendations, if any, of the price analyst and the basis for nonacceptance or departure from the recommendations during the course of negotiations.

(b) The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, he must consider such factors as the company's management organization, past performance, reputation for reliability, and availability of the required facilities, and cost controls.

§ 3–3.5106 Competitive range.

Unless an award is made without any discussions in accordance with § 3–3.5101, discussions shall be conducted with each offeror in the "competitive range." The competitive range is composed of those offerors with which there is a possibility of conducting meaningful discussions which could result in the improvement of their offers, price and other factors considered. Determining which proposals fall within a competitive range will depend upon the particular circumstances of each negotiation. Cost or price alone is sometimes controlling, but technical capability and other relevant criteria may be paramount. The decision as to which firms are and which firms are not within a competitive range is a matter of administrative discretion. There could conceivably be a business proposal in which the cost or price is so high that it seems to be completely out of the competitive range. However, before making such a determination the contracting officer should consult with the technical personnel to determine possible reasons for the apparently excessive price. In determining the competitive range, the contracting officer should consider the following:

(a) A proposal must be considered to be within the competitive range unless it is either so inferior technically or so high in cost as to preclude any possibility of meaningful negotiation with the offeror, or unless the offeror does not have a reasonable chance of being selected for the final award.

(b) The competitive range should be decided on the basis of the array of scores or relative ranking of the offerors, not on a predetermined absolute score or cutoff level of acceptability. Borderline proposals must not be excluded from consideration automatically if they are reasonably susceptible of being made acceptable by clarification or discussions.

(c) No offeror who is in the competitive range shall be eliminated from the competitive range solely because of an offer to deliver services or supplies of a higher quality than required. If there is no substantial basis for distinguishing between the technical excellence of proposal(s) meeting the Government's requirements, price or best buy analysis should then become the controlling factor.

§ 3–3.5107 Conduct of discussions.

(a) The contracting officer, in cooperation with technical personnel, must conduct written or oral discussions (negotiations) of the work to be performed, the cost of the work, and other relevant

topics with all those offerors within the competitive range. The contracting officer shall point out to each offeror the ambiguities, uncertainties, and deficiencies, if any, in its proposal. He shall then give each offeror a reasonable opportunity to support, clarify, correct, improve or revise its proposal. Discussions with one offeror shall neither identify areas in which another has apparently achieved a higher evaluation or provided more detail (nor transmit information) which could give one offeror a competitive advantage over another. Cost estimates made by the Government will not be disclosed.

(b) Careful judgment will be exercised in determining the extent of discussions. In some cases more than one round of discussions with all the offerors within the competitive range may be required. The time available, the expense and administrative limitations, and the size and significance of the procurement should all be considered in deciding on the type, duration, and depth of the discussions.

§ 3–3.5108 Closing of negotiations.

In order to properly terminate negotiations, the contracting officer shall advise each offeror within the competitive range that (a) negotiations are being conducted, (b) offerors are being asked for "best and final offer," not merely to confirm or reconfirm prior offers, and (c) any revision or modification of proposals must be submitted by the cutoff date.

§ 3–3.5109 Selection of contractor.

(a) After the close of discussions and the receipt of any addenda to proposals, the contracting officer shall select for award the offeror(s) whose proposal(s) offers the greatest advantage to the Government, price and other factors considered.

(b) Research and development contracts should be awarded to those organizations, including educational institutions, which have the highest competence in the specific field of science or technology involved. However, awards should not be made for research and development capabilities that exceed those needed for the successful performance of the particular project.

(c) Whenever the contract is to have a fixed price, price may not be disregarded in selecting a contractor. This is particularly true where more than one acceptable offer from technically qualified sources remains for consideration after conduct of negotiations. If a lower-priced, lower-scored offer meets the Government's needs, acceptance of a higher-priced, higher-scored offer shall be supported by a specific determination by the contracting officer that the technical superiority of the higher-priced offer warrants the additional cost involved in the award of a contract to that offeror.

§ 3–3.5110 Notice and debriefing.

Promptly after award of the contract, notice of unsuccessful offerors will be given in accordance with HEWPR 3–3.103.

[FR Doc.73–1389 Filed 1–22–73;8:45 am]

PART 3–75—DELEGATIONS OF AUTHORITY

Miscellaneous Amendments

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of this amendment is to bring published delegations of authority into conformity with current organizational structure, designations, and administrative practices.

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

1. Contents of Subpart 3–75.1, is revised to read as follows:

Subpart 3–75.1—Procurement Authority

AUTHORITY: 5 U.S.C. 301, 40 U.S.C.

Subpart 3–75.1—Procurement Authority

2. Sections 3–75.101, 3–75.102, 3–75.104–2 and 3–75.104–3 of Subpart 3–75.1 are amended as follows:

§ 3–75.101 Head of the procuring activity.

In addition to the heads of the operating agencies, the following officials are designated "Head of the procuring activity":

(a) Directors, Regional Offices;

(b) Director of Procurement and Material Management, OASAM;

(c) Director, Office of Administrative Services, OS; and

(d) Director, Facilities Engineering and Construction Agency, OASAM.

§ 3–75.102 Authority delegated.

Heads of procuring activities are authorized to: (a) Enter into, modify, administer and terminate contracts for property and services, and to make related determinations and findings; (b) settle termination claims; (c) appoint contracting officers; and (d) promulgate procurement directives in conformance with the stated policy of this Department.

§ 3–75.104–2 Fixed fee.

Proposed fees under cost-plus-a-fixed-fee contracts which exceed the following shall be approved only by the head of the procuring activity or his designee. A designee for making these determinations must be at least one organizational level above the contracting officer:

(a) Ten percent of the estimated cost, exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, developmental, or research work.

(b) Seven percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract.

§ 3–75.104–3 Review and approval of contracts.

Preaward contract reviews shall be conducted by those officials designated in § 3–50.101 of this chapter.

Subpart 3–75.4—Alcohol and Controlled Substances

3. Subpart 3–75.4 is revised to read as follows:

Subpart 3–75.4—Alcohol and Controlled Substances

AUTHORITY: 5 U.S.C. 301, 40 U.S.C. 486(c).

§ 3–75.400 Scope of subpart.

This subpart authorizes heads of certain procuring activities to sign applications to procure alcohol and to appoint individuals to order controlled substances as defined by the Bureau of Narcotics and Dangerous Drugs (see Title 21 CFR).

§ 3–75.401 Authority delegated.

The following officials are authorized to sign applications to procure tax-free specially denatured alcohol and to appoint accredited officials to order controlled substances, in accordance with laws and regulations of the Treasury Department, the Department of Justice, and the requirements and conditions of Subpart 3–5.56 of this chapter:

(a) Administrator, Health Services and Mental Health Administration;

(b) Director, National Institutes of Health;

(c) Commissioner of Food and Drugs; and

(d) Director of Procurement and Materiel Management, OASAM.

Effective date. This amendment shall be effective on January 23, 1973.

Dated: January 17, 1973.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

[FR Doc.73–1388 Filed 1–22–73;8:45 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER H—TRAINING

[General Order 97, Rev., Amdt. 11]

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Cadets at the U.S. Merchant Marine Academy

Effective January 21, 1973 § 310.58 of this subpart is amended by changing the first sentence of paragraph (c) thereof to read as follows:

§ 310.58 Training on subsidized vessels.

* * * * *

(c) *Pay.* Cadets, while attached to merchant vessels, shall receive pay at the rate of $283.05 per month from their steamship company employers. * * *

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: January 16, 1973.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-1413 Filed 1-22-73;8:45 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 72-7; Notice 2]

PART 577—DEFECT NOTIFICATION

This notice establishes a new regulation covering notifications of motor vehicle safety defects and nonconformity to safety standards. The notice proposing these regulations was published May 17, 1972 (37 FR 9783).

The regulation is intended to improve the response of owners in vehicle notification campaigns. Data which the NHTSA has been receiving on the completion rates of notification campaigns show a wide range of completion rates, with campaigns involving newer vehicles, and more serious safety problems, having higher completion rates than others. In many campaigns, however, the rate is alarmingly low.

An examination of the notifications sent by manufacturers reveals wide disparity in emphasis. Although precise evaluation of the impact of notification letters is difficult, due to its being largely subjective, the NHTSA is of the opinion that many notifications have tended to deemphasize the safety problems involved. Some of these notification letters are questionably within the requirements of the National Traffic and Motor Vehicle Safety Act, and litigation on a case-by-case basis to improve them is impracticable. These regulations are intended to insure that all notification letters contain sufficient information, as determined by NHTSA, to properly notify purchasers.

The regulation applies to manufacturers of incomplete and complete motor vehicles, and motor vehicle equipment. In the case of vehicles manufactured in two or more stages, compliance by any one of the manufacturers of the vehicle is considered compliance by all. This provision is based on similar language in the Defect Reports regulation (49 CFR Part 573), and is included in response to comments received.

The regulation requires the notification to contain substantially the information specified in the proposal. It requires each notification to begin with a statement that it is sent pursuant to the requirements of the National Traffic and Motor Vehicle Safety Act. The NHTSA did not concur with comments to the effect that the inclusion of this statement would not promote the purpose of the regulation. The regulation requires the notification to state that the manufacturer, or the National Highway Traffic Safety Administrator, as the case may be, has determined that a defect relating to motor vehicle safety (or a noncompliance with a motor vehicle safety standard) exists in the vehicle type, or item of motor vehicle equipment, with which the notification is concerned. When the manufacturer (or the Administrator) has, as part of his determination, also found that the defect may not exist in each such vehicle or equipment item, he may include a statement to that effect. The NHTSA has decided to allow such statements based on comments that many defects in fact do not exist in each vehice or equipment item of the group whose owners are notified.

The manufacturer must also describe the defect, evaluate the risk it poses to traffic safety, and specify measures which the recipient should take to have it remedied. In each case, the regulation requires information which the NHTSA has determined will meet these objectives. In describing the defect, the manufacturer must indicate the vehicle system or particular items of equipment affected, describe the malfunction that may occur, including operating conditions that may cause it to occur, and precautions the purchaser should take to reduce the likelihood of its occurrence. In providing that the vehicle system affected be mentioned, the regulation reflects comments to the effect that listing each particular part involved would be too technical to be useful to most consumers.

In evaluating the risk to traffic safety, the manufacturer must indicate if vehicle crash is the potential result, and whatever warning may occur. Where vehicle crash is not the potential result, the manufacturer must indicate the general type of injury which the defect can cause. Although many comments protested that it was impossible to predict a specific type of injury, the NHTSA believes that manufacturers can easily foresee the general type of injury, such as asphyxiation, that can result from those defects which are not expected to result in crashes.

In stating measures to be taken to repair the defect, the requirements differ in the case where the manufacturer's dealers repair the vehicle free of charge to the purchaser, where the manufacturer merely offers to pay for the repair, and where he refuses to pay for the repair. The purpose of this distinction is to provide information sufficient to have adequate repairs made in each case.

Where the manufacturer's dealers repair the vehicle free of charge, the notification must include a general description of the work involved, the manufacturer's estimate of when his dealers will be supplied with parts and instructions, and his estimate of the time reasonably necessary to perform the labor involved in correcting the defect. The agency's position is that consumers are entitled to know approximately when their cars will be repaired and how much labor is needed in order for the repair to be made. The NHTSA realizes that dealers frequently retain vehicles longer than the actual work involved, due to difficulties in scheduling repairs. However, manufacturers are free to impart this information to consumers under the regulation. Some comments objected to requiring manufacturers to provide information on when replacement parts will be available, on the basis that manufacturers cannot know, at the time a notification is issued, precisely when parts deliveries will be made to dealers. To include this information, it is argued, would therefore delay the issuance of the notification. The NHTSA has modified the proposed language to allow manufacturers to "estimate" when corrective parts will be available. The estimate would be based on the manufacturer's knowledge at the time the notification is sent, thereby eliminating any reasons for delay.

When manufacturers do not provide for repairs to be made by dealers, the notification is required to contain, in addition, full lists of parts and complete instructions on making the repairs. The regulation also requires the manufacturer to recommend, generally, where the vehicle should be repaired, and manufacturers are free to make general and specific recommendations. This requirement reflects the intent of the proposal that manufacturers who believe particular repairs may require special expertise should indicate that fact to purchasers.

When the manufacturer does not offer to pay for the repairs, he must, in addition, include full cost information on necessary parts. The notice would have required the retail cost of all parts, and information on labor charges of the manufacturer's dealers in the general area of the purchaser. In response to comments, the cost information is limited to the suggested retail price of parts.

Manufacturers have indicated they do not set actual prices of parts, but do have suggested list prices. With respect to labor charges, manufacturers have indicated that labor charges vary, and that requiring them to ascertain exact charges would delay issuance of notifications. The NHTSA believes these comments to be well founded, and has dropped the proposed requirements regarding labor charges. Consumers will still have information on costs of parts, and time necessary for repairs to be performed, from which they can obtain a fair idea of the cost of a repair.

The regulations prohibit the notification from stating or implying that the problem is not a defect, or that it does not relate to motor vehicle safety. Moreover, in those cases where the notification is sent pursuant to the direction of the Administrator, it cannot state or imply that the manufacturer disagrees with the Administrator's finding. Many comments opposed these requirements on the basis that they unconstitutionally limited manufacturers' freedom of speech. The NHTSA emphatically rejects this contention. Notification letters are not intended to serve as forums where manufacturers can argue that problems are not safety related or dispute the Administration's findings. Their purpose is to unambiguously and adequately induce owners to remedy a potentially hazardous situation. The NHTSA is of the opinion that there is ample precedent that allows the Federal Government to require manufacturers to warn purchasers in a particular manner that certain products they manufacture may be hazardous. If a manufacturer does not believe that his condition is a safety-related defect, he is not required by law to notify owners at all. It is only when he determines that a defect exists that he must notify in accordance with the regulations. Similarly, when the Administrator has made the finding that a certain product is defective, the manufacturer can administratively and judicially challenge this determination as provided in the National Traffic and Motor Vehicle Safety Act before sending a notification.

The NHTSA received other objections to the proposed requirements. Numerous tire manufacturers argued that parts of the regulation dealing with repairs of defects are inappropriate when applied to them, since repairs generally meant replacement. Certain manufacturers of lighting equipment argued that notification requirements should not apply to them at all. The NHTSA disagrees with both of these contentions. In the case of tire manufacturers, the NHTSA believes that the requirements can be followed. If the repair of a defective tire entails its replacement, this can certainly be stated within the regulatory scheme. Similarly, lighting equipment manufacturers are responsible for defects to the same extent as manufacturers of other equipment. The NHTSA rejects completely the argument that no lighting failures can be considered safety related because of the millions of lights that burn out every year without resulting in accidents. The question in each case is not whether a failure may occur, but whether a defect exists, and whether the defect may cause a hazardous situation to arise.

The notice of proposed rule making would have prohibited manufacturers from making statements contemporaneous with the notification that disagreed with its conclusions. This proposal has not been adopted. After careful consideration, the NHTSA has determined that its inclusion is probably unnecessary. The agency's position is that if notification letters clearly and unambiguously describe and evaluate defects in accordance with this regulation, other statements by manufacturers will not normally affect reactions of consumers.

Certain comments requested that manufacturers be allowed to state in the notification that it does not constitute an admission of liability or wrongdoing. The regulation does not preclude the making of such statements, as the agency has concluded that their inclusion will not significantly deter owners from having repairs made.

One comment suggested that the notification be required to contain a postage-free card by which consumers could notify manufacturers when vehicles had been sold or otherwise disposed of. While the NHTSA believes this practice would be advantageous in improving notification campaigns, it has concluded that such a requirement would be outside the scope of the regulation, which is limited to notifications to first purchasers and warranty holders.

Certain comments objected to the regulations on the ground that they prescribed a rigid format in an area where each case must be treated separately, and thus where flexibility was required. The NHTSA has modified to some extent the proposed restrictions on format. Manufacturers are free, within the limits established, to compose notifications to fit each case. As issued, these regulations do not require rigid, inflexible letters (only the first two sentences must contain specific statements in a set order), but require that manufacturers include certain important items of information. It is hoped that manufacturers in meeting these requirements will provide required information in easily understandable form.

In light of the above, a new Part 577, Defect Notification is added to Chapter V of Title 49, Code of Federal Regulations, to read as set forth as below.

Effective date: March 26, 1973. Because these requirements are not technical in nature, and do not require lead-times for compliance, good cause exists, and is hereby found, for an effective date less than 180 days from the day of issuance.

Issued on January 17, 1973.

DOUGLAS W. TOMS,
Administrator.

Sec.

AUTHORITY: Sections 108, 112, 113, 119, Public Law 89-563, 80 Stat. 718 as amended, sections 2, 4, Public Law 91-265, 84 Stat. 262 (15 U.S.C. 1397, 1401, 1402, 1408); delegation of authority at 49 CFR 1.51.

§ 577.1 Scope.

This part sets forth requirements for notification to first purchasers and warranty holders of motor vehicles and motor vehicle equipment of the possibility of a defect relating to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard.

§ 577.2 Purpose.

The purpose of this part is to insure that defect notifications provide adequate information to recipients, and effectively motivate owners of potentially defective or noncomplying motor vehicles or items of motor vehicle equipment to have vehicles and equipment inspected and, where necessary, repaired as quickly as possible.

§ 577.3 Application.

This part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and motor vehicle equipment. In the case of vehicles manufactured in two or more stages, compliance by either the manufacturer of the incomplete vehicle or any subsequent manufacturer shall be considered compliance by each of those manufacturers.

§ 577.4 Notification initiated by manufacturer.

Whenever a manufacturer of motor vehicles or tires determines that a defect potentially existing in any motor vehicle or item of motor vehicle equipment he produces relates to motor vehicle safety, he shall notify by certified mail the first purchaser (where known) of such vehicle or item of motor vehicle equipment, and any subsequent purchaser to whom a warranty on such vehicle or item of equipment has been transferred. The notification shall contain the following information. In the case of paragraphs (a) and (b) of this section, the information shall be presented in the form and in the order specified. The information required in paragraphs (c), (d), and (e) of this section may be presented in any order.

(a) An opening statement: "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

(b) (1) The statement: "(Manufacturer's name or division) has determined that a defect which relates to motor vehicle safety exists in (identifying criteria of motor vehicles or item of motor vehicle equipment)."

(2) When the manufacturer determines that the defect may not exist in each such vehicle or equipment item, he may include, in addition, a statement to that effect.

(c) A clear description of the defect, which must include—

(1) Identification of the vehicle system or particular item or items of motor vehicle equipment affected;

(2) A description of the malfunction that may occur;

(3) A statement of operating or other conditions that may cause the malfunction to occur; and

(4) Precautions, if any, that the purchaser should take to reduce the chance that the malfunction will occur before the vehicle is repaired.

(d) An evaluation of the risk to traffic safety reasonably related to the defect.

(1) When vehicle crash is the potential occurrence, the evaluation must include whichever of the following statements is appropriate:

(i) That the defect can cause vehicle crash without prior warning, or

(ii) A description of whatever warning may occur, and a statement that if this warning is not heeded, vehicle crash can occur.

(2) When vehicle crash is not the potential occurrence, the evaluation must include a statement indicating the general type of injury to occupants of the vehicle, or to persons outside the vehicle, that can result from the defect.

(e) A statement of measures to be taken to repair the defect, in accordance with whichever of the following is appropriate.

(1) When the manufacturer offers to repair the defect through his dealers without charge to the purchaser, the statement shall include:

(i) A general description of the work involved in repairing the defect;

(ii) The manufacturer's estimate of the day by which his dealers will be supplied with parts and instructions for correcting the defect; and

(iii) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect.

(2) When the manufacturer does not provide for the repairs to be performed by his dealers, but will bear the cost of the repair, the statement shall include—

(i) The name and part number of each part that must be added, replaced, or modified;

(ii) A description of any modifications that must be made to existing parts;

(iii) Information on where needed parts will be available, including the manufacturer's estimate of the day after which they will be generally available;

(iv) A detailed description (including appropriate illustrations) of each step required to correct the defect;

(v) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect; and

(vi) The manufacturer's recommendation as to whom the purchaser should have perform the necessary work.

(3) When the manufacturer does not bear the cost of repair, the statement shall include—

(i) The name, part number, and suggested list price of each part that must be added or replaced;

(ii) A description of any modifications that must be made to existing parts, which must also be identified by name and part number;

(iii) Information on where needed parts will be available, including the manufacturer's estimate of the day after which they will be generally available;

(iv) A detailed description (including appropriate illustrations) of each step required to repair the defect;

(v) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect; and

(vi) The manufacturer's recommendations as to whom the purchaser should have perform the necessary work.

§ 577.5 Notification pursuant to administrative proceeding.

A notification made by a manufacturer of motor vehicles or motor vehicle equipment as a result of proceedings conducted pursuant to section 113(e) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1402(e)), shall be made in the manner specified in § 577.4 (a) through (e), except that the statement required pursuant to § 577.4(b) shall indicate that—

(a) The determination has been made by the National Highway Traffic Safety Administrator, and

(b) If appropriate, the determination is of noncompliance with a Federal motor vehicle safety standard.

§ 577.6 Disclaimers.

(a) A notification sent pursuant to § 577.4 or § 577.5 shall not contain any statement or implication that the problem discussed in the letter is not a defect, that it does not relate to motor vehicle safety, and, except as specifically provided in this part, that it is not present in the purchaser's vehicle.

(b) A notification sent pursuant to § 577.5 shall not state or imply that the manufacturer disagrees with the Administrator's finding of a defect relating to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard.

§ 577.7 Conformity to statutory requirements.

A notification that does not conform to the requirements of this part shall not be in compliance with sections 108 and 113 of the National Traffic and Motor Vehicle Safety Act.

[FR Doc.73-1392 Filed 1-22-73;8:45 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S. O. 1117]

PART 1033—CAR SERVICE

Substitution of Hopper Cars for Covered Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of January 1973.

It appearing, That an acute shortage of covered hopper cars for transporting shipments of grain or soybeans exists in certain sections of the country; that some carriers have adequate supplies of open hopper cars; that use of these cars for transporting grain or soybeans is precluded by certain tariff provisions requiring the use of covered hopper cars, thus curtailing shipments of grain or soybeans and creating great economic loss; that present regulations and practices with respect to the use, supply, control, movement, and distribution of covered hopper cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1117 Substitution of hopper cars for covered hopper cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Substitution of cars: Subject to the concurrence of the shipper, the carrier may substitute open hopper cars for shipments of grain or soybeans, whether from the point of origin or from an intermediate in-transit point, regardless of tariff provisions requiring the use of covered hoppers.

(2) Minimum weights: The minimum weights per shipment of grain or soybeans transported in open hopper cars substituted for covered hopper cars shall be the minimum weights specified in the tariffs for shipments made in covered hopper cars regardless of the number of open hopper cars required to be used to secure the minimum weight.

(3) In shipping grain or soybeans in open hopper cars in lieu of covered hopper cars, as provided herein, the shipper shall be deemed to have acknowledged the terms and conditions of the contract of carriage embodied in the bill of lading that the carrier shall not be liable for injury, loss, or damage to the lading resulting from a defect or vice in such property.

(4) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1117.

(5) The term "open hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 386, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "HD", "HE", "HF", "HFA", "HFD", "HK", "HM", "HMA", "HT", or "HTB."

(6) The term "covered hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 386,

issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "LO."

(b) Rules and regulations suspended: The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) Application: The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) Effective date: This order shall become effective at 12:01 a.m., January 18, 1973.

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., March 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17, 15(4), and 17(2))

It is further ordered, That a copy of this order and direction 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 notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1398 Filed 1-22-73;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Parts 55, 56, 57]

METAL AND NONMETALLIC MINES

Health and Safety Standards; Extension of Time for Comments

In Part II of the FEDERAL REGISTER for December 9, 1972 (37 FR 26378–26380), there was published proposed revisions, additions, and deletions of certain health and safety standards for metal and nonmetallic mines under the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721 et seq.). The proposed standards amend Parts 55, 56 and 57 of Subchapter N, Chapter I, Title 30, Code of Federal Regulations, relating, respectively, to open pit mines, sand, gravel, and crushed stone operations, and underground mines.

Interested persons were afforded a period of 30 days from the date of publication of the notice in the FEDERAL REGISTER within which to submit written comments, suggestions, and objections to the proposed revisions and amendments. A request has been received for an extension of time in view of the fact that the Christmas and New Year holiday season fell within the 30 day period, communication difficulties resulted, and, therefore, interested persons did not have a reasonable opportunity to prepare and submit comments, suggestions, and objections. The period of time within which interested persons may make written comments, suggestions and objections to the proposed amendments and revisions to Parts 55, 56, and 57 is hereby extended to January 31, 1973. Communications should be addressed to Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

JOHN B. RIGG,
Deputy Assistant Secretary of the Interior.

JANUARY 19, 1973.

[FR Doc.73–1417 Filed 1–22–73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 11]

BOTTLED WATER

Proposed Quality Standards; Correction

In FR Doc 73–316 appearing at page 1019 in the FEDERAL REGISTER of Monday, January 8, 1973, § 11.7(b)(1)(ii) is corrected to read as follows:

§ 11.7 Bottled water.

* * * * *

(b) * * *

(1) * * *

(ii) *Membrane filter method.* Not more than one of the analytical units in the sample shall have 4.0 or more coliform organisms per 100 milliliters and the arithmetic mean of the coliform density of the sample shall not exceed one coliform organism per 100 milliliters.

* * * * *

Dated January 16, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73–1339 Filed 1–22–73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72–SW–81]

VOR FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend Victor Airway 62 from the Cabezon Intersection to Gallup, N. Mex.

Interested persons may 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 on or before February 22, 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 proposed amendment would extend V–62 from Cabezon Intersection to Gallup, N. Mex., via the INT Gallup 089° T (075° M) and Santa Fe, N. Mex., 268° T (255° M) radials. The extension of V–62 would permit IFR aircraft to proceed directly between Santa Fe and Gallup without deviating to the south via the Albuquerque terminal area. The extension would afford a saving of more than 20 miles. The proposal would also reduce controller workload and decrease traffic congestion over Albuquerque VORTAC.

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 17, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73–1333 Filed 1–22–73;8:45 am]

RENEGOTIATION BOARD

[32 CFR Part 1460]

PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

Contribution to the Defense Effort

The Renegotiation Board pursuant to section 109 of the Renegotiation Act of 1951, as amended (50 U.S.C.A., App. section 1211 et seq.), proposes to issue the following regulations on or before February 22, 1973.

Interested persons are hereby notified that any changes, to be considered, must be presented, in writing, to the Renegotiation Board, 2000 M Street NW., Washington, DC 20446, on or before February 22, 1973.

Written material or suggestions submitted will be available for public inspection during regular business hours in the library at the principal office of the Board, 2000 M Street NW., Washington, DC.

Dated: January 18, 1973.

RICHARD T. BURRESS,
Chairman.

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

§ 1460.13 Contribution to the defense effort.

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

(4) Nature and extent of contribution to the defense effort, including inventive and

developmental contribution and cooperation with the Government and other contractors in supplying technical assistance.

(b) *Comment.* Every contractor contributes to the defense effort when he performs or assists others to perform a defense contract or subcontract, or when, in connection with such a contract, or subcontract, he otherwise renders a service of value to a defense program or objective. Limited credit will be accorded under this factor for routine performance of a contract, whereas more credit will be given, in such degree as the facts may warrant, if the performance, assistance or other service of the contractor exceeds, in nature and extent, that which is required or may reasonably be expected of him. Examples of contributions for which such credit will be given, as warranted, include (1) superior performance in excess of contract requirements, such as completion of urgent work ahead of schedule at the request of the procuring Department, or exceeding specifications in a manner beneficial to the defense effort; (2) ingenuity in providing new uses for products or production machinery or equipment; (3) overcoming difficulties, which others have failed to overcome, in providing materials or services for the defense effort; (4) experimental and developmental work of high value to the defense effort; (5) new inventions, techniques and processes of unusual merit; (6) cooperation with the Government and with other contractors in contributing proprietary data or in developing and supplying technical assistance to alternative or competitive sources of supply.

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

[FR Doc.73-1356 Filed 1-22-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Ch. II]

[Release Nos. 34-9889, IC-7534]

MUTUAL FUND DISTRIBUTIONS

Extension of Time for Order Directing Public Proceedings

On November 3, 1972 the Commission announced (Investment Company Act Release No. 7475 and in the FEDERAL REGISTER issue of November 17, 1972, 37 FR 24449, 37 FR 24711) that, having reviewed its staff study of the Potential Economic Impact of the Repeal of section 22(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-22(d)) and the Economic Study of the Distribution of Mutual Funds and Variable Annuities conducted for the National Association of Securities Dealers ("NASD") by Booz, Allen, & Hamilton, Inc., it had scheduled public hearings to commence on December 11, 1972, in order to seek a wide range of viewpoints with respect to the justification for retail price maintenance in the distribution of mutual funds, the options which would be open if section 22(d) of the Investment Company Act of 1940 were repealed and how the industry would adjust to such a change.

The National Association of Securities Dealers, Inc., the Investment Company Institute, the American Life Convention-Life Insurance Association of America, and the Independent Broker Dealers Trade Association all have requested additional time in which to consider the issues and to formulate their positions.

The Commission is determined that the hearings be as productive as possible and that all participants have adequate opportunity to give in-depth and thoughtful consideration to the issues presented. In view of the breadth and significance of the hearings and the complexity of the issues which they raise, and considering the pendancy of other Commission hearings[1] which claim the attention of many of the same members of the bar and industry associations, the Commission has determined to postpone the commencement of the Hearings on Mutual Fund Distribution (Administrative Proceeding File No. 4-164) until February 12, 1973.

As indicated in Investment Company Act Release No. 7475, the Commission desires that persons who request an opportunity to be heard make a written submission in the first instance. Oral statements will be invited from those who have made submissions and have requested to be heard. Persons making oral presentations should be prepared to respond to inquiries from the Commission and its staff.

Interested persons are requested to submit their views, any data or other comments or information in triplicate to Allan S. Mostoff, Director, Division of Investment Company Regulation, Washington, D.C. 20549, no later than February 2, 1973. All such material should be designated "Mutual Fund Distribution Hearings," File No. 4-164.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

NOVEMBER 30, 1972.

[FR Doc.73-1357 Filed 1-22-73;8:45 am]

[17 CFR Parts 250, 259]

[Release No. 35-17843; File No. 57-470]

INTEREST OF CERTAIN KINDS OF LESSORS UNDER LONG-TERM NET LEASES OF UTILITY FACILITIES

Exclusion from Definition of Ownership

The Securities and Exchange Commission is considering a proposed Rule 7(d) (17 CFR 250.7(d)) which would declare holders of certain kinds of essentially passive interests in electric or gas utility facilities created by standard types of long-term net leases to operating public-utility companies not to be electric or gas utility companies under sections 2(a)(3) and 2(a)(4) of the Public Utility Holding Company Act of 1935 (the "Act"). Lessors of almost half a billion dollars of such facilities have sought individual exemptions from the Act in the past two years. The proposed rule is limited to leases which effectively insulate the legal or beneficial owners of the facility from any significant influence on the public-utility company's operation and from participation in its revenues or income.

STATUTORY BASIS

The rule is proposed under the rulemaking authority granted the Commission by section 20(a), including the authority to define accounting, technical and trade terms used in the Act. The rule in effect defines the term "own" in sections 2(a)(3) and 2(a)(4) by specifying that the property interest of the lessor in a facility subject to a long-term net lease is not the kind of ownership to which these sections apply.

BACKGROUND AND PURPOSE

In developing this proposal, the Commission has considered the scope and purpose of the statutory definitions of electric and gas utility companies in sections 2(a)(3) and 2(a)(4) of the Act and the appropriate use of its regulatory powers in terms of the public interest and of the interest of investors and consumers.

Sections 2(a)(3) and 2(a)(4) of the Act define "electric utility company" and "gas utility company," respectively, as "any company which owns or operates" electric or gas facilities therein specified (emphasis added). The Commission is satisfied that the use of the disjunctive was deliberate and that the Act was intended to apply to holding-company systems involved in the ownership of utility assets, even if the operation of such assets was divorced from the owner by lease or otherwise. The lease was one form of control of utility assets in use when the Act was adopted. The Commission has dealt with a number of resulting problems in its administration of section 11 of the Act. The large-scale use of leases as a means of financing the acquisition of particular utility facilities is a relatively new development.

In the past 2 years 23 applications for exemption from the Act have been filed by financial institutions holding legal or beneficial title to almost half a billion dollars of utility facilities. It does not seem necessary to treat such institutions as statutory utility companies, and thus subject many of them, together with their parents and associate companies, to regulation under the Act. Exemptive orders were issued on some applications under sections 2(a)(3) and 2(a)(4). But when it became apparent that a recurring problem of major proportions

[1] Public Proceeding on Estimates, Forecasts or Projections of Economic Performance, and Related Subjects, Securities Act Release No. 9844 (Nov. 1, 1972); Proposal to Adopt Securities Exchange Act Rule 19b-2, Securities Exchange Act Release No. 9716 (Aug. 3, 1972), 37 FR 16490 (Aug. 12, 1972).

was involved and that the financing arrangements varied significantly in form and terms, the staff of the Commission undertook a study of the underlying issues with a view to developing a general rule to establish the status of such lessors. The granting of individual exemptions was deferred during that study, and applicants for such exemptions were entitled to the interim exemption provided by sections 2(a)(3) and 2(a)(4) during the pendency of their application.

In promulgating the proposed rule the Commission expresses no opinion as to the desirability of the lease method of acquiring utility facilities. The Act does not grant the Commssion a general supervisory jurisdiction over the utility industry. The primary authority over rates and the financing of operating utility companies not subject to the Act remains in the several States. But leasing, if excessively used, could have long-range effects on the reliability and efficiency of the service rendered by public-utility companies, and on the quality of the conventional securities held by investors.

The proposed rule is based on the belief that public-utility companies and appropriate regulatory authorities can evaluate the advantages and disadvantages of individual lease transactions in particular circumstances, and that such authorities will confine the use of lease financing within proper bounds.

EXPLANATION AND ANALYSIS OF THE PROPOSED RULE

Paragraph d(1) of the rule applies to each company (a term defined by section 2(a)(2) of the Act to include noncorporate entities) having a title, direct or indirect, legal or beneficial, to the facilities subject to a long-term net lease, which meets the standards set forth therein. A wide variety of legal forms are used in this field. The rule is directed to the substance of ownership, not only to technicalities of title.

Subdivision (i) requires that the utility facility to be leased directly to a public-utility company under a long-term net lease and employed by it in its utility operation. The rule would apply only to a net lease which grants operating control of the facility to the public-utility company on a long-term basis.

Subdivision (ii) limits the exclusion to a company primarily engaged in another business.

Subdivision (iii) requires that the terms of the lease have been expressly approved by the regulatory authority having jurisdiction over rates and service of the lessee. The need for this requirement is explained in the preceding discussion of the background and purpose of the rule.

Subdivisions (iv) and (v), respectively, preclude short-term leases and any profit sharing in revenues or income. A lessor under a lease which contains either of these features is treated as a real rather than a passive owner of utility assets for purposes of the Act.

The "grandfather" clause comprising the last sentence of paragraph (d)(1) covers applications already on file, since transactions thereunder have largely been consummated in reliance on the good faith exemption available for pending applications. Such applications meet the standards of the proposed rule in most respects. Only subdivisions (iii) and (iv) might create technical deficiencies in documents already executed, so they are made inapplicable to pending applications.

Paragraph (d)(2) declares that the exclusion defined in paragraph (d)(1) shall cease to be available upon termination of the lease relationship. It is not realistic to consider the owner of the facility to be a passive owner after it has reasserted its dominion over the property. Such an event is most likely to occur if the lessee becomes involved in financial difficulties. Provision is made for this contingency by providing three methods of continuing the lessor's status under the rule by a new lease, by a sale, or by surrender of title to the lessee and by assuming the position of a secured creditor. Since prompt agreement on the terms of a permanent lease may not be feasible, express provision is made for use of a temporary operating agreement, so long as rent thereunder is a fixed amount.

Paragraph (d)(3) provides that a public-utility company shall not cease to be such by reason of a lease of part or all of its facilities. A lease by a public-utility company as lessor has nothing in common with the financing transactions to which this rule is directed.

Paragraph (d)(4) makes explicit the fact that compliance with paragraph (d)(1) does not relieve a company from its other obligations, if any, under the Act.

Paragraph (d)(5) requires the filing of a certificate, in a form annexed hereto, describing each lease to which the rule is applicable, and providing for amendments upon changes in the ownership of interests or the amendment or termination of the underlying lease.

For a fuller exposition of the objectives of the rule, there is appended hereto a staff report prepared by the Division of Corporate Regulation.[1]

Commission action. Pursuant to authority in section 20(a) of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission proposed to amend § 250.7 in Chapter II of Title 17 of the Code of Federal Regulations by adding thereunder a new paragraph (d), and to amend Part 259 of said chapter by adding a new § 259.404 under Subpart E thereof, all reading as follows:

[1] Copies of the staff report have been filed as part of this document with the Office of the Federal Register. Copies thereof as part of Release No. 35-17843 may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

§ 250.7 Companies deemed not to be electric or gas utility companies.

* * * * *

(d) A company shall not be deemed to be an electric utility company or a gas utility company which owns any of the facilities specified in sections 2(a)(3) and 2(a)(4 (of the Act) (including nuclear fuel) provided that:

(1) Such company owns the facility as a company, as a trustee, or as holder of a beneficial interest under a trust, or as a purchaser or assignee of any of the foregoing; and

(i) Such facility is leased directly to a public-utility company under a long-term net lease and is or is to be employed by the lessee in its operations as a public-utility company; and

(ii) Such company is otherwise primarily engaged in one or more businesses other than the business of a public-utility company, or is a company all of whose equity interest is owned by one or more companies so engaged, either directly or through subsidiary companies; and

(iii) The terms of the lease have been expressly authorized or approved by the regulatory authority having jurisdiction over the rates and service of the public-utility company which leases such facility; and

(iv) The lease of the facility extends for an initial term of not less than four-fifths of the expected useful life of the facility as specified in the lease, or for a minimum term of 20 years if not so specified, except for termination of the lease upon events therein set forth; and

(v) The rent reserved under the lease shall not include any amount based, directly or indirectly, on revenues or income of the public-utility company, or any part thereof.

Paragraph (d)(1) (iii) and (iv) of this section shall not apply to a lease related to an application for exemption under sections 2(a)(3) or 2(a)(4) (of the Act) filed by a company on or before December 1, 1972.

(2) Paragraph (d)(1) of this section shall cease to be applicable in the event of termination of the lease during its term, unless within 90 days of the date of termination, and subject to such prior or subsequent regulatory and other approvals as by law may be required, such company, as defined in this section, negotiates a new lease or an operating agreement at a fixed rental, sells the facility, or surrenders ownership and assumes the status of a secured creditor.

(3) A public-utility company shall not cease to be such by reason of a lease, directly or indirectly, of part or all of its facilities to any associate company or to any person.

(4) Except to the extent provided in paragraph (d)(1) of this section shall not relieve any company from such other provisions of the Act, and rules and regulations promulgated thereunder, as may be applicable.

(5) Any company specified in paragraph (d)(1) of this section shall file,

or join in the filing of, a certificate on a form prescribed by the Commission, as to each lease within 30 days of its execution. Upon any change in legal or beneficial ownership, such new owner shall file an appropriate amendment within 30 days of such change. If the lease is amended, or if the facility ceases, for any reason, to be subject to the lease, the holder of legal title to the facility shall file an appropriate amendment within 30 days of the event.

§ 259.404 Certificate to be filed pursuant to § 250.7(d) of this chapter.

This form must be filed with the Commission by any lessor or beneficial owner of a utility facility which has been leased by it to an operating public-utility company, within 30 days after execution of the lease, if any beneficial owner of such facility seeks exclusion from the status of an electric or gas utility company under the Act pursuant to § 250.7(d) of this chapter.

All interested persons are invited to submit in writing, in triplicate, their views and comments on the proposed Rule 7(d) to Aaron Levy, Director, Division of Corporate Regulation, Securities and Exchange Commission, Washington, D.C. 20549, on or before February 22, 1973. Such communications should refer to File No. S7-470. All such communications will be available for public inspection.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

JANUARY 9, 1973.

CERTIFICATE PURSUANT TO RULE 7(d)
PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The undersigned certify that this certificate accurately summarizes, as required in the instructions hereto, the information requested as to the lease identified herein and the transactions for the financing thereof.

1. Lessee public-utility company_____
Address _____
2. Date of lease _____
2a. Expected date facility will be placed in service _____
3. Regulatory authority which has acted on transaction: _____
(Name)
_____
(Date of order)
4. Initial term of lease_____
4a. Renewal options_____
5. Brief description of facility_____
_____
_____
_____
6 Manufacturer or supplier_____
7. Cost of facility $_____
8. Basic rent.
Initial term
$_____
8a. Periodic installment
$_____
(Amount)
_____
(Period)
9. Holder of legal title to facility
_____
Address _____
10. Holders of beneficial interests:

Name and address	*Amount invested*	*Percent of equity*

11. If part or all of the financing is supplied by loan on which only principal and a fixed rate of interest is payable, state:

Amount borrowed	Interest rate
Number of lenders	Terms of repayment
	(Amount) (Period)
Date executed	Signature of Holder of legal title

Signatures of Holders of beneficial interests shall be annexed and incorporated herein.

INSTRUCTIONS TO FORM

This form must be filed within 30 days after execution of any lease of a utility facility to an operating public-utility company if any legal or beneficial owners thereof seek exclusion from the status of an electric utility or a gas utility company by reason of Rule 7(d) under the Public Utility Holding Company Act of 1935.

1. In the event the actual purchase of the property to be leased or the contemplated financing has not been completed, estimates or aproximations may be inserted in the form, where appropriate, and the certificate amended within 30 days after the facility has been placed in service. Appropriate amendments are also required within 30 days after (1) a transfer or alteration of any beneficial interest, (2) a change of legal title, (3) amendment of the lease, or (4) termination of the lease for any cause, stating the effective date of termination.

2. The initial term of lease is to be stated in years from the date the facility is delivered to the lessee or the date fixed in the lease for the purpose of computing rent if it does not differ materially from the delivery date. Lessee's obligations to make interim payments prior to delivery may be disregarded if they are equivalent to interest for the delay. Renewal options, if any, should be summarized concisely and remote contingencies may be ignored. For example, "May be extended for two 5-year periods at lessee's election" would be sufficient.

3. The description of the facility should state merely its nature and an indication of its capacity. Such descriptions as the following are sufficient:

Two turbo generators	50,000 kw.
Two LNG storage tanks	100,000 MCF.
Nuclear fuel assembly	

4. The cost of the facility is the cost to the lessors. If the lease specifies a cost, that figure may be used if it does not differ materially from the lessors' total expenditures, including borrowed funds.

5. The term "basic rent" refers to the net rent payable by the lessee, excluding all costs borne directly by it and all reimbursements to the lessor for out-of-pocket costs. If the lease states a basic rent, that amount may be shown if it does not differ materially from the foregoing. If the basic rent defined in the lease is stated in terms of a percentage of cost, the form should show an amount computed by applying that percentage to the cost shown, whether actual or estimated. The rent is to be stated in total for the initial term of the lease, and the amount payable for each periodic installment is also to be stated. If the rent varies from period to period, the installments may be summarized by specifying the period to which each rate applies. For example:

	Semiannually
Years—1 to 10	$_____
Years—11 to 21	_____
Years—22 to 25	_____

6. If the repayment of a loan is by amortization of principal and interest in level installments, the terms of repayment may be described by simply stating the amount of the installment, and its frequency. Variations in the rate may be summarized in the same manner as specified for variations in the basic rent.

7. The term "holder of a beneficial interest" includes any person entitled to receive any portion of the lease rent or to receive the property upon expiration of the lease, except a person entitled only to receive a return of money lent with a fixed rate of interest.

8. Provision is made in the form for showing the interest of each beneficial owner in terms of a percentage of the total equity. In the event beneficial owners do not share on a simple percentage basis, the percentages are to be left blank and a summary of their rights substituted.

9. The certificate is to be executed by the holder of legal title to the facility and by each holder of a beneficial interest. Signature pages may be annexed as required.

[FR Doc.73-1369 Filed 1-22-73;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1972 Rev., Supp. No. 12]

FIRST GENERAL INSURANCE COMPANY

Surety Companies Acceptable on Federal Bonds; Change of Name

Southern General Insurance Company, Philadelphia, Pennsylvania, a Georgia corporation, has formally changed its name to First General Insurance Company, effective October 4, 1972. 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 4, 1972, has been issued by the Secretary of the Treasury to First General Insurance Company, Philadelphia, Pennsylvania, under sections 6 to 13 of title 6 of the United States Code, to replace the Certificate issued July 1, 1972 (37 FR 13599, July 11, 1972) to the Company under its former name, Southern General Insurance Company. The underwriting limitation of $143,000 previously established for the Company remains unchanged.

The change in name of Southern General Insurance Company 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, D.C. 20226.

Dated: January 16, 1973.

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

[FR Doc. 73-1239 Filed 1-22-73; 8:45 am]

DEPARTMENT OF JUSTICE

ADVISORY COMMITTEE MANAGEMENT

Administrative Guidelines and Management Controls

CROSS REFERENCE: For a document issued in conjunction with the Office of Management and Budget regarding administrative guidelines and management control applicable to advisory committees, see FR Doc. 73-1290, Office of Management and Budget, Part III, *infra*.

DEPARTMENT OF THE INTERIOR

National Park Service

[Order No. 2]

ADMINISTRATIVE OFFICER, BRYCE CANYON NATIONAL PARK

Delegation of Authority Regarding Purchasing Authority

SECTION 1 *Administrative Officer.* The Administrative Officer may issue purchase orders not in excess of $2,000 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SECTION 2 *Revocation.* This order supersedes Order No. 1 dated September 8, 1960.

(National Park Service Order No. 66, 36 FR 21218, as amended 37 FR 4001, dated February 25, 1972. Midwest Region Order No. 5, 37 FR 6324, 6875)

Dated: December 19, 1972.

CHARLES A. BUDGE,
Superintendent,
Bryce Canyon National Park.

[FR Doc.73-1264 Filed 1-22-73;8:45 am]

[Order No. 3]

MANAGEMENT ASSISTANT ET AL., NORTH CASCADES NATIONAL PARK

Delegation of Authority Regarding Execution of Contracts for Construction, Supplies, Equipment or Services

SECTION 1. *Management Assistant.* The Management Assistant may execute and approve contracts not in excess of $50,000 for construction, supplies, equipment and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 2. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $25,000 for construction, supplies, equipment and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 3. *Procurement and Property Management Assistant.* The Procurement and Property Assistant may issue purchase orders not in excess of $2,500 for supplies, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 4. *Revocation.* This order supersedes order No. 2 published 35 FR 5564 dated April 3, 1970.

(National Park Service Order No. 66 (36 FR 21218) as amended; 37 FR 4001 dated February 25, 1972; Pacific Northwest Region Order No. 3 (37 FR 6325)

Dated: December 26, 1972.

W. LOWELL WHITE,
Superintendent, North Cascades National Park.

[FR Doc. 73-1265 Filed 1-22-73; 8:45 am]

[Order 3]

ADMINISTRATIVE OFFICER AND GENERAL SUPPLY SPECIALIST

Delegation of Authority Regarding Purchasing Authority

SECTION 1. *Administrative Officer.* The Administrative Officer is authorized to execute, approve and administer contracts not in excess of $25,000 for supplies, equipment or service in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2. *General Supply Specialist.* The General Supply Specialist is authorized to execute, approve and administer contracts not in excess of $10,000 for supplies, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3. *Revocation.* This order supersedes order No. 2, Big Bend National Park, published July 25, 1972 (37 FR 14820).

(NPS Order No. 36 FR 21218 as amended 37 FR 4001, dated February 25, 1972. Southwest Region, Order No. 5, 37 FR 7722)

Dated: December 20, 1972.

J. F. CARITHERS,
Superintendent,
Big Bend National Park.

[FR Doc.73-1266 Filed 1-22-73;8:45 am]

Office of Hearings and Appeals

[Docket No. M 73-23]

EASTERN ASSOCIATED COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

In regard petition of Eastern Associated Coal Corp., for modification of application of mandatory safety standard (sec. 308(b) of Act; and 30 CFR 75.802), Docket No. M 73-23, Kopperston No. 1 Mine et al.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), notice is given that Eastern Associated Corp., 1728 Koppers Building, Pittsburgh, Pa. 15219, has filed on January 9, 1973, a petition to modify

the application of section 308(b) of the Act and 30 CFR 75.802 to its Kopperston No. 1, Keystone Nos. 2, 3, and 4, Federal No. 1, Joanne and Delmont Mines.

Section 308(b) of the Act which is additionally published as § 75.802 of Title 30, Code of Federal Regulations, provides:

(b) High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

Petitioner requests the Secretary to modify the application of the above standard so as to permit it to continue the use of the following electrical system at each of the aforesaid seven coal mines:

* * * [The] surface stationary high-voltage equipment is not provided with a grounding circuit at the grounded side of the resistors in order to serve as a grounding conductor for the frames of such equipment and they do not have a resistance grounded neutral at the power source, but they do have a neutral at the neutral deriving or Zig-Zag transformer.

Petitioner states that the above electrical systems will guarantee no less than the same measure of protection as that provided under the Bureau of Mines' interpretation of the requirements of section 308(b) of the Act.

Parties interested in this petition may request a hearing on the petition or furnish comments on it on or before February 22, 1973. Such request or comments must be filed with the Hearings Division, Office of Hearings and Appeals, Room 1124, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JANUARY 16, 1973.

[FR Doc.73-1354 Filed 1-22-73;8:45 am]

[Docket No. M 73-22]

IMPERIAL COAL CO.

Petition for Modification of Mandatory Safety Standard

In regard petition of the Imperial Coal Co., for modification of mandatory safety standard (30 CFR 75.1100-2(c)(1), Docket No. M 73-22.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 861(c) (1970)), notice is hereby given that the Imperial Coal Co. has filed a petition to modify the application of 30 CFR 75.1100-2(c)(1) to its Eagle Mine.

The portion of the regulation involved provides as follows:

(c) *Haulage tracks.* (1) In mines producing 300 tons of coal or more per shift waterlines shall be installed parallel to all haulage tracks using mechanized equipment in the track or adjacent entry and shall extend to the loading point of each working section. Waterlines shall be equipped with outlet valves at intervals of not more than 500 feet, and 500 feet of firehose with fittings suitable for connection with such waterlines shall be provided at strategic locations. Two portable water cars, readily available, may be used in lieu of waterlines prescribed under this paragraph.

Petitioner proposes to substitute the following for the last sentence in paragraph (c)(1):

Two Tri-Class ABC Dry Chemical extinguishers readily available be used in lieu of waterlines or water cars, each to have the following specifications:

Kiddie 200 ABC-1 (or equivalent). A portable wheeled extinguisher for every class of fire having a capacity of at least 150 pounds of pressurized ammonium phosphate.

Each extinguisher to be mounted on 30-inch steel wheels.

In addition, petitioner proposes to install and maintain an additional fire extinguisher of the same type at each working section, which will also be readily available.

Petitioner asserts that the proposed modification will provide greater safety in several respects. At the high altitude where the Eagle Mine is situated petitioner has experienced severe problems with frozen waterlines; chemicals not subject to freezing would provide greater safety. Also, the use of water in extinguishing electrical or oil and grease fires is more hazardous than the use of chemicals.

Parties interested in this petition may request a hearing on the petition or furnish comments on it on or before February 22, 1973. Such request or comments must be filed with the Office of Hearings and Appeals, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JANUARY 12, 1973.

[FR Doc.73-1366 Filed 1-22-73;8:45 am]

[Docket No. M 73-15]

ISLAND CREEK COAL CO.

Petition for Modification of Mandatory Safety Standard

In regard petition of Island Creek Coal Co., for modification of mandatory safety standard, Docket No. M 73-15.

Take notice that Island Creek Coal Co., Holden, W. Va., has filed a petition to modify sections 303(y)(1), 303(y)(2), and 317(f)(4) of the Federal Coal Mine Health and Safety Act of 1969. These sections provide as follows:

SEC. 303(y)(1). In any coal mine opened after the operative date of this title, the entries used as intake and return aircourses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume percent of methane, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to the operative date of this title which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to permit adequately the coursing of intake or return air through such entries, (1) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate, active working places, and (2) when the belt haulage entries are not necessary to ventilate the active working places, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries and to insure that the air therein shall contain less than 1.0 volume percent of methane.

SEC. 303(y)(2). In any coal mine opened on or after the operative date of this title, or, in the case of a coal mine opened prior to such date, in any new working section of such mine, where trolley haulage systems are maintained and where trolley wires or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake aircourses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

* * * * *

SEC. 317(f)(4). In the case of all coal mines opened on or after the operative date of this title, and in the case of all new working sections opened on or after such date in mines opened prior to such date, the escapeway required by this section to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be extended for a greater or lesser distance so long as such extension does not pose a hazard to the miners.

Island Creek Coal Co. makes the following statement in support of its petition for modification:

* * * This request (petition) is for approval of the four-entry system of (longwall) mining as practiced at our other four deep mines, in this area, and at other mines throughout our industry. * * * We and other people in our industry, have been granted such modifications for other mines, operating under heavy cover, employing the same system (longwall) of mining.

The No. 3 Pocahontas seam lies under 1,200 to 2,800 feet of cover * * *. The coal itself is very friable and the methane liberation is * * * very high as experienced at the other four mines operating, in the seam, in this area. When longwalls start retreating the methane liberation will range from 7 million to 12 million cubic feet per 24 hours. * * * It is essential that high volumes of air be introduced into the mine * * *.

* * * There is serious concern on the part of management, the union and the men that any departure from the four-entry system of developing longwall panels will unnecessarily jeopardize the safety of the men at the Beatrice mine and other such deep mines in this area.

* * * It is understood that this request applies to longwall access entries and to modifications of sections 317(f)(4), 303(y)(1), and 303(y)(2).

Parties interested in this petition shall file their answer or comments and their request for a hearing, if they wish one, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JANUARY 11, 1973.

[FR Doc.73-1365 Filed 1-22-73;8:45 am]

[Docket No. M73-21]

MOUNTAIN TOP COAL CO.

Petition for Modification of Safety Standard

In regard to petition of Mountain Top Coal Co., for modification of application of mandatory safety standards (Sec. 305(m) of the Act; and 30 CFR 75.518), Docket No. M73-21, Orchard Slope Mine.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c)(1970), notice is given that Mountain Top Coal Co., 415 St. Francis Street, Minersville, PA 17954, filed on January 2, 1973, a petition to modify the application of section 305(m) of the Act and § 75.518 of the Secretary's implementing Regulations (30 CFR 75.518) to its Orchard Slope Mine.

Section 305(m) of the Act and § 75.518 of the regulations provide in identical language that:

(m) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

Petitioner requests the Secretary to modify the application of the above-quoted standard so as to permit it to operate without using a circuit breaker in its small mine. Petitioner alleges that its present electrical system is safer, or at the very least as safe, as any circuit breaker on the market for the following reasons. (1) No high voltage "to speak of" is used inside the mine and three-phase electrical power is properly grounded to a 7.5-horsepower pump motor which is situated in the mine apart from the location of working areas. (2) The power lines to the pump are energized only 1 to 1½ hours a day during the wet months of December to March and 20 minutes a day during the months of April to November. (3) All power is entirely disconnected before any work is ever performed on the pump or electric wiring. (4) Petitioner states that its mine is nongassy and water is pumped out of the mine before men enter it and no men enter the mine when the power is on. Fuses are replaced every year and Petitioner has never had an accident of any kind in 23 years of working in the orchard seam.

Petitioner avers that its electrical system affords at least the same measure of protection as that provided by circuit breakers because the pump is not located where men are working, all wiring to the pump is isolated from working and traveling areas, the power lines are not energized while men are in the mine and power for the pump is controlled from the surface.

Petition requests that its petition be given prompt consideration because its operations are confined to a family partnership hiring no employees and the developmental nature of the mine requires elimination of all unnecessary expenditures.

Parties interested in this petition should, on or before February 22, 1973, file their answers or comments with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

JANUARY 15, 1973.

[FR Doc.73-1355 Filed 1-22-73;8:45 am]

Office of the Secretary

[INT FES 73-2]

HAVASU INTAKE CHANNEL, HAVASU PUMPING PLANT, AND BUCKSKIN MOUNTAINS TUNNEL

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Havasu features of the authorized Central Arizona Project, Arizona-New Mexico.

The environmental statement concerns diversion of Colorado River water for the purpose of furnishing municipal, industrial, and irrigation water to the water-deficient areas of Arizona and western New Mexico.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240—Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225—Telephone (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005—Telephone (702) 293-8527.

Arizona Projects Office, Bureau of Reclamation, 135 North Second Avenue, Phoenix, AZ 85003—Telephone (602) 261-3577.

Single copies of the final environmental statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: January 15, 1973.

W. W. LYONS,
Deputy Assistant Secretary
of the Interior.

[FR Doc.73-1359 Filed 1-22-73;8:45 am]

JOINT USE ADMINISTRATIVE OFFICE

Establishment of Office

Notice is hereby given that the Joint Use Administrative Office, a new Bureau of Indian Affairs field office, is established to handle matters related to the joint use land area which is jointly owned by the Navajo and Hopi Tribes. The head of the Office reports directly to the Commissioner of Indian Affairs. The address of the Joint Use Administrative Office is Suite 407, Arizona Bank Building, 125 East Birch Street, Flagstaff, AZ 86001.

CHARLES G. EMLEY,
Deputy Assistant Secretary
of the Interior.

JANUARY 17, 1973.

[FR Doc.73-1348 Filed 1-22-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

WORTH OIL TRANSPORT, INC.

Notice of Filing for Application for Construction-Differential Subsidy for Construction of Oil Tanker

Notice is hereby given that pursuant to title V of the Merchant Marine Act, 1936, as amended, Worth Oil Transport, Inc., filed an application on January 10,

1973 for a construction-differential subsidy to aid in the construction of one oil tanker of 87,000 d.w.t. for use in foreign commerce of the United States.

Interested parties may inspect this application in the Office of the Secretary, Room 3099–B, Maritime Administration, Commerce Department Building, 14th and E Streets NW., Washington, DC 20235.

Dated: January 18, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON Jr.,
Secretary.

[FR Doc.73–1412 Filed 1–22–73;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS COORDINATING AND ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463 and Executive Order 11686, notice is hereby given that the Federal Information Processing Standards Coordinating and Advisory Committee (FIPSCAC) will hold its regular quarterly meeting from 10 a.m. to 1 p.m., on Wednesday, February 7, 1973, in Room B–255, Building 225 of the National Bureau of Standards in Gaithersburg, Md.

The purpose of the meeting is to review the actions of the Federal Information Processing Standards (FIPS) Task Groups and to consider other matters relating to Federal information processing standards.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Office of Information Processing Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (Phone 301–921–3551).

LAWRENCE M. KUSHNER,
Acting Director.

JANUARY 16, 1973.

[FR Doc.73–1257 Filed 1–22–73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

COMMITTEES ON DERMATOLOGY AND ORTHOPEDICS TRAINING GRANTS

Cancellations of Meetings

The following committees will not meet as scheduled in "Notice of Meeting" dated December 12, 1972:

Committee, date, time, and location of meeting
Dermatology Training Grants, January 30, 1973, 9 a.m., Building 31, Conference Room 2.
Orthopedics Training Grants, January 16, 1973, 9 a.m., Westwood Building, Conference Room C.

These meetings have been canceled.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

JANUARY 11, 1973.

[FR Doc.73–1343 Filed 1–22–73;8:45 am]

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization, Functions, and Delegation of Authority

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (35 FR 780, January 20, 1970) is hereby further amended as follows:

Under 5–B, Assistance Payments Administration, delete the Assistance Payments Administration, and all that follows to the Community Services Administration. Insert in lieu thereof the following:

ASSISTANCE PAYMENTS ADMINISTRATION

The mission of the Assistance Payments Administration is to promote leadership in the planning, development, and coordination of those Social and Rehabilitation Service programs which provide for the administrative and financial assistance aspects of public assistance programs under the Social Security Act, as amended. The Assistance Payments Administration has responsibility for programs of assistance for U.S. citizens or nationals returned from foreign countries and welfare planning for refugees and immigrants. The Assistance Payments Administration is administered by a Commissioner under the direction of the Administrator, Social and Rehabilitation Service.

OFFICE OF COMMISSIONER

The Commissioner, with the assistance of the Deputy Commissioner, provides executive direction and leadership to all program activities of the Assistance Payments Administration (APA), in the administration of the maintenance assistance programs.

Advises the Administrator, Social and Rehabilitation Service (SRS), on matters concerning assistance payments activities. Directs the assistance payments activities toward the objective of improved program delivery with adequate safeguards to protect and promote the legal, civil, and human rights of persons served. Coordinates APA objectives and operations with other SRS organizations, and provides professional consultation to the Regional Commissioners and Assistance Payments staff to enhance the delivery of the maintenance assistance program by State and local agencies for persons in economic need. Provides technical consultation through Regional Commissioners and Regional Assistance Payments staff to State and local agencies. Recommends policy and serves as the focal point for preparation of the maintenance assistance budget, and administration of Assistance Payments activities.

Develops the organization, policies, systems and procedures for administrative and structural reform of the income maintenance system.

Administrative Office. Within general guidelines from SRS, provides APA administrative and program support. Provides internal APA administrative services such as duplicating, messenger service, travel services, including preparation and preaudit of travel vouchers; and provides for all APA Central Office Staff personnel placement and recruitment services, facilities, and organization development. Provides APA inputs, control and liaison with SRS service units, such as organization development, personnel, and general services. Responsible for budget execution.

Office of Program Integrity. Plans and conducts special audits and investigations of any description as may be requested by the Commissioner, and management initiatives to maintain program integrity through alert and positive actions to avert and/or minimize the causes which bring criticism to the Federal-State administration of public assistance programs. Reviews State central fraud unit reports for trends and evidence of State activity and provides technical assistance to State fraud units on the proper and effective handling of fraud cases.

Provides liaison with States on matters relating to locating absent parents, obtaining support payments, fraud and related subjects.

Repatriate and Refugee Program Office. Carries out the Commissioner's delegated responsibility to operate three special Federal programs financed entirely with Federal funds, which provide financial assistance, hospital care and other services to mentally ill nationals and U.S. citizens repatriated from foreign countries (Public Law 86–571 and section 1113, Social Security Act), and to Cuban refugees (Public Law 87–510).

Develops program objectives and the implementing policies and procedures for application by State and local public welfare agencies which administer the programs in behalf of DHEW. Responsible for day to day program operation, and supervises regional office staff which works with State and local agencies. Approves claims for reimbursement of State expenditures. Maintains data on social characteristics of repatriates assisted by States for use in program planning, budget estimates, and reports.

Coordinates the return of nationals and citizens with the Office of Special Consular Services, U.S. Department of State, and the reception of Cuban refugees with that Office and the SRS Cuban Repatriate Program Staff.

Office of Public Information and Inquiries. Plans, directs, and coordinates the public affairs program for APA and serves as focal point for the Commissioner on public affairs and public relations aspects of APA programs.

OFFICE OF ASSOCIATE COMMISSIONER FOR PLANNING AND EVALUATION

Provides leadership and coordination for program planning and evaluation. Develops plans for structural reform of the nation's income maintenance system serving as the focal point within SRS and the Department for welfare reform planning.

Responsible for quality control planning and conduct in the State Public Assistance program to insure that accurate and timely

payments are made to those entitled to assistance and that the program is administered fairly and efficiently.

Responsible for program planning and budgeting, cost estimating and analysis, and research and evaluation of the income maintenance program.

Division of Program Evaluation and Planning. Responsible for long-range income maintenance program planning, recommending objectives, and devising proposed program strategies; directs and coordinates program planning and participates in planning legislation and regulations. Develops a basic research framework and formulates research strategy; designs demonstrations, surveys, and case studies to elicit new information. Obtains data from National Center for Social Statistics, Regional Offices, and other sources and arranges data in formats to facilitate analysis; analyzes trends in program operations; prepares cost estimates and justifications for projecting workloads, and cost of activities under existing law. Provides input to SRS for budget planning and formulation, for APA programs. Evaluates program operations including developing of models for analysis of basic evaluation strategy, providing analytical and review materials relating to research findings, and feedback of information for use by managers to revise procedures or restate objectives or reformulate strategies.

Division of Quality Control. Directs the planning and implementation of the quality control systems of State income maintenance programs. Insures that the quality control review program evaluates the accuracy and effectiveness of State and beneficiary compliance with Federal program policies and standards. Directs the analysis of statistical and other operating data on quality control to determine trends and other information for quality control system evaluation. Provides leadership in reviewing and assessing, in coordination with regional offices, the effectiveness of State quality control systems.

Establishes and maintains the Federal monitoring system of State quality control operations.

Evaluates the performance of regional monitoring of State quality control systems.

Directs and coordinates the provision of consultation and technical assistance on quality control systems.

Division of Operational Planning. Develops plans for structural reform of the nation's income maintenance system. Serves as the focal point within the Social and Rehabilitation Service and the Department for welfare reform planning. Develops alternative models for reform of the structure and administration of the delivery system for cash assistance. Advises the Commissioner of the Assistance Payments Administration, the Administrator of the Social and Rehabilitation Service and officials in the Office of the Secretary with respect to the administrative implications of reform proposals. Plans specific implementing steps to carry out welfare reform including organizational proposals, staffing patterns, facilities, costs, regulations, policy materials methods and procedures for all.

OFFICE OF ASSOCIATE COMMISSIONER FOR PROGRAM MANAGEMENT

Responsible for the administration, operation and coordination of the income maintenance program. Insures that necessary policy requirements for the program are appropriate and in consonance with the laws and Departmental policies. Responsible for the preparation of standards to be used by States in determining amounts of assistance grants and other guidance materials for eligibility determination, standards for staffing, organizing, and devising systems and methods for efficient, effective, and economical administration of the program. Coordinates Assistance Payments Administration contacts with Regional Offices and State agencies as required to provide technical assistance. Coordinates actions initiated by the Regional Offices for State compliance with Federal program requirements. Maintains current information on the income maintenance program characteristics for each State.

Division of State Systems Management. Develops policy and standards for the guidance of States in the organization and administration of the income maintenance program, including financing and fiscal management, personnel administration, automatic data processing, office layout and work flow, forms design, work measurement and other management tools. Develops and promotes programs for State income maintenance staffs for the implementation of new administrative policies and procedures. Participates with the Regional Offices in the review of State operations as required. Provides technical assistance to the Regional Offices and coordinates on individual State problems.

Division of Program Implementation and Review. Provides instructions, guidelines, and technical assistance to the regions in monitoring and review of State administration of the income maintenance programs. Responsible for APA activities relating to the compliance process, maintenance, and publication of the characteristics of the State income maintenance programs and maintains the official State plans governing the conduct of these programs. Performs special studies of administrative practices as required. Analyzes program review findings for program development and planning. Monitors regional offices activity in the performance of priority objectives. Serves as the focal point in APA for interchange of information, instructions, reports. Provides or manages technical assistance to the Regions and coordinates on individual state problems.

Division of Income and Resources. Formulates interpretations, policies, standards, and procedures on provisions of the Social Security Act concerned with need and assistance payments to eligible individuals. Areas of work include: Definition of "needy" and "medically indigent"; utilization and conservation of income and resources; need determination and the related money payment; methods for training mothers of dependent children in child-care and homemaking skills; program definitions and levels in State general assistance programs; development of a national budget standard applicable for assistance administration. Provides technical assistance to regions and States. Provides consultation and maintains liaison within the Department and with other national public and voluntary agencies and organizations in these areas.

Division of Program Payment Standards. Formulates Federal regulations, policies, and standards and procedures to promote the improvement of the assistance payments aspects of the public welfare programs. Enables the APA to provide leadership in the assistance payments programs including the establishment of the definition of the eligibility factors that determine the scope of program coverage and the realization and protection of the rights of applicants and recipients. Provides technical assistance to and advice to other APA staff. Develops recommended public assistance legislative objectives; initiates recommendations for Federal legislation and evaluates proposals made elsewhere. Provides liaison with other Federal agencies and voluntary organizations in these assigned areas.

Dated: December 19, 1972.

JOHN G. VENEMAN,
Under Secretary.

[FR Doc.73-1312 Filed 1-22-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-382]

LOUISIANA POWER & LIGHT CO.

Notice of Adjourned Session of Prehearing Conference

In the matter of Louisiana Power & Light Co. (Waterford Steam Electric Station Unit 3), Docket No. 50-382.

Please take notice that an adjourned session of the prehearing conference in this proceeding, to consider the subjects identified in the notice and order for prehearing conference dated November 16, 1972, and published in the FEDERAL REGISTER, on Tuesday, November 21, 1972, at volume 37, page 24777, will be held pursuant to §§ 2.751a and 2.752 of the rules of practice of the Atomic Energy Commission (vol. 10, Code of Federal Regulations, Part 2) at 10 a.m. local time on February 16, 1973, at Room 265, U.S. Court of Appeals, 600 Camp Street, New Orleans, LA.

Members of the public are invited to attend this prehearing conference and any later prehearing conferences, as well as the evidentiary hearing to be held at a later date to be fixed by the atomic safety and licensing board.

The prehearing conference will be limited to the purposes specified, in preparation for the later evidentiary hearing. No evidence will be received at this pre-hearing conference, nor will there be an opportunity at the pre-hearing conference to present statements by members of the public who wish to make limited appearances for that purpose. Applications for permission to make limited appearances for the purpose of making such statements will be ruled upon by the atomic safety and licensing board at the evidentiary hearing to be held later.

The attention of counsel is directed to the provisions of the notice and order of November 16, 1972, concerning informal conferences to expedite the proceeding.

Dated this 17th day of January 1973, at Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
SIDNEY G. KINGSLEY,
Chairman.

[FR Doc.73-1364 Filed 1-22-73;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revoked on November 13, 1972, the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of the Director, Office of Business Research and Analysis, Domestic and International Business, Bureau of Domestic Commerce.

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

[FR Doc.73-1377 Filed 1-22-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority to Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revoked on December 4, 1972, the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Assistant Commissioner for Property Improvement, Office, Assistant Secretary for Housing Production, Federal Housing Administration.

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

[FR Doc.73-1378 Filed 1-22-73;8:45 am]

DEPARTMENT OF TREASURY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorized on December 14, 1972, the Department of Treasury to fill by noncareer executive assignment in the excepted service the position of Tax Counsel to the Assistant Secretary for Tax Policy, Office of the Secretary.

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

[FR Doc.73-1382 Filed 1-22-73;8:45 am]

DEPARTMENT OF THE TREASURY

Notice of Title Change in Noncareer Executive Assignment

By notice of June 29, 1972, FR Doc. 72-9873 the Civil Service Commission authorized the Department of the Treasury to make a change in title for the position of Executive Assistant, authorized to be filled by noncareer executive assignment. This is notice that on December 5, 1972, the title of this position was changed to Executive Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.73-1383 Filed 1-22-73;8:45 am]

FEDERAL HOME LOAN BANK BOARD

Notice of Title Change in Noncareer Executive Assignment

By notice of June 5, 1970, FR Doc. 70-7002 the Civil Service Commission authorized the Federal Home Loan Bank Board to make a change in title for the position of Director, Office of System Finance and Bank Operations, authorized to be filled by noncareer executive assignment. This is notice that on November 13, 1972, the title of this position was changed to Director, Office of Federal Home Loan Banks.

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

[FR Doc.73-1381 Filed 1-22-73;8:45 am]

INTER-AMERICAN FOUNDATION

Notice of Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revoked on December 13, 1972, the authority of the Inter-American Foundation to fill by noncareer executive assignment in the excepted service the position of Director of Programs, Office of Programs.

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

[FR Doc.73-1380 Filed 1-22-73;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

Notice of Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revoked on November 20, 1972, the authority of the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Assistant to the Economist, Office of the Director.

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

[FR Doc.73-1379 Filed 1-22-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 631]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JANUARY 15, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

4940-C2-P-73—King Communications, Inc. (KQD310), for additional facilities to operate on 454.050 MHz at location No. 3: 1464 Tarman, Essexville, Mich.

4944-C2-P-73—Joplin Mobilfone Service, Inc. (New), for a new one-way station to operate on 152.24 MHz at 3601 East 20th Street, Joplin, MO.

4945-C2-P-73—Answer, Inc., of San Antonio (New), for a new one-way station to operate on 35.58 MHz at the KWEX-TV Tower, 111 Martinez Street, San Antonio, TX.

4957-C2-P-73—Xavier W. Nady (KLF620), replace transmitter operating on 152.24 MHz, change the antenna system and relocate facilities near the Pierce-King County line, Tacoma, Wash.

4958-C2-TC-73—Contact of Farmington, Inc., consent to transfer of control from Carl Ogden, Transferor, to Robert L. Wolfe, Transferee. Station: KKO346 Farmington, N. Mex.

4959-C2-MP-73—General Telephone Company of the Northwest, Inc. (KTS244), change the base frequency to 454.575 MHz at 13013 Northeast 65th Street, Kirkland, WA.

4960-C2-AL-73—New Jersey Exchanges, Inc., consent to assignment of license from New Jersey Exchanges, Inc., Assignor to Radiofone Corporation of New Jersey, Assignee Station: KEC739 Hawthorne, N.J.

4961-C2-P-73—Rapid Answering Service (KSV900), for additional facilities to operate on 152.03 MHz at 1110 Fuller Street, Big Rapids, MI.

4980-C2-AL-73—Pacific Power & Light Co., consent to assignment of license from Pacific Power & Light Co., Assignor to Northwestern Telephone System, Inc., Assignee. Station: KFL914.

4982-C2-P-73—Mobilphone of Kansas (New), for a new one-way station to operate on 152.24 MHz at 1101 Kansas Street, Great Bend, KS.

4983-C2-P-73—Zipcall (KCB890), for additional facilities to operate on 2178 MHz control at 111 Perkins Street, Boston, MA, location No. 10.

4984-C2-P-73—Orange County Radiotelephone Service, Inc. (KMB304), change the antenna system and relocate facilities operating on 454.35 MHz to 3.5 miles east of Newport Beach, Signal Peak, Calif.

5033-C2-P-73—New England Telephone & Telegraph Co. (KCA207), for additional facilities to operate on 454.625 MHz at Silver Hill, Observatory Avenue, Haverhill, Mass.

5034-C2-P-73—Radio Paging & Telephone Answering Service of Charlotte (KIM905), to relocate facilities operating on 35.22 MHz at 300 South College Street, Charlotte, NC.

5036-C2-P-73—Autophone of San Antonio (New), for a new one-way station to operate on 35.22 MHz at 700 East Hildebrand, San Antonio, TX.

5037-C2-P-73—Mountain States Telephone & Telegraph Co. (KKI458), replace test transmitter operating on 157.77, 157.83, 157.89, 157.95, 158.01, and 158.07 MHz at 120 Fourth Street, Northwest Albuquerque, NM.

5038-C2-P-(2)-73—Northwestern Bell Telephone Co. (KAQ605), replace transmitters operating on 152.63 and 152.75 MHz, change the antenna system and relocate facilities to 125 South Dakota Avenue, Sioux Falls, SD.

5046-C2-P-73—Rad Com Electronics, Inc. (New), for a new two-way station to operate on 152.12 MHz at Tumwater Hill, approximately 15 miles west-southwest of Olympia, Wash.

5050-C2-P-(2)-73—Mobile Radio Telephone Service, Inc. (New), for a new two-way station to operate on 454.275 and 454.300 MHz near Manitou Springs, Cheyenne Mountain, CO.

5051-C2-P-73—Empire Communications Co. (KFL955), for additional facilities to operate on 152.21 MHz 0.7 mile northwest on Awbrey Butte, Bend, Oreg.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

5052-C2-P-73—Beep Communications Systems, Inc. (KEA255), for additional facilities to operate on 152.03 MHz at a new site described as location No. 2: West Gate Drive, Huntington, N.Y.

5063-C2-P-73—Auto Phone Service (KIY508), replace transmitter and change the antenna system operating on 35.22 MHz at the Cherry Plaza Hotel, Central Avenue and Eola Street, Orlando, Fla.

5054-C2-P/ML-73—South Central Bell Telephone Co. (KLF514), for additional facilities to operate on 152.84 and 158.10 MHz utilizing five (5) units in any temporary location within the States of Alabama, Kentucky, Louisiana, Mississippi, and Tennessee.

Major Amendment

7538-C2-P-(2)-72—Delaware Mobile Telephone Co. (New), amend to include request to add additional frequencies: 454.125 and 454.325 MHz at 0.2 mile southwest of Main Street, Woodside, Del. For other particulars see Report No. 601, dated June 19, 1973.

RURAL RADIO SERVICE

5047-C1-P-73—Mountain States Telephone & Telegraph Co. (KYS24), replace transmitter operating on 157.77 MHz and add frequency 158.01 MHz at Timber Range Station, 22.4 miles northeast of Pine, Ariz.

4958-C1-TC-73—Contact of Farmington, consent to transfer of control from Carl Ogden, transferor, to Robert L. Wolfe, Transferee. Station: KLC45 Temp-Fixed.

POINT-TO-POINT MICROWAVE RADIO SERVICE

(Informative: Nebraska Consolidated Communications Corp. has filed applications for four new stations. These applications are part of NCCC's specialized system between St. George, Mo., and Atlanta, Ga.)

4883-C1-P-73—Nebraska Consolidated Communications Corp. (New), Signal Mountain, 4.1 miles northwest of Westover, Ala. Latitude 33°23'44" N., longitude 86°35'02" W. Frequencies 6226.9H to Talladega, Ala., azimuth 79°53' and 6226.9V to Hopkins, Ala., azimuth 281°01'.

4884-C1-P-73—Same (New), 1.8 miles north of Talladega, Ala. Latitude 33°27'51" N., longitude 86°07'16" W. Frequencies 5974.8H to Heflin, Ala., azimuth 64°02' and 5974.8V to Signal Mountain, Ala., azimuth 260°08'.

4885-C1-P-73—Same (New), 2.1 miles northwest of Heflin, Ala. Latitude 33°40'02" N., longitude 85°37'10" W. Frequencies 6226.9H to Buchanan, Ga., azimuth 70°31' and 6226.9V to Talladega, Ala., azimuth 244°18'.

4886-C1-P-73—Same (New), 1.4 miles east of Buchanan, Ga. Latitude 33°47'58" N., longitude 85°10'08" W. Frequencies 5974.8V to Douglasville, Ga., azimuth 99°42' and 5974.8H to Heflin, Ala., azimuth 250°46'.

4887-C1-MP-73—Same (WOI42), 2 miles west-northwest of Theon, Tex. Latitude 30°45'24" N., longitude 97°37'53" W. Modification C.P. to change frequency 5982.3H to 5974.8V toward Austin, Tex., azimuth 205°13'.

4888-C1-MP-73—Same (WOI43), Modification C.P. to relocate station to 5.2 miles west of Austin, Tex. Latitude 30°18'54" N., longitude 97°52'16" W. Change frequencies 6226.9V to 6345.5H toward Bastrop, Tex., azimuth 110°54' and 6226.9H to 6345.5H toward Theon, Tex., azimuth 25°06'. Change azimuth of frequency 6226.9H toward San Marcos, Tex. to 195°36'.

4889-C1-MP-73—Same (WOI44), 1 mile northeast of Bastrop, Tex. Latitude 30°07'30" N., longitude 97°18'09" W. Modification C.P. to change frequency 5974.8H to 6093.5H toward Austin, Tex., azimuth 291°11'.

4890-C1-MP-73—Same (WOI49), northwest city limits of San Marcos, Tex. Latitude 29°-54'24" N., longitude 98°00'07" W. Modification C.P. to change frequency 5945.2V to 6034.2H toward Austin, Tex., azimuth 15°32'.

4891-C1-MP-73—Same (WOH95), 1.5 miles west-southwest of St. George, Mo. Latitude 37°-22'26" N., longitude 92°28'14" W. Modification of C.P. to add frequency 6226.9V to Mountain Grove, Mo., azimuth 138°13'.

4946-C1-P-73—New England Telephone & Telegraph Co. (KCL54), 185 Franklin Street, Boston, MA. Latitude 42°21'20" N., longitude 71°03'21" W. C.P. to add frequency 6345.5H MHz toward Marshfield, Mass.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4947-C1-P-73—Same (KVH81), 0.9 mile south-southeast of Marshfield Hills, Marshfield, Mass. Latitude 42°08'01" N., longitude 70°43'59" W. C.P. to add frequency 6093.5V MHz toward Boston, Mass.; frequency 6093.5H MHz toward Plymouth, Mass.

4948-C1-P-73—Same (New), Seven Hills Road, Plymouth, Mass. Latitude 41°56'36" N., longitude 70°42'07" W. C.P. for a new station on frequency 6345.5V MHz toward Marshfield, Mass.; frequency 6345.5H MHz toward Barnstable, Mass.

4949-C1-P-73—Same (KCA75), 3 miles west-southwest of Barnstable, Mass. Latitude 41°40'57" N., longitude 70°21'17" W. C.P. to add frequency 6093.5V MHz toward Plymouth, Mass.

4950-C1-P-73—Southwestern Bell Telephone Co. (KKZ85), Avenue I and 25th Street, Galveston, Tex. Latitude 29°18'03" N., longitude 94°47'38" W. C.P. to replace transmitter on frequencies 6004.5V and 6123.1V MHz toward Port Bolivar, Tex.

4951-C1-P-73—Same (KKZ86), Nelson Street near 15th Street, Port Bolivar, Tex. Latitude 29°22'54" N., longitude 94°45'51" W. C.P. to replace transmitter and correct azimuth on frequencies 6286.2V and 6404.8V MHz toward Galveston, Tex.

4952-C1-P-73—American Telephone & Telegraph Co. (KCM82), 1.6 miles south of Littleton, Mass. Latitude 42°31'29" N., longitude 71°27'49" W. C.P. to add frequency 4050H MHz toward Chester, N.H.

4953-C1-P-73—Same (KCB79), 2.6 miles southeast of Chester, N.H. Latitude 42°55'18" N., longitude 71°13'34" W. C.P. to add frequency 4090H MHz toward Littleton, Mass.; frequency 3990H MHz toward Sanford, Maine.

4954-C1-P-73—Same (KCB80), 2 miles southwest of Sanford, Maine. Latitude 43°25'14" N., longitude 70°48'12" W. C.P. to add frequency 3950H MHz toward Chester, N.H.; frequency 3950H MHz toward Portland, Maine.

4955-C1-P-73—Same (KCB81), 45 Forest Avenue, Portland, ME. Latitude 43°39'21" N., longitude 70°15'52" W. C.P. to add frequency 3990H MHz toward Sanford, Maine.

4956-C1-P/L-73—Southern Bell Telephone & Telegraph Co. (WPF99), 1909 Wynnton Road, Columbus, GA. Latitude 32°28'06" N., longitude 84°57'59" W. C.P. for a new station on frequency 10,755H MHz toward WYEA-TV, Columbus, Ga.

4981-C1-AL-(T)-73—Pacific Power & Light Co. Application for consent to assignment from the stockholders of Pacific Power & Light Co., assignors to Northwestern Telephone Systems, Inc., assignees for stations: KKU21: La Salle, Mont.; KPE24: Hell Roaring Mountain, Mont.; KPE25: Kalispell, Mont.; KPG94: south of Kalispell, Mont.; KXQ81: Whitefish, Mont.; WBO53: Columbia Falls, Mont.; WIV81: Polson, Mont.

4985-C1-P-73—The Mountain States Telephone & Telegraph Co. (New), 17.5 miles east-northeast of Sells, Kitt Peak National Observatory, Ariz. Latitude 31°57'42" N., longitude 111°35'59" W. C.P. for a new station on frequency 6390.0V MHz toward Tumamoc Hill, Ariz.

4986-C1-P-73—Same (New), Tumamoc Hill, 1.5 miles west of Tucson, Ariz. Latitude 32°12'51" N., longitude 111°00'18" W. C.P. for a new station on frequency 6137.9V MHz toward Kitt Peak, Ariz.

4933-C1-ML-73—American Telephone & Telegraph Co. (KGJ35), Lewistown, 5.5 miles southwest of Thurmont, Md. Latitude 39°34'34" N., longitude 77°29'17" W. Modification of license to change polarization from H to V on frequencies 3750V, 3830V, 3910V, 3990V, 4070V, and 4150V MHz toward Monrovia, Md.

4934-C1-ML-73—Same (KGN99), Monrovia, 7.5 miles southeast of Frederick, Md. Latitude 39°20'55" N., longitude 77°16'51" W. Modification of license to change polarization from H to V on frequencies 3750V, 3830V, 3910V, 3990V, 4070V, and 4150V MHz toward Monrovia, Md.

4937-C1-ML-73—Same (KGA26), Wyndmoor, Springfield Township, Pa. Latitude 40°05'02" N., longitude 75°11'19" W. Modification of license to change polarization from V to H on frequencies 6197.2H and 6375.2H MHz toward Finland, Pa.; frequencies 6197.2H and 6375.2H MHz toward Philadelphia, Pa.

3171-C1-R-73—General Telephone Co. of California (KZI31), in any temporary fixed location within the territory of the grantee. Application for renewal of radio station for term: April 1, 1973, to April 1, 1974.

5031-C1-P-73—Western Carolina Telephone Co. (New), Spring Street, Highlands, N.C. Latitude 35°30'11" N., longitude 83°12'03" W. C.P. for a new station on frequencies 6286.2H and 6404.8H MHz toward Cowee Bald, N.C., via passive reflector.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

5032-C1-P-73—Same (KIW86), Cowee Bald, N.C. Latitude 35°19'36" N., longitude 83°20'07" W. C.P. to add frequencies 6034.2H and 6152.8H MHz toward Highlands, N.C., via passive reflector.

5035-C1-ML-73—Illinois Bell Telephone Co. (KSO96), 2.6 miles south-southwest of Delavan, Ill. Latitude 40°20'11" N., longitude 89°33'24" W. Modification of license to change polarization from V to H on frequencies 4070H, 4150H, and 3750H MHz toward Sunnyland, Ill.

5039-C1-P-73—American Telephone & Telegraph Co. (KZA40), 1.8 miles west of Rosenberg, Tex. Latitude 29°33'15" N., longitude 95°50'41" W. C.P. to add frequencies 6286.2H and 6404.8H MHz toward Arcola, Tex.

5040-C1-P-73—Same (KZA41), 2.1 miles northwest of Arcola, Tex. Latitude 29°31'31" N., longitude 95°29'02" W. C.P. to add frequencies 6034.2V and 6152.8V MHz toward Rosenberg, Tex.; frequencies 6034.2H and 6152.8H MHz toward Houston, Tex.

5041-C1-P-73—American Telephone & Telegraph Co. (New), West Main Street and Wesleyan Avenue, Houston, Tex. Latitude 29°44'09" N., longitude 95°26'27" W. C.P. for a new station on frequencies 6286.2V and 6404.8V MHz toward Arcola, Tex.

5042-C1-P-73—The Mountain States Telephone & Telegraph Co. (WBO95), 1510 North Park Avenue, Park City, UT. Latitude 40°39'22" N., longitude 111°30'18" W. C.P. to add frequencies 11,405H and 11,645V MHz toward Heber City, Utah, via passive reflector.

5043-C1-P-73—Same (New), 145 West Center Street, Heber City, Utah. Latitude 40°30'26" N., longitude 111°24'54" W. C.P. for a new station on frequencies 10,715V and 10,955H MHz toward Park City, Utah, via passive reflector.

5045-C1-P-73—Southwestern Bell Telephone Co. (KKB37), 1116 Houston Street, Fort Worth, Tex. Latitude 32°44'57" N., longitude 97°19'31" W. C.P. to add frequency 4110.0V MHz toward Roanoke, Tex.

5048-C1-P-73—United Telephone Company of the Carolinas, Inc. (KJH37), Lobeco, S.C. Latitude 32°33'17" N., longitude 80°44'59" W. C.P. to add frequency 6345.5V MHz toward Beaufort, S.C.

8288-C1-P-72—Nebraska Consolidated Communications Corp. (New), resubmitted: C.P. for a new fixed station at Omaha, Nebr. Latitude 41°15'28" N., longitude 95°56'24" W. Frequencies 6226.9H, 6286.2H, 6345.9H, 6404.8H, and 6375.2V MHz toward Magnolia, Iowa on azimuth 5°30'.

8290-C1-P-72—Same (New), resubmitted: C.P. for a new fixed station 4 miles west of Decatur, Nebr. Latitude 42°00'32" N., longitude 96°21'15" W. Frequencies 6226.9V, 6286.2V, 6345.5V, 6404.8V, and 6375.2H MHz toward Sioux City, Iowa, on azimuth 351°54'; frequencies 6226.9V and 6286.2V MHz toward Magnolia, Iowa, on azimuth 129°08'.

8289-C1-P-72—Same (New), resubmitted: C.P. for a new fixed station 1.5 miles north-northwest of Magnolia, Iowa. Latitude 41°43'09" N., longitude 95°52'50" W. Frequencies 5945.2V, 6004.5V, 6063.8V, 6123.1V, and 6152.8H MHz toward Decatur, Nebr., on azimuth 309°27'; frequencies 6004.5H and 6063.5H MHz toward Omaha, Nebr., on azimuth 185°33'.

8291-C1-P-72—Same (New), resubmitted: C.P. for a new fixed station 0.5 mile northeast of War Eagle Park, Sioux City, Iowa. Latitude 42°29'51" N., longitude 96°26'53" W. Frequencies 6049.0H, 6108.3H, and 6167.6H MHz toward Vermillion, S. Dak., on azimuth 316°25'; frequencies 5945.2V and 6004.5V toward Decatur, Nebr. on azimuth 171°50'; frequency 10,775H MHz toward Sioux City, Iowa, on azimuth 91°01'; frequency 11,015H MHz toward Sioux City, Iowa, on azimuth 89°35'; frequency 11,175H MHz toward Sioux City, Iowa, on azimuth 82°56'.

8292-C1-P-72—Nebraska Consolidated Communications Corp. (New), resubmitted: C.P. for a new fixed station 5.5 miles east of Vermillion, S. Dak. Latitude 42°47'08" N., longitude 96°49'16" W. Frequency 6197.2V, 6315.9V, and 6375.2V MHz toward Beresford, S. Dak., on azimuth 6°14'.

8293-C1-P-72—Same (New), resubmitted: C.P. for a new fixed station 5.5 miles north of Beresford, S. Dak. Latitude 43°09'49" N., longitude 96°45'53" W. Frequency 6034.2H, 6093.5H, and 6152.8H MHz toward Sioux Falls, S. Dak., on azimuth 3°48'.

8294-C1-P-72—Same (New), resubmitted: C.P. for a new fixed station 0.35 mile south of Sioux Falls, S. Dak. Latitude 43°29'20" N., longitude 96°44'06" W. Frequency 1166.5H MHz toward Sioux Falls, S. Dak., on azimuth 3°30'; frequency 1142.5H MHz toward Sioux Falls, S. Dak., on azimuth 3°45'; frequency 6226.9H MHz toward Mitchell, S. Dak., on azimuth 287° 24'.

Correction

The following application should have appeared on Public Notice No. 623, dated November 20, 1972.

3227-C1-ML-73—Pacific Northwest Bell Telephone Co. (KOC65), 819 Southwest Oak Street, Portland, OR. Latitude 45°31'22" N., longitude 122°40'42" W. Modification of license to change polarization from H to V on frequencies 3770V and 3850V MHz toward Sentinel Hill, Oreg.

MULTIPOINT DISTRIBUTION SERVICE

INFORMATIVE: Consistent with the Commission's ruling in Midwest Corporation *et al.*, FCC 73-1 (released January 5, 1973), applicants in the Multipoint Distribution Service proposing interstate communications service are not required, for FCC purposes, to submit a copy of any state certification necessary to the provision of intrastate service. However, applicants proposing only intrastate services must include in their applications a copy of any such certificate that may be required pursuant to rule section 21.15(c)(4). Unless a proposal is clearly interstate in nature (e.g. the service area extends across a staate boundary), it will be considered solely intrastate absent information on interstate service, including the method by which it will be accomplished. Pending applications should be amended to reflect this information as appropriate.

5030-C5-P-73—Electro-Media Multipoint Service, Inc. (New), Arlington Towers, 100 Arlington Avnue, Reno, NV. C.P. for a new station on frequencies 2154.75 (Visual) 2150.25 (Aural). (Primary Service Area: Reno, Nev.)

5055-C5-73—H. L. Woodbury (New), Texas Building at intersection of Locust and Oak Streets, Denton, Tex. Latitude 33°12'56" N., longitude 97°07'55" W. C.P. for a new station on frequencies 2154.75 (Visual) 2150.25 (Aural). (Primary Service Area: Denton, Tex.)

5056-C5-P-73—Midwest Corp. (New), 3522 East 112th Street, Tacoma, WA. Latitude 47°9'15" N., longitude 122°22'41" W. C.P. for a new station on frequencies 2154.75 (Visual) 2150.25 (Aural). (Primary Service Area: Tacoma, Wash.)

Informative

It appears that the following applications may be mutually exclusive subject to the Commission's rules regarding ex parte presentations, reasons of potential electrical interference.

NEVADA—Reno

A. Michael Lipper, (New), 3465-C5-P-73—Electro-Media Multipoint Service, Inc. (New), 5030-C5-P-73.

WASHINGTON—Tacoma

Howard S. Klotz & William Corbus (New), 4475-C5-P-73—Midwest Corp. (New), 5056-C5-P-73.

SUBMARINE CABLE LANDING SERVICE

S-C-L-46-1—ITT World Communications, Inc., for a license to land and operate in Hawaii and Guam, jointly with other carriers, a submarine cable between Hawaii and Okinawa.

S-C-L-46-2—RCA Global Communications, Inc., for a license to land and operate in Hawaii and Guam the Transpac-2 submarine cable between Hawaii and Okinawa.

S-C-L-46-3—Western Union International, Inc, for a joint license to land and operate a submarine cable in Hawaii and Guam which will extend between Hawaii and Okinawa via Guam.

APPLICATIONS FILED PURSUANT TO SECTION 214 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Telephone Wire Facilities

P-C-8520—General Telephone Company of Upstate New York, Inc., Informal (Section 63.03) for authority to supplement existing facilities to meet normal toll and special growth at various locations in New York and Pennsylvania.

P-C-8521—The Mountain States Telephone & Telegraph Co., Informal (Section 63.03) for authority to supplement facilities in Arizona, Colorado, Montana, Utah, and Wyoming.

P-C-8522—Delaware Valley Telephone Co., Informal (Section 63.03) for authority to supplement existing facilities to meet normal toll and special growth at various locations in New York and Pennsylvania.

Telephone Wire Facilities—Continued

P-C-8523—Northwestern Bell Telephone Co., Informal (Section 63.03) for authority to supplement existing facilities between Clarinda, Iowa, and Omaha, Nebr.

P-C-7435-2—Hawaiian Telephone Co., Formal (Section 63.01) for authority to acquire from Communications Satellite Corp. and to operate a channel between an appropriate satellite over the Pacific Ocean for use in providing a high speed digital data transmission and reception service between Hawaii and the United States Mainland.

Telegraph Wire Facilities

T-C-1745-1-M—The French Telegraph Cable Co., Formal (Section 63.01) for authority to shorten and simplify the customer's route (FTCC) by eliminating the cross-channel link.

T-C-2530—RCA Global Communications, Inc., Formal (Section 63.01) for authority to participate in the construction and operation of the Transpac-2 submarine cable system between the Island of Oahu in the State of Hawaii and the Island of Okinawa via the Island of Guam.

T-C-2531—Western Union International, Inc., Formal (Section 63.01) for authority to provide experimental international Telepost service from the gateway cities of New York, San Francisco, and Washington, on the one hand, to Argentina, Brazil, Indonesia, and Venezuela on the other hand.

T-C-2532—Western Union International, Inc., Formal (Section 63.01) for authority to participate in the construction and operation of a submarine cable between Hawaii and Okinawa via Guam.

T-C-2533—ITT World Communications, Inc., Formal (Section 63.01) for authority to participate in the construction and operation of a deep sea submarine cable system between Hawaii and Okinawa via Guam.

T-C-2534—Domsat Corp., Formal (Section 63.01) for authority to lease and to operate facilities to extend Lettergram Service between the United States Mainland and Hawaii, and to construct a message switching center in Honolulu, Hawaii.

Corrections

T-C-2462-2—TRT Telecommunications Corp. Correct File No. to read: T-C-2462-3. See Report No. 625, dated December 4, 1972.

In Report No. 627, dated December 18, 1972, under Telegraph Wire Facilities, delete the correction.

T-C-2469-1—TRT Telecommunications Corp. Correct File No. to read: T-C-2462-4 and correct entry to read: Formal (Section 63.01) for authority to lease and to operate a satellite telegraph-grade circuit to institute direct telex service between the United States and Peru and points beyond. This Application was accompanied by a petition for reallocation of one satellite telegraph circuit and one satellite voice circuit to Peru. Comments on said petition may be filed no later than the date of filing comments on the accompanying application.

[FR Doc.73-1224 Filed 1-22-73;8:45 am]

FEDERAL MARITIME COMMISSION

FARRELL LINES, INC., AND ZIM ISRAEL NAVIGATION CO., LTD.

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:

Mr. Hans Unterwiener, Manager, Freight Documentation and Inward Freight, Farrell Lines, Inc., 1 Whitehall Street, New York, NY 10004.

Agreement No. 10031, between Farrell Lines, Inc., and Zim Israel Navigation Co., Ltd., establishes a through billing arrangement on all cargo moving in the trade between the Liberian Ports of Buchanan, Sinoe, and Lofa River and U.S. Atlantic, Gulf and Great Lakes Ports with transshipment at Monrovia, Liberia, under terms and conditions set forth in the agreement. Agreement No. 10031 will, upon approval, cancel and supersede Agreements Nos. 9456 and 9459.

Dated: January 15, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-1341 Filed 1-22-73;8:45 am]

[Docket No. 73-2]

PLAZA PROVISION CO., INC., AND PUEBLO SUPERMARKETS, INC.

Order of Investigation Regarding Possible Violations

By our order of even date, we dismissed the complaint proceedings (Dockets Nos. 72-27 and 72-28) instituted by Maritime Service Corp. (MSC), which alleged that Plaza Provision Co., Inc. (Plaza) and Pueblo Supermarkets, Inc. (Pueblo), as consignees of cargo moving between the United States and Puerto Rico, violated section 16 of the Shipping Act, 1916, because of their refusal and failure to pay demurrage charges as provided in the carrier's tariffs. MSC requested that the Commission order respondents to cease and desist in violations of section 16, Shipping Act, 1916 (the Act), and to pay MSC the demurrage due and owing.

For reasons stated in the aforementioned order, we granted respondents' motion to dismiss.

Under the Shipping Act, 1916, the Commission may investigate any practices which may amount to a violation of the Act.

It has been alleged that the respondents not only have attempted to use coercive tactics to obtain reduction in their demurrage accounts (Pueblo and Plaza seek 20 percent and 10 percent reductions, respectively), but also that they conspired with other Puerto Rico shippers to boycott and otherwise obstruct payment to MSC of demurrage due and owing.

In addition, section 16, first paragraph, provides in part:

Sec. 16. That it shall be unlawful for any shipper, consignor, consignee, forwarder, broker, or other person, or any officer, agent, or employee thereof, knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means to obtain or attempt to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable.

The Commission has determined that an investigation should be instituted to determine whether the allegations of respondents' refusal to pay demurrage charges due and owing; the incurring of a substantial demurrage account which is being used by respondents to coerce concessions and reductions in demurrage in that no payment will be had until a reduction is granted; conspiring with other Puerto Rico shippers to boycott and avoid payment to MSC; and the making of false claims and reports to MSC are practices in violation of section 16 of the Act.

Therefore, it is ordered, That pursuant to sections 16 and 22 of the Shipping Act, 1916, an investigation is hereby instituted to determine:

1. Whether the failure or refusal by respondents to pay demurrage constitutes the obtaining or an attempt to obtain transportation by water at less than the otherwise applicable rates and charges in violation of section 16 of the Act;

2. Whether respondents' alleged actions of incurring a substantial demurrage account to coerce concessions and reductions in demurrage contrary to the carriers' tariffs in that respondents refuse to pay any demurrage until the reduction is granted; conspiring with other Puerto Rico shippers to boycott and avoid payment to MSC; and the making of false claims and reports to MSC to avoid payment of lawful demurrage, are unjust or unfair devices or means prohibited by section 16 of the Act; and

It is further ordered, That Plaza Provision Co., Inc., and Pueblo Supermarkets, Inc., are hereby made respondents in this proceeding; and

It is further ordered, That this proceeding be assigned to an Administrative Law Judge, and that the hearing be held at a date and place to be determined and announced by the presiding Administrative Law Judge; and

It is further ordered, That notice of this order be published in the FEDERAL REGISTER; and

It is further ordered, That all persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission immediately, and file petition for leave to intervene in accordance with Rule 5(L) of the Commission's rules of practice and procedure (46 CFR 502.72), with a copy to all parties to this proceeding;

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-1342 Filed 1-22-73;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2317—North Carolina and Virginia]

APPALACHIAN POWER CO.

Notice of Availability of Draft Environmental Statement for Inspection

JANUARY 16, 1973.

Notice is hereby given that on January 22, 1973, as required by the Commission's rules and regulations under Order No. 415-C, a staff draft environmental statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 was placed in the public files of the Federal Power Commission. This statement deals with an application for license filed pursuant to the Federal Power Act by Appalachian Power Co. for the proposed Modified Blue Ridge Project.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office Building, 441 G Street NW., Washington, DC, and its New York regional office. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project would be a combined pumped-storage and conventional hydroelectric project located on the New River in Grayson, Carroll, and Wythe Counties, Va., and Ashe and Alleghany Counties, N.C.

The project would consist of: (1) The Upper Development with (a) a rockfill dam about 300 feet high and 1,700 feet long; (b) a spillway with crest at elevation 2,602 feet controlled by four tainter gates each 50 feet high by 50 feet wide; (c) a reservoir having a surface area of approximately 26,000 acres at elevation 2,652 feet containing 2,010,000 acre-feet of storage; (d) a gated intake works; (e) eight concrete-lined tunnels each 31 feet in diameter; (f) a powerhouse containing eight reversible pump-turbine units each with a rated generating capacity of 200,000 kilowatts at 230 feet net head; (g) two 31-mile 765 kilovolt single circuit transmission lines to a switching station to be located at Jacksons Ferry, Va.; and (h) appurtenant facilities. (2) The Lower Development with (a) a rockfill dam about 250 feet high and 2,000 feet long; (b) a spillway with crest elevation at 2,396 feet controlled by four tainter gates each 50 feet wide by 50 feet

high; (c) a reservoir having a surface area of 14,400 acres at elevation 2,446 feet containing about 1,251,000 acre-feet of storage; (d) an intake that is integral with the dam near the right abutment; (e) two concrete-lined tunnels 27 feet in diameter; (f) a powerhouse containing two conventional units each with a rated generating capacity of 100,000 kilowatts at 204 feet net head; (g) a 4-mile 138 kilovolt double circuit transmission line to a switching station to be located near Fries, Va.; and (h) appurtenant facilities.

This proceeding has been reopened by order issued November 2, 1972, for further procedural implementation of the National Environmental Policy Act; however, this reopening is not for the purpose of receiving cumulative or repetitive evidence on issues already fully tried in this proceeding. Accordingly, any person desiring to present evidence regarding environmental matters which is not cumulative or repetitive must file with the Federal Power Commission a petition to intervene, unless such person has already filed such petition in this proceeding, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard. Written statements by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before March 12, 1973. The Commission will consider all responses to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1360 Filed 1-22-73;8:45 am]

[Docket No. E-7775]

APPALACHIAN POWER CO.

Notice of Extension of Time

JANUARY 16, 1973.

On January 8, 1973, Commission Staff Counsel filed a motion for resetting procedural dates established by order issued October 20, 1972. The motion states that the parties concur in the motion.

Upon consideration, notice is hereby given that the dates set forth in the order issued October 20, 1972, are modified as follows:

Staff Evidence Service Date, February 27, 1973.

Intervenor Evidence Service Date, March 20, 1973.

Company Rebuttal Service Date, April 3, 1973.

Prehearing Conference Date, March 27, 1973.
Hearing Date, April 17, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1235 Filed 1-22-73;8:45 am]

[Docket No. CP73-165]

ARKANSAS OKLAHOMA GAS CORP.

Notice of Application

JANUARY 16, 1973.

Take notice that on December 26, 1972, Arkansas Oklahoma Gas Corp. (Applicant), 115 North 12th Street, Fort Smith, AR 72901, filed in Docket No. CP73-165 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities required to purchase the production from one gas well located within approximately 2,600 feet of Applicant's present pipeline system in Le Flore County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authority to construct and operate a 3½-inch outside diameter gathering line approximately 2,600 feet in length, together with necessary valves, fittings, and metering and regulating facilities, running from a gas well owned by Stephens Production Co. and located in section 14 of T. 9 N. of R. 25 E., Le Flore County, Okla., to a point of connection with Applicant's present facilities in sec. 14 of T. 9 N. of R. 25 E., Le Flore County, Okla. Applicant states that the additional gas supply to be obtained through the proposed facilities will be used to maintain service to Applicant's existing customers.

Applicant states that the facilities proposed to be constructed will not result in any increase in the delivery capacity of Applicant's presently authorized pipeline system and no new markets are proposed to be served. Applicant estimates the total cost of the proposed facilities to be $10,890. The cost will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1236 Filed 1-22-73;8:45 am]

[Docket No. CP72-8]

COLUMBIA LNG CORP.

Notice of Filing of Notice of Withdrawal of Application

JANUARY 17, 1973.

Take notice that on December 14, 1972, Columbia LNG Corp. (Columbia), 20 Monchanin Road, Wilmington, DE 19807, filed in Docket No. CP72-8, pursuant to § 1.11(d) of the Commission's rules of practice and procedure, a notice of withdrawal of its application in said docket, all as more fully set forth in the notice of withdrawal which is on file with the Commission and open to public inspection.

Columbia, in its application filed July 21, 1971, in Docket No. CP72-8, which is currently pending before the Commission, requests authorization for the sale and delivery of synthetic pipeline quality gas at the tailgate of a reforming plant, which Columbia is building in Green Springs, Ohio, to Columbia Gas Transmission Corp. (Columbia Gas), an affiliated company. Columbia believes that in light of Commission Opinion No. 637, Algonquin SNG, Inc., et al., issued December 7, 1972, in Docket No. CP72-35, which holds that synethetic gas is not "natural gas" within the meaning of the Natural Gas Act, and that the facilities employed in the manufacture of synthetic gas, its transportation and sale in interstate commerce for resale, while unmixed with natural gas, are not within the Commission's jurisdiction, the relief requested in the pending application is outside the jurisdiction of the Commission. Therefore, Columbia requests to withdraw the application.

Columbia states that Columbia Gas is currently considering a restructing of the project with its customers and anticipates that Columbia Gas will file an appropriate certificate application with the Commission for the restructured project.

Columbia also requests that the record, testimony, and exhibits made in the present proceeding, that may be germane

or material to Columbia Gas's application to be filed, be allowed to be incorporated in Columbia Gas' proceeding by reference.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than February 13, 1972, any views and comments in writing concerning the notice of withdrawal. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the notice of withdrawal.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-1237 Filed 1-22-73;8:45 am]

[Project 176; Dockets Nos. E-7562, E-7655]

ESCONDIDO MUTUAL WATER CO. ET AL.

Notice of Petition for Declaratory Order

JANUARY 12, 1973.

Escondido Mutual Water Co., Project No. 176; Secretary of the Interior Acting in his Capacity as Trustee for the Rincon, La Jolla, and San Pasqual Bands of Mission Indians v. Escondido Mutual Water Co. and city of Escondido, Calif., Docket No. E-7562; Vista Irrigation District, Docket No. E-7655.

Public notice is hereby given that the La Jolla, Rincon, and San Pasqual Bands of Mission Indians filed on November 22, 1972, a petition that the Federal Power Commission issue an order declaring the present use of Project No. 176 facilities by the Vista Irrigation District (Vista) in violation of the Federal Power Act and the Project No. 176 license. The Bands also requested the Commission to declare that the licensee, Escondido Mutual Water Co. (Mutual), by transporting water purchased from Vista through the Project No. 176 facilities violates the Federal Power Act. The Bands petitioned this Commission to order the licensee to refrain from transporting Vista's water or water purchased from Vista through the project works until Vista and the licensee secure the requisite authorization for such use of the licensed facilities.

The Bands' petition also requests that the Commission declare the licensee delegation of management and control of major portions of Project No. 176 facilities made pursuant to a contract dated November 10, 1922, concerning the "Joint Superintendent" as a violation of sections 8 and 4(e) of the Federal Power Act, and Article 22 of the Project No. 176 license, and that the proposed order return to the licensee all control of Project No. 176 facilities now under the supervision of the joint superintendent.

Any person desiring to be heard or to make protest with reference to the filing of this petition by the La Jolla, Rincon, San Pasqual Bands of Mission Indians should on or before February 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The petition filed by these respective Bands of Indians is on file with this Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-1240 Filed 1-22-73; 8:45 am]

[Dockets Nos. CP73-45, etc.]

MICHIGAN WISCONSIN PIPE LINE CO. ET AL.

Notice Postponing Hearing

JANUARY 12, 1973.

Michigan Wisconsin Pipe Line Co., Docket No. CP73-45; Southern Natural Gas Co., Docket No. CP73-49; Florida Gas Transmission Co., Southern Natural Gas Co., Docket No. CP73-14.

On January 11, 1973, Commission Staff Counsel filed a motion to continue the hearing scheduled in the above matter by order issued on November 16, 1972. The motion states that the staff received the concurrence of all of the parties to the proceeding.

Upon consideration, notice is hereby given that the hearing fixed by order issued November 16, 1972, is postponed to January 31, 1973, at 10 a.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1241 Filed 1-22-73;8:45 am]

[Docket No. E-7950]

MINNESOTA POWER AND LIGHT CO.

Notice of Proposed Changes in Rates and Charges

JANUARY 12, 1973.

Take notice that Minnesota Power and Light Co. (MP&L) tendered for filing on December 26, 1972, proposed changes in its FPC Rate Schedules Nos. 52 and 53. The filing consists of a letter amendment to MPL's Contracts Nos. 1 and 2 with Itasca Mantrap Cooperative Electrical Association. MP&L requests as an effective date the earliest date permitted under the Commission's regulations.

MP&L states that it does not anticipate any effect upon revenue by virtue of the amendment. Further, the above named contracts are subject to a 3-year notice of cancellation provision. In view of that provision and the possibility of increased rates during the three year period the parties agreed that any such increase during the period would not exceed 15 percent of the present rate level.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 31, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1242 Filed 1-22-73;8:45 am]

[Docket No. CI72-832]

MONSANTO CO. ET AL.

Notice of Petition To Amend

JANUARY 15, 1973.

Take notice that on January 3, 1973, Monsanto Co. (Operator) et al. (Petitioner), filed in Docket No. CI72-832 a petition to amend the order of the Commission issuing a certificate of public convenience and necessity in said docket to Harvey Broyles (Operator) et al., pursuant to section 7(c) and § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) by substituting Monsanto Company (Operator), et al., as the certificate holder, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

On June 15, 1972, Harvey Broyles (Operator) et al., was issued a limited-term certificate of public convenience and necessity in the subject docket authorizing the sale of natural gas for resale to United Gas Pipe Line Co. from the Bryceland Field, Bienville Parish, La., under the terms of a contract dated May 22, 1972, between the two parties. Although Petitioner herein did not sign the contract, which was originally filed in this docket, it requested that its share of the subject gas from the acreage be marketed under that contract. Petitioner states that it has now entered into a gas purchase contract with United identical in its terms with the original contract in this docket which it did not sign and that by a series of letter agreements the parties under the Harvey Broyles et al., contract have nominated Petitioner to succeed Harvey Broyles as Operator of the well from which gas is now being sold to United in the Bryceland Field. Petitioner requests that the certificate issued in Docket No. CI72-832 be amended to reflect itself as certificate holder and that the related rate schedule be redesignated accordingly.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements

of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1243 Filed 1-22-73;8:45 am]

[Docket No. CP73-181]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

JANUARY 15, 1973.

Take notice that on January 8, 1972, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP73-181 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue the sale of natural gas in interstate commerce to Arkansas Louisiana Gas Co. from the North Lansing Field, Harrison County, Tex., at the rate of 13.50895 cents per Mcf at 14.65 p.s.i.a heretofore authorized in Docket No. G-5709 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 65, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-1244 Filed 1-22-73;8:45 am]

[Docket No. E-7930]

PORTLAND GENERAL ELECTRIC CO.

Notice of Filing of Initial Rate Schedule

JANUARY 15, 1973.

Take notice that Portland General Electric Co. (Portland), on January 2, 1973, tendered for filing an initial rate schedule entitled "Pacific-Portland Sales and Exchange Agreement" (Agreement). According to Portland's transmittal letter, the Agreement is between Pacific Gas and Electric Co. (Pacific) and Portland and provides for:

* * * Portland to make available to Pacific 450 million kw.-hr. of energy during the period of May 1, 1973, through August 31, 1973, and up to 500 mw. of capacity during the period May 16th through October 15th, beginning in 1975 and each year thereafter until termination. In addition, energy may be made available by Portland at various times as the parties may agree, or sold pursuant to capacity deliveries. During the summer of 1973, the rates to be charged are essentially 2 mills per kw.-hr. if surplus hydro or otherwise at cost to Portland. The rate for capacity shall be the prevailing rate for such service in the Pacific Northwest, which is currently $5 per kilowatt per season. The rates of other energy delivered under the Agreement shall be hydro prices if from hydro sources or otherwise at essentially incremental cost to Portland, or if from Portland's own thermal resources at 115 percent of incremental cost, but not less than 4 mills per kw.-hr. Hydro prices are based upon Bonneville Power Administration rate schedules as may be in effect from time to time.

Pacific will make available to Portland 450 million kw.-hr. during the period of October 1, 1973, through March 31, 1974, in exchange for that made available by Portland during the summer of 1973. Pacific will make available 200 mw. of capacity from November 1, 1973, through March 31, 1974, and 100 mw. of capacity from November 1, 1974, through March 31, 1975, in exchange for and credited against capacity to be made available by Portland under the Agreement. In addition, energy may be made available by Pacific at various times as agreed by the parties or sold pursuant to capacity deliveries. Rates to be charged by Pacific for energy are 115 percent for incremental cost, as defined, but not less than 4 mills per kw.-hr.

Portland also requests waiver of the Commission's prior notice requirements to permit the rate schedule to be effective as of August 25, 1972, the date the contract was executed.

The Company states that copies of the filing were served on Pacific and a Certificate of Concurrence, executed by Pacific, is attached to the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 25, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection in the offices of the Federal Power Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1245 Filed 1-22-73;8:45 am]

[Docket No. E-7938]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Notice of Proposed Changes in Rates and Charges

JANUARY 12, 1973.

Take notice that Public Service Company of Oklahoma (PSCO) on October 28, 1972, tendered for filing copies of the PSCO letter agreement dated October 2, 1972, a supplement to FPC No. 118, with the Southwestern Electric Power Co. (Southwestern). PSCO also submitted copies of the certificate of concurrence of Southwestern dated October 12, 1972.

PSCO states that the letter agreement provides for the sale by PSCO of 150 mw. of capacity from its Northeastern Station Unit No. 2 to Southwestern for the 18-month period beginning December 1, 1972, and ending May 31, 1974.

PSCO says that the terms and conditions are based upon similar terms in Public Service Company Supplement No. 6 to Rate Schedule FPC No. 161 which is an agreement between PSCO and Kansas Gas & Electric Co. PSCO further states that the rates set forth in the letter agreement presented are similar to other transactions of this particular type in the area in which sold. PSCO contends that the rates are considered satisfactory by the purchaser for use in his system and are considered fully compensatory by PSCO as seller.

PSCO says that it desires to sell the 150 megawatts of capacity to reduce its excess reserves during the period and Southwestern desires to purchase the capacity for its use and so that Southwestern can in turn supply the needs of Arkansas Power & Light Co. PSCO contends that this letter agreement is contingent upon Southwestern entering into a satisfactory agreement with the Arkansas Power & Light Co. for making an equivalent amount of capacity and energy available to that company.

PSCO argues that the capacity is urgently needed in the Arkansas Power & Light system, and therefore PSCO proposes an effective date of December 1, 1972.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street, NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1246 Filed 1-22-73;8:45 am]

[Docket No. E-7940]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Notice of Proposed Changes in Rates and Charges

JANUARY 15, 1973.

Take notice that Public Service Company of Oklahoma (PSCO) on November 6, 1972, tendered for filing copies of the PSCO letter agreement dated September 18, 1972, a Supplement to Rate Schedule FPC No. 118 (accepted by Southwestern Electric Power Co. (Southwestern) on October 12, 1972, with Southwestern). PSCO also submitted copies of the certificate of concurrence of Southwestern dated October 16, 1972.

PSCO states that this letter agreement provides for the sale by PSCO of 30 mw. of capacity from its Northeastern Station Unit No. 2 to Southwestern for the 12-month period beginning January 1, 1973, and ending December 31, 1973.

PSCO says that the terms and conditions are based upon similar terms in Public Service Company Supplement No. 6 to Rate Schedule FPC No. 161, which is an agreement between PSCO and Kansas Gas & Electric Co., and are the same terms contained in a letter agreement of a 150 mw. sale between PSCO and Southwestern dated October 2, 1972. PSCO further states that the rates set forth in the letter agreement presented are also similar to other transactions of this particular type in the area in which sold. PSCO contends that the rates are considered satisfactory by the purchaser for use in his system and are considered fully compensatory by PSCO as seller.

PSCO says that it desires to sell the 30 megawatts of capacity to reduce its excess reserves during the period and Southwestern desires to purchase the capacity for its use.

So that delivery of the capacity and energy can start on January 1, 1973, under the terms of the letter agreement, PSCO requests that the Commission accept this letter agreement for filing with an effective date of January 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1247 Filed 1-22-73;8:45 am]

[Docket No. E-7804]

SOUTHWESTERN ELECTRIC POWER CO.

Notice of Application

JANUARY 16, 1973.

Take notice that on November 4, 1972, Southwestern Electric Power Co. (Applicant), filed an application pursuant to § 33.2 et seq. of the Commission's regulations seeking authority to sell electrical facilities to the city of Siloam Spring, Ark., for the sum of $135,000, pursuant to a written agreement between Applicant and the city of Siloam Spring, dated May 22, 1972.

Applicant is incorporated under the laws of the State of Delaware, with its principal business office at Shreveport, La. Applicant is engaged in the electric utility business in Louisiana, Arkansas, and Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 31, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1248 Filed 1-22-73;8:45 am]

FEDERAL RESERVE SYSTEM

CHEMICAL NEW YORK CORP.

Order Approving Acquisition of Bank

Chemical New York Corp., New York, N.Y., 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 (less directors' qualifying shares) of the voting shares of State Bank of Hilton, Hilton, N.Y. (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 the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in New York, controls three banks with aggregate deposits of $8.6 billion representing approximately 9 percent of total deposits in commercial banks in the State.[1] Acquisition of Bank (deposits of $8.4 million) would not change applicant's statewide ranking nor significantly increase the concentration of banking resources in New York.

Bank is the 13th largest of 16 banks in the Rochester banking market, controlling less than one-half of 1 percent of total deposits in that market. (Banking data for the Rochester market are as of June 30, 1970.) Applicant's nearest banking subsidiary to Bank is approximately 325 miles distant and there is no significant existing competition between it or any other banking subsidiary of applicant and Bank. In view of the distances separating applicant's banking subsidiaries and Bank, and the fact that under New York State law applicant's subsidiaries are prohibited from branching into the Rochester market until 1976, such competition is unlikely to develop. Moreover, the introduction of applicant as a vigorous competitor into the Rochester market would be particularly beneficial in view of its concentrated nature (the four largest banking organizations control 92 percent of market deposits). Acquisition of Bank by applicant would also break an existing ownership tie between Bank and another bank located in the Rochester market, thereby providing an additional competitor. The Board concludes that consummation of the proposal would have no adverse effects on existing or potential competition.

The financial condition, managerial resources, and future prospects of applicant, its subsidiary banks, and Bank appear generally satisfactory and are consistent with approval of the application.

[1] All banking data are as of June 30, 1972, except where otherwise noted, and are adjusted to reflect bank holding company formations and acquisitions approved by the Board through Dec. 31, 1972.

Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application, since applicant through Bank will be able to provide additional services at a more convenient location for many customers in the Rochester area. It is the Board's judgment that consummation of 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 New York, pursuant to delegated authority.

By order of the Board of Governors,[3] effective January 15, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1350 Filed 1-22-73;8:45 am]

FIRST NATIONAL BANK IN DALLAS

"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 determination within a 2-year period.

Notice of the Board's proposed review of the grandfather privileges of First National Bank in Dallas, Dallas, Tex.,[1] 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 section 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. First National Bank in Dallas, Dallas, Tex. (Registrant) (about $1.5 billion in deposits as of Dec. 31, 1971), 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 26 percent of Guaranty Bank, Dallas, Tex. (formerly South Oak Cliff Bank), which shares Registrant acquired in 1966 in the regular course of collecting a debt previously contracted. Guaranty Bank had total deposits of approximately $34 million as of June 30, 1972, representing 0.5 percent of the total commercial deposits in the Dallas banking market. The management, financial condition and prospects of Registrant and Guaranty Bank are regarded as satisfactory, and the Board has found no evidence of any unsound banking practices.

In addition, First National Bank in Dallas controls indirectly, through First National Securities Company in Dallas, Registrant's trusteed affiliate, stock interests ranging between 11 percent and 24.9 percent of each of 13 banks, all of which are located in the Dallas area. These banks control total deposits of approximately $266 million.

In addition to its commercial bank activities, Registrant, a national bank, has direct or indirect interests in a small business investment company, an Edge Act corporation, a data processing company, and a company engaged solely in the managing and servicing of buildings occupied or to be occupied wholly or substantially by Registrant. It appears that Registrant's interests in the small business investment company and the building management company were acquired prior to June 30, 1968, and have been held by Registrant continuously since that time; and these companies would be eligible for grandfather benefits.[2] However, the activities of these companies appear to be exempt, under provisions of section 4(c) of the Act, from the general prohibitions in section 4 against nonbanking interests of a bank holding company. On this basis, the Board finds that Registrant[3] does not need to rely on grandfather privileges under the proviso in section 4(a)(2) of the Act in order to continue such nonbanking activities; and the question of termination of grandfather privileges is moot.

Board of Governors, January 12, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1250 Filed 1-22-73;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 (less directors' qualifying shares) of the successor by merger to First National Bank of Holland, Holland, Michigan (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 is the 11th largest banking organization in Michigan, controlling three banks with aggregate deposits of $306 million, representing 1.25 percent of the total deposits in commercial banks in the State.[1] Applicant's acquisition of Bank ($33.7 million in deposits) would increase Applicant's share of State deposits by approximately one-tenth of a percentage point to approximately 1½ percent, increase its rank among State banking organizations from 11th to 10th, and would not significantly increase the concentration of banking resources in the State.

Bank is the smallest of three banks located in the Holland, Mich., banking market controlling approximately 20 percent of total deposits in that area. Applicant's nearest subsidiary banking office is located more than 23 miles from Bank. Due to the distance separating the institutions, the presence of several banks

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[1] First National Bank in Dallas does not control a bank with assets in excess of $60 million but is itself such a bank (assets of $2.1 billion as of Dec. 31, 1970).

[2] Registrant's interests in the Edge Act corporation and data processing company were acquired after June 30, 1968, and these companies would not be eligible for grandfather benefits. However, these companies may be eligible for retention under other provisions of section 4 of the Act.

[3] On Nov. 30, 1972, the Board approved the application of First International Bancshares, Inc., Dallas, Tex., to become a bank holding company through the acquisition of the successor by merger to Registrant and the successor by merger to Houston-Citizens Bank & Trust Co., Houston, Tex. (1972 Federal Reserve Bulletin 1028). The decision reflected herein is limited to the Board's review of the nonbanking activities of Registrant, and no decision is made at this time with respect to the applicability of any of the exemptions under the Act to First International Bancshares, Inc.

[1] All banking data are as of June 30, 1972, adjusted to reflect bank holding company formations and acquisitions approved by the Board through Dec. 31, 1972.

in the intervening area, and the State limitations on bank branching, it does not appear that any significant existing or potential competition between any of Applicant's existing or proposed [2] subsidiary banking offices and Bank would be eliminated upon consummation of this proposal.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank appear satisfactory and are consistent with approval of the application. Upon approval of this application, Applicant proposes to provide, through Bank, a broader program of time deposit accounts, extended banking hours, trust services, a credit card plan, more extensive loan services, and more agricultural loans. In view of the commercial and agricultural growth projected for the Holland area, the needs of area residents would be better served by the increased and improved services, particularly agricultural loans, that would be offered by Bank under Applicant's sponsorship. Accordingly, considerations relating to the convenience and needs of the communities to be served lend weight to approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth 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,[3] effective January 15, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1352 Filed 1-22-73;8:45 am]

GREAT AMERICAN CORP.

Order Approving Acquisition of Bell Finance Service

Great American Corp., Baton Rouge, La., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to indirectly acquire, through its subsidiary known as Ambank Acceptance Corporation, a portion of the assets of Bell Finance Service, New Orleans, La. (Company), a consumer finance company that engages in the activities of making or acquiring consumer loans and other extensions of credit. Applicant has also applied for permission to engage through Company, in the activity of acting as agent or broker in the sale of credit life, health, accident, and property damage insurance that protects the collateral in which Company has a security interest. Such activities have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a) (1) and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 FR 35074). The time for filing comments and views has expired, and none have been timely received.

Applicant controls one bank with deposits of approximately $294 million, representing 3.7 percent of total deposits in commercial banks in the State. (All banking data are as of June 30, 1972, adjusted to reflect holding company formations and acquisitions approved by the Board through Dec. 31, 1972.)

Company has a consumer loan portfolio of 110 accounts aggregating $127,000. Applicant's subsidiary, Ambank Acceptance Corp., has consumer finance offices in Alexandria, Shreveport, Baton Rouge, and Metairie, La. Of these, only Applicant's Metairie office (consumer loan portfolio $45,778) is located in the same geographical area as Company. However, due to the differing economic and social environments of the areas served by the two offices, their small size, and the local nature of the consumer finance business, there is no significant competition between the two and none is likely to develop in the near future. Additionally, approximately 100 consumer finance companies with 187 offices compete in the New Orleans area and the Board concludes that consummation of the proposal would have no adverse effects on existing or potential competition.

Applicant's consumer finance subsidiaries and Company both sell credit life, health, and accident insurance in connection with loans they originate. Company also sells credit property damage insurance in connection with loans it originates. Due to the limited and local nature of the insurance activities engaged in by Applicant's subsidiaries and Company, it does not appear that operation of Company's insurance activities by Applicant would have any significant effect on either existing or potential competition.

There is no evidence on the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. Applicant's financial support of Company should result in greater availability of credit for area residents. Accordingly, the public benefits are consistent with approval. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such 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 evasion thereof.

By order of the Board of Governors,[3] effective January 15, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1351 Filed 1-22-73;8:45 am]

[2] Applicant has an application pending to acquire the Commercial Bank of Strambaugh, Strambaugh, Mich.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Danne, Brimmer, Sheehan, and Bucher.

PERPETUAL CORP. AND PIERCE NATIONAL LIFE INSURANCE CO.

"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 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 determination within a 2-year period.

Notice of the Board's proposed review of the grandfather privileges of Perpetual Corp. (Perpetual) and of Pierce National Life Insurance Co. (Pierce), both of Los Angeles, Calif., 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 section 4(a)(2) of the Act.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

On the evidence before it, the Board makes the following findings. Perpetual reports that it is a nonoperating holding company, with its only activity being that of holding stock of its subsidiaries. It owns 100 percent of the voting shares of Pierce, which is the immediate parent of Houston-Citizens Bank & Trust Co., Houston, Tex. (Houston-Citizens) (assets of about $228 million as of December 31, 1970).[1] On December 31, 1970, Perpetual and Pierce (Registrants) controlled directly or indirectly about 63 percent of the outstanding voting shares of Houston-Citizens and each became a bank holding company on that date as a result of the 1970 amendments to the Bank Holding Company Act. However, neither Perpetual nor Pierce would have been a bank holding company on June 30, 1968, if the 1970 amendments to the Act had been enacted on that date.

Section 2(b) of the Act defines "company covered in 1970" as a "company which becomes a bank holding company as a result of the enactment of the Bank Holding Company Act Amendments of 1970 and which would have been a bank holding company on June 30, 1968, if those amendments had been enacted on that date." Registrants owned only 24.86 percent of Houston-Citizens on June 30, 1968; and the enactment of the 1970 amendments on June 30, 1968, in itself would not have caused either Perpetual or Pierce to become a bank holding company or altered the status of either under the Act. Thus, neither Perpetual nor Pierce is a "company covered in 1970," and neither is entitled to grandfather benefits under section 4(a)(2) of the Act.

On the basis of the facts presented, the Board concludes that neither Perpetual nor Pierce is a "company covered in 1970"; that neither company is eligible for grandfather benefits; and that, on this basis, the question of the termination of grandfather privileges of either company is moot.

Board of Governors, January 12, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1251 Filed 1-22-73;8:45 am]

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Banks

Southeast Banking Corp., Miami, Fla., 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 80 percent or more of the voting shares of Bank of Florida at Fort Lauderdale (Florida Bank), and Bankers Bank of Florida (Bankers Bank), both located in Fort Lauderdale, Fla.

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 the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 19 banks with aggregate deposits of $1.3 billion, representing 7.8 percent of deposits in commercial banks in Florida. (Banking data are as of June 30, 1972, and reflect bank holding company formations and acquisitions approved through November 30, 1972.) The acquisitions of Florida Bank (deposits of $9.1 million) and Bankers Bank ($5.2 million) would increase applicant's share of statewide deposits by only 0.1 percentage point and would not result in a significant increase in the concentration of banking resources in Florida.

The banks proposed to be acquired are located in the North Broward-Fort Lauderdale banking market wherein applicant presently controls two banks with total deposits of $95 million, representing 6.9 percent of aggregate market deposits. Applicant ranks as the fifth largest of the 21 banking organizations in the market. The 38 market banks represent nine multibank holding companies, five banking groups, three one-bank holding companies, and four independent banks. Applicant's proposed acquisitions of the 31st and 33d largest banks in the market would increase its control of market deposits by only 1.1 percentage points.

Subject banks, located 4 miles apart in the city of Fort Lauderdale, do not compete significantly with each other, each drawing 1 percent or less of its deposits and loans from the service area of the other. Moreover, no significant competition exists between subject banks and applicant's two subsidiaries in the market, each of which draws less than 1 percent of its deposits and loans from the service areas of subject banks. It further appears that no significant amount of potential competition would be eliminated by consummation of the proposed acquisitions because of the number of banking alternatives which intervene these banking offices and in view of Florida's law restricting branching. De novo entry into the subject service areas appears unattractive at the present time. It is the Board's judgment that competitive considerations are consistent with approval of the applications.

The financial conditions and managerial resources of applicant, its subsidiary banks, as well as Florida Bank and Bankers Bank are regarded as generally satisfactory, and the future prospects of each appear favorable. Banking factors are consistent with approval of the application. Applicant proposes to assist Florida Bank and Bankers Bank in developing more aggressive lending operations. Applicant also proposes to provide Bankers Bank with trust services and to make available to both banks its central printing, advertising, data processing, and auditing departments, as well as provide a uniform insurance program. Considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support toward approval of the applications.

On the basis of the record, the applications are approved for reasons summarized above. The transactions 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 Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective January 15, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1349 Filed 1-22-73;8:45 am]

UNITED BANKS OF COLORADO, INC.

Order Approving Acquisition of Bank

United Banks of Colorado, Inc., Denver, Colo., 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 80 percent or more of the voting shares of National Bank of Delta, Delta, Colo. (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 12 banks with aggregate deposits of $781.6 million, representing 14.6 percent of commercial bank deposits in Colorado and is the second largest banking organization in the State. (All banking data are as of June 30, 1972, and reflect holding company acquisitions and formations approved through Nov. 30, 1972.) The acquisition of Bank (deposits of $5.3 million) would increase Applicant's share of State deposits by only 0.1 percent and it would remain the second largest banking organization in Colorado.

Bank is the smaller of two banks in Delta and is the second largest of five

[1] On Nov. 30, 1972, the Board approved the formation of First International Bancshares, Inc., Dallas, Tex. (First International); and approved Perpetual's application to acquire 7 percent of the voting shares of First International in exchange for Perpetual's shares of Houston-Citizens. (1972 Federal Reserve Bulletin 1028, 1034.) The president of Perpetual will serve as a director of First International. Because of this interlock between the transferor (Perpetual) and the transferee (First International), the transferred shares of Houston-Citizens will be deemed to be controlled by Perpetual (by virtue of section 2(g)(3) of the Act) and Perpetual will continue to be a bank holding company.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Bucher.

banks, ranging in size from $3.2 million to $13.8 million in deposits, in Delta County. Bank controls 16.5 percent of deposits in Delta County which approximates the relevant market. Delta is located on Colorado's "Western Slope".[1] Applicant has two existing banking subsidiaries on the Western Slope, both in markets adjacent to Delta County. These banks located in Montrose and Grand Junction are approximately 20 and 40 miles away respectively from Bank. Approval of the application would not eliminate any significant direct competition between these banks and Bank or between any other of Applicant's banking subsidiaries and Bank. In the absence of the proposal, competition is unlikely to develop between Bank and any of Applicant's present banking subsidiaries in view of the distances separating them and Colorado's restrictive branching law. Although Applicant could enter the Delta County area through the formation of a de novo bank, the likelihood of such entry is considered remote at this time because of the size of the County and its decline in population as well as other facts of record. Affiliation with Applicant may spur competition between Bank and the other bank in Delta which is 2½ times the size of Bank without adversely affecting other banks in the market. Accordingly, competitive considerations are regarded as consistent with approval.

The financial and managerial resources and prospects of Applicant, its banking subsidiaries, and Bank appear to be generally satisfactory considering Applicant's commitment to augment the capital position of certain of its banking subsidiaries. Although approval of the application would not result in any new services in the area, it is likely that Bank will improve and expand the number of services it presently offers. Bank also will utilize the computer services of Applicant which is likely to result in increased efficiency and accuracy in account processing at the Bank. Considerations related to the convenience and needs of the communities involved lend some support for approval of the application. It is the Board's judgment that the 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) on or before February 9, 1973, or (b) later than April 10, 1973, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

[1] The 21-county area of western Colorado separated from the remainder of the State by the north-south tier of the Rocky Mountains.

By order of the Board of Governors,[2] effective January 10, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-1252 Filed 1-22-73;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Closed Meeting

JANUARY 15, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Fellowships Panel will take place in Washington, D.C., on January 30, 31, 1973.

The purpose of the meeting is to review summer seminar applications in the field of English that have been submitted to the Endowment for possible grant funding.

Based on section b(5) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street NW., Washington, DC 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-1371 Filed 1-22-73;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Closed Meeting

JANUARY 15, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Fellowships Panel will take place in Washington, D.C., on February 1, 2, 1973.

The purpose of the meeting is to review summer seminar applications in the field of history that have been submitted to the Endowment for possible grant funding.

Based on section b(5) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street NW., Washington, DC 20506, or call Area Code 202—382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-1372 Filed 1-22-73;8:45 am]

ADVISORY COMMITTEE PLANNING OFFICE PANEL

Notice of Closed Meeting

JANUARY 15, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Planning Office Panel will take place in Washington, D.C., on January 26, 27, 1973.

The purpose of the meeting is to review youth grant applications that have been submitted to the Endowment for possible grant funding.

Based on section b(5) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street NW., Washington, DC 20506, or call Area Code 202—382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73-1370 Filed 1-22-73;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR PLANNING AND INSTITUTIONAL AFFAIRS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Committee for Planning and Institutional Affairs will be held at 9 a.m. on February 1, 1973, in Room 540, 1800 G Street NW., Washington, DC 20550. The purpose of this committee is to provide advice and recommendations to the National Science Foundation concerning planning, evaluation, and policy study activities within NSF (with the exception of NSF internal long-range program estimates); and the impact of actual and proposed Foundation programs on the effectiveness and integrity of academic and other institutions performing research, viewed as a whole.

The agenda for this meeting will include:

1. Introduction and opening remarks by the Assistant Director for Administration and the Chairman of the Committee.

2. Review and discussion of two draft issue papers developed by members of the Committee.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Sheehan and Bucher. Absent and not voting: Chairman Burns and Governor Brimmer.

3. Period devoted to public discussion (one-half hours).

4. Concluding remarks by the Chairman of the Committee and the Assistant Director for Administration.

The meeting will be open to the public and persons who desire to attend should notify Mrs. Mary L. Parramore, Office of the Assistant Director for Administration, by telephone (202—632-4050) or by mail (Room 426; 1800 G Street NW., Washington, DC 20550) prior to the meeting.

For further information concerning this committee, contact Mrs. Mary L. Parramore, Office of the Assistant Director for Administration, Room 426; 1800 G Street NW., Washington, DC 20550. Summary minutes of this meeting may be obtained from the Management Analysis Office; Room K-720; 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

JANUARY 16, 1973.

[FR Doc.73-1410 Filed 1-22-73;8:45 am]

ADVISORY PANELS

Notice of Meetings

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given of meetings of the following committees, including the individuals to contact for further information respecting each committee. The purpose of each of these advisory bodies is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

ADVISORY PANEL FOR HUMAN CELL BIOLOGY

Date and Time of Meeting: 9 a.m. on January 25, 1973.

Location of Meeting: Asilomar Conference Center; 800 Asilomar Boulevard; Pacific Grove, CA 93950.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For Further Information, Contact: Dr. Herman W. Lewis, Program Director, Human Cell Biology Program; Division of Biological and Medical Sciences; Room 325; 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR ENVIRONMENTAL BIOLOGY

Date and Time of Meeting: 9 a.m. on January 25 and 26, 1973.

Location of Meeting: Room 323; 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For Further Information, Contact: Dr. John L. Brooks, Program Director, General Ecology Program; Division of Biological and Medical Sciences; Room 330; 1800 G Street NW., Washington, DC 20550.

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Date and Time of Meeting: 8:30 a.m. on February 6 and 7, 1973.

Location of Meeting: Room 642; 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of proposals or projects.

For Further Information, Contact: Mr. Feenan D. Jennings, Office Head, Office for the International Decade of Ocean Exploration; Room 710; 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR PSYCHOBIOLOGY

Date and Time of Meeting: 9 a.m. on February 8 and 9, 1973.

Location of Meeting: Room 336; 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For Further Information, Contact: Dr. Henry S. Odbert; Program Director, Psychobiology Program; Division of Biological and Medical Sciences; Room 333; 1800 G Street NW., Washington, DC 20550.

These meetings will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act.

T. E. JENKINS,
Assistant Director for Administration.

JANUARY 16, 1973.

[FR Doc.73-1411 Filed 1-22-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3232]

AMERICAN LEADERS FUND, INC. ET AL.

Notice of Application for an Order Exempting Applicants From Provisions

JANUARY 15, 1973.

Notice is hereby given that American Leaders Fund, Inc. (Leaders Fund), and Fund for U.S. Government Securities, Inc. (U.S. Fund) (collectively referred to hereinafter as "Funds"), 421 Seventh Avenue, Pittsburgh, PA 15219, both diversified, open-end management investment companies registered under the Investment Company Act of 1940 (Act), and Federated Securities Corp. (Federated), the principal underwriter for the Funds (hereinafter collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price as described in the prospectus. The prospectuses of each of the Funds state that there is a sales commission on the purchase of shares of such Funds. U.S. Fund invests only in securities which are obligations of the U.S. Government or its instrumentalities. Leaders Fund invests in securities from among the 100 blue chip companies contained in "The Leaders List," created by Federated Research Corp.

The Funds propose to sell their shares at the net asset value to persons who have redeemed all or part of their shares and who have not previously exercised the reinvestment privilege. The sale will be limited to the exact amount of the redemption proceeds (or to the nearest full share if fractional shares are not purchased). A written order to purchase the shares must be received by the Fund, Securities, or the Custodian Bank, or be postmarked, within 15 days after the request for redemption was received. The purchase will be made at the net asset value per share next determined after receipt of the order. No sales commission will be received by Securities on such purchase, nor will any salesman of Securities receive a commission.

The Funds also propose to allow shareholders of Empire Fund, Inc., Third Empire Fund, Inc., Fourth Empire Fund, Inc., Fifth Empire Fund, Inc., Sixth Empire Fund, Inc., Presidential Exchange Fund, Inc., Second Presidential Exchange Fund, Inc., and Fifth Presidential Fund, Inc. (Exchange Funds) who have redeemed all or a part of their investments to purchase shares of the Funds at net asset value without a sales charge. The sale will be limited to an amount up to the amount of the redemption proceeds (or to the nearest full share if fractional shares are not purchased). The Exchange Funds are registered open-end diversified management investment companies which are not currently engaged in a continuous offering of their shares. The Exchange Funds and the Funds have as their investment adviser, Federated Research Corp.

The initial portfolios of the Federated Exchange Funds were acquired in a tax-free exchange of fund shares, less sales charges paid, for securities deposited by investors. Due to the absence of effective registration statements on the part of the Exchange Funds, they cannot offer their shareholders any reinvestment privileges. It is believed that shareholders of these Exchange Funds, who have also paid a sales charge on their investments, should be permitted to rectify an improvident redemption by being permitted to reinstate their investment in a different investment medium without being required to pay an additional sales charge.

Redeeming shareholders of the Exchange Funds who wish to exercise the requested reinvestment privilege will be bound by the policies in effect for the Exchange Funds regarding redemptions. These policies generally prescribe that redemptions will be made in kind. However, this is qualified by the fact that redemptions dealing with small amounts are honored with cash on hand in the Exchange Funds' custodian accounts. U.S. Fund and Leaders Fund will issue their respective fund shares only for cash or its equivalent or securities suitable for the respective funds' portfolios.

Applicants state that to advise investors of the privilege, Securities may, at its expense, include with the redemption check a letter containing information pertinent to redemption and the repurchase privilege. The letter will include information as to ways in which various objectives which may have induced the shareholder to redeem could be realized through utilization of the shares upon their repurchase. Telephone calls to such shareholders are also contemplated.

Applicants assert, among other things, that because the privilege can be exercised only once, the prohibition on wire redemption requests and wire orders, and the short time within which the shareholder can re-invest without a sales charge, the proposed privilege does not afford a method of "playing" the market.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, 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 February 7, 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 (air mail if the person being served is located over 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1280 Filed 1-22-73;8:45 am]

[812-3365]

BLYTH EASTMAN DILLON & CO. INC.

Notice of Filing of Application for an Order of Exemption

Notice is hereby given that Blyth Eastman Dillon & Co., Inc. (Applicant), 14 Wall Street, New York, NY 10005, a registered broker-dealer corporation with its principal office at 14 Wall Street, New York, NY 10005, in connection with a proposed public offering of shares of common stock of Montgomery Street Income Securities, Inc. (the Company), a registered, closed-end, diversified management investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant and its co-underwriters from section 30(f) of the Act to the extent that such section adopts section 16(b) of the Securities Exchange Act of 1934 (Exchange Act) with respect to their transactions incidental to the distribution of Company shares. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant, du Pont Glore Forgan, Inc. (1 Wall Street, New York, NY 10004), Salomon Brothers (1 New York Plaza, NY 10004), and Dean Witter & Co., Inc. (120 Broadway, New York, NY 10005) are the prospective representatives (Representatives) of a group of underwriters (Underwriters) being formed in connection with the above public offering.

Shares of the Company are to be purchased by the Underwriters pursuant to an Underwriting Agreement to be entered into between the Underwriters, represented by the Representatives, and the Company. It is also contemplated that one or more dealers will offer and sell certain of the shares. It is intended that several Underwriters will make a public offering of all the Company shares which such Underwriters are to purchase under the Underwriting Agreement at the price therein specified, as soon on or after the effective date of the Company's Registration Statement on Form S-4 (the Registration Statement) as the Representatives deem advisable, and such shares are initially to be offered to the public at a per share public offering price and subject to underwriting commissions to be specified in the prospectus incorporated in the Registration Statement at the time the Registration Statement becomes effective under the Securities Act of 1933. Although 4 million shares have been included for registration in the Registration Statement, the actual number of shares which may be the subject of the proposed public offering may be decreased by the Representatives and the Company shortly before the effective date of the Registration Statement and the proposed public offering, depending upon market conditions and the exercise of an overallotment election granted to the Underwriters.

Applicant states that it is possible that the underwriting commitment of any one or more of the Underwriters, including each of the Representatives, will exceed 10 percent of the aggregate number of shares of the Company's Common Stock to be outstanding after the purchase by the several Underwriters pursuant to the Underwriting Agreement or upon the completion of the initial public offering or at some interim time. Since section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Exchange Act with respect to the transactions in the securities of the Company, such Underwriter or Underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers, subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) thereof. Applicant states that the purpose of the purchase of the shares by the Underwriters will be for resale in connection with the initial distribution of the shares. Applicant states that such purchases and sales, therefore, will be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

Applicant states that it is possible that one or more of the Underwriters, through their participation in the distribution of the Company's shares, may not be exempted from section 16(b) of the Exchange Act by the operation of Rule 16b-2; they may fail to meet the requirement stated in Rule 16b-2(a)(3) that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b-2 since it is possible that one or more of the Underwriters who, pursuant to the Underwriting Agreement, will purchase more than 10 percent of the shares of the Company may be obligated to purchase more than 50 percent of the shares of the Company being offered.

In addition to purchases of shares from the Company and sales of shares to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states that there is no inside information in existence since the Company, prior to the initial distribution of the shares, will have no assets, other than cash, or business of any sort, and

all material facts with respect to the Company will be set forth in the Prospectus pursuant to which the shares will be offered and sold. No director or officer of Applicant, du Pont Glore Forgan, Inc., Salomon Brothers or Dean Witter & Co., Inc., is a director or officer of either the Company or BA Investment Management Corp., the Company's investment adviser (the Adviser), and Applicant states that it does not anticipate that any partner, director or officer of any other Underwriter or Selected Dealer which may be an Underwriter, will be a director or officer of the Company or the Adviser.

Applicant submits that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further contends that the transactions sought to be exempted cannot lend themselves to the practices section 16(b) of the Exchange Act and section 30(f) of the Act were enacted to prevent.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from the provisions of the Act and rules and regulations promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 25, 1973 at 5:30 p.m., 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 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 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 Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said Application, unless an order for hearing upon said Application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1268 Filed 1-22-73;8:45 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

JANUARY 15, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure 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 16, 1973, through January 25, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1281 Filed 1-22-73;8:45 am]

[812-3313—812-3314]

PLIGROWTH FUND, INC. ET AL.

Notice of Applications for Orders Exempting Applicants

JANUARY 15, 1973.

Notice is hereby given, that Pligrowth Fund, Inc., and Hedberg & Gordon Fund, Inc., (Funds), open-end diversified management investment companies registered under the Investment Company Act of 1940 (Act), and One Eleven Distribution Co. (Underwriter), 111 North Broad Street, Philadelphia, PA 19107, the principal underwriter for the Funds (herein collectively called "Applicants") have filed applications pursuant to section 6(c) of the Act for orders of the Commission exempting Applicants from section 22(d) of the Act. All interested persons are referred to the applications on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants propose to offer to persons who have caused their shares of either of the Funds to be redeemed the privilege of being able to reinstate their accounts without any sales charges. In order to be eligible for such privilege, an investor must not previously have exercised the privilege. Reinstatement, or the purchase of shares of a Fund pursuant to the privilege, will be limited to not more than the amount of the redemption proceeds (or, if fractional shares are not purchased, to an amount necessary to purchase the nearest full share). A written order to purchase the shares must be received by the Fund or the Underwriter or be postmarked within 15 days after the date the request for redemption was received. The reinstatement will be made at the net asset value next determined after notice of the exercise of the privilege is received. Salesmen of shares of the Fund involved would receive no compensation of any kind in connection with the reinvestments.

It is contemplated that the Underwriter, at its expense, will include with the redemption check, mailed to a redeeming shareholder, a copy of the current prospectus (unless the shareholder already has one) and a letter containing information pertinent to redemption and the repurchase privilege. Telephone calls to redeeming shareholders are also contemplated.

Applicants contend that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked, or of which they may have misunderstood at the time they redeemed, and that in order to minimize the possibility of shareholder abuse through speculation on a possible short-term decline in the net asset value of the Fund's shares, the reinvestment privilege is being offered on a one-time basis and must be exercised within a relatively short period of time.

Section 6(c) of the Act provides that the Commission may, upon application, 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 February 8, 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 Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued

by the Commission upon the basis of the information stated in said application, unless an order for hearing 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc. 73-1282 Filed 1-22-73;8:45 am]

[812-3348]

STATE MUTUAL SECURITIES, INC., AND STATE MUTUAL LIFE ASSURANCE COMPANY OF AMERICA

Notice of Filing of Application for Order

JANUARY 15, 1973.

State Mutual Life Assurance Company of America (Insurance Company) and State Mutual Securities, Inc., (Fund), 440 Lincoln Street, Worcester, MA 01605, a closed-end investment company registered under the Investment Company Act of 1940 (Act) (collectively applicants), have filed an application for an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder to permit an arrangement whereby Insurance Company will invest concurrently with Fund in each issue of securities purchased by the Fund in direct placement. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Insurance Company will be Fund's investment adviser and Colonial Management Associates, Inc. (Colonial), a subsidiary of Insurance Company, will act as sub-adviser to advise Fund with respect to management of its publicly traded securities. The Fund has a primary objective of providing a high rate of current income and with capital appreciation as a secondary objective. In seeking these objectives, Fund intends to invest primarily in fixed-income securities, including those with equity participation features, and may invest up to 50 percent of its total assets in restricted securities acquired through direct placements (25 percent in such securities without equity participation).

According to the report filed with the Insurance Department of Massachusetts, Insurance Company had as of December 31, 1971, total assets of approximately $1.3 billion, including investments of $504 million in corporate debt securities and $107 million in common stocks; approximately 70% of the corporate debt securities owned by Insurance Company were acquired in direct placements.

Rule 17d-1 adopted by the Commission under section 17(d) of the Act provides that "no affiliated person of * * * any registered investment company * * *, acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which any such registered company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless an application regarding such joint enterprise, arrangement or profit-sharing plan has been filed with the Commission and has been granted by an order entered * * * prior to such adoption or modification * * *." It is also provided that in passing upon such application, the Commission will consider whether a participation of such registered or controlled company in such joint enterprise, joint arrangement, or profit-sharing plan, on the basis proposed, is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

If the order requested by Applicants is granted by the Commission, Insurance Company will invest concurrently with Fund in each issue of securities purchased by Fund at direct placement and will exercise warrants, conversion privileges and other rights at the same time and in the same amount, subject to the following conditions:

(1) Each investment will be made by Insurance Company and Fund at the same unit price in securities of the same class (except that Insurance Company's investment may include non-voting securities which are, except for voting rights, identical with those purchased by Fund).

(2) Unless otherwise permitted by order of the Commission, Insurance Company will invest an amount equal to the amount invested in the issue by Fund, and Insurance Company and Fund will exercise warrants, conversion privileges and other rights at the same time and in the same amount.

(3) All securities which Insurance Company is prepared to purchase at direct placement and which would be consistent with the investment policies of Fund will be shared equally by the Insurance Company and Fund unless:

(a) In the judgment of Fund's Board of Directors, concurred in by a majority of those Directors who are not "interested persons" (as defined in the Act) of Insurance Company or Colonial, (i) either (A) 42 percent or more by value of the assets of Fund are invested, in accordance with the investment policies of Fund, in long-term debt obligations or preferred stocks purchased directly from the issuers or in equities acquired either in connection with such purchases or as a result of the exercise of rights or other options so acquired, or (B) if the security to be so purchased is a long-term debt obligation or preferred stock without equity participation, 21 percent or more by value of the assets of Fund are invested, in accordance with the investment policies of Fund, in long-term debt obligations and preferred stocks purchased directly from the issuers which do not have equity participation, (ii) there is insufficient cash to make the investment and (iii) the sale of portfolio securities of Fund to provide such cash is inadvisable.

(b) The purchase by Fund would be inconsistent with the provisions of any Commission order granted on this Application or otherwise and then in effect, or

(c) The Commission by order otherwise permits.

(4) Neither Insurance Company nor Fund, unless otherwise permitted by order of the Commission, will have any prior interest in the issuer, in any affiliated person of the issuer, or in securities issued by such issuer or affiliated person other than interests in all respects identical.

(5) Neither Insurance Company nor Fund, unless otherwise permitted by order of the Commission, will acquire any further interest in the issuer or in any affiliated person of the issuer or in securities issued by such issuer or affiliated person other than interests in all respects identical.

(6) Neither Insurance Company nor Fund will, unless otherwise permitted by order of the Commission, sell, exchange or otherwise dispose of any interest in any security of a class held by Fund unless each makes such disposition at the same time, for the same unit consideration and in the same amount (each in the same proportion to the amount it holds if the amounts held by each are different).

(7) The expense, if any, of the distribution of securities registered for sale under the Securities Act of 1933 and sold by Insurance Company and Fund at the same time will be shared by Insurance Company and Fund in proportion to the amount each is selling.

Notice is further given that any interested person may not later than February 8, 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 Applicants 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc. 73-1283 Filed 1-22-73; 8:45 am]

[File 500-1]

CLINTON OIL CO.

Order Suspending Trading

JANUARY 16, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.03½ par value, and all other securities of Clinton Oil Co., 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 17, 1973, through January 26, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1344 Filed 1-22-73;8:45 am]

[811-982]

ELECTRONICS INTERNATIONAL CAPITAL, LTD.

Notice of Filing of Application for Order Declaring Company Has Ceased To Be an Investment Company

JANUARY 16, 1973.

Notice is hereby given that Electronics International Capital, Ltd., c/o Charles T. Collis, Esq., Messrs. Conyers, Dill & Pearman, Bank of Bermuda Building, Hamilton, Bermuda (Applicant), a closed-end nondiversified management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized on July 26, 1960, pursuant to a Special Act of the Parliament of Bermuda. On August 1, 1960, Applicant filed an application for registration under section 7(d) of the Act and the Commission issued an order on September 16, 1960, permitting such registration under the Act. On that same date Applicant registered under the Act by filing a notification of registration on Form N-8A. Applicant also filed a registration statement on Form N-8B-1 pursuant to section 8 of the Act and a registration statement on Form S-4 pursuant to section 5 of the Securities Act of 1933 (Securities Act). On October 25, 1960, the registration statement under the Securities Act became effective and a public offering of Applicant's shares was made.

On June 22, 1965, the shareholders of applicant approved (a) the sale of substantially all of applicant's assets to Marathon Securities Corp. (Marathon), a Delaware corporation wholly owned by the applicant, in exchange for shares of Common Stock of Marathon (on the basis of a one-for-four reverse split) and (b) the liquidation and winding-up of applicant, the appointment of a liquidator under Bermuda law, and the distribution of the stock of Marathon to applicant's shareholders. The sale of applicant's assets to Marathon was consummated on July 28, 1965.

As a result of this transaction, applicant represents that it is no longer engaged in the business of an investment company, is not presently engaged in any activity except limited activities in connection with its liquidation, and is in the process of preparing and filing documents necessary for its dissolution under the laws of Bermuda.

Section 8(f) of the Act provides, in pertinent part, that when the Commission finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 9, 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 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 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 may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing on the 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1345 Filed 1-22-73;8:45 am]

[File 500-1]

MANAGEMENT DYNAMICS, INC.

Order Suspending Trading

JANUARY 16, 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 Management Dynamics, 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 January 17, 1973 through January 26, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1346 Filed 1-22-73;8:45 am]

[812-3327]

NEW ENGLAND MUTUAL LIFE INSURANCE CO. ET AL.

Notice of Application for Order Exempting Applicants

JANUARY 16, 1973.

Notice is hereby given that New England Mutual Life Insurance Co. (Insurance Company), New England Life Variable Annuity Fund I, 501 Boylston Street, Boston, MA 02117 (Fund) and NEL Equity Services Corp. (Nelesco) (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicants from section 22(d) of the Act to the extent specified therein. The Insurance Company is a Massachusetts mutual life insurance company. The Fund, an open-end diversified management company registered under the Act, was established by the Insurance Company in connection with the offering to the public of individual variable annuity contracts issued in connection with plans meeting the requirements of the Internal

Revenue Code for tax-benefited treatment. Nelesco, a wholly owned subsidiary of the Insurance Company, is the principal underwriter for the Fund. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus.

Applicants state that in connection with the sale of variable annuity contracts of the single purchase payment type, deductions from the single purchase payment are made as follows: 6 percent of the first $5,000, 3.75 percent of the next $95,000 and 1.75 percent of any balance, for sales expenses, and 2 percent of the first $5,000 and .25 percent of any balance, for administrative expenses.

Applicants request an exemption from section 22(d) of the Act to the extent necessary to permit the elimination of the charge for sales expenses when a single purchase payment variable annuity contract is purchased by application of amounts payable under group annuity contracts, related to separate accounts which are excluded from the definition of "investment company" by the Act, of every kind issued by the Insurance Company in connection with retirement plans qualified under section 401(a) or 403(a) of the Internal Revenue Code. In such situations Applicants propose to make the usual deduction for administrative expenses but to eliminate the sales charge.

Applicants assert that since the premiums paid on such group annuity contracts will have already been subjected to expense loading which usually reflect substantial sales commission costs, and since no compensation will be paid to Nelesco or any sales representative in connection with the application of the proceeds of such group annuity contracts to purchase single purchase payment individual variable annuity contracts, the proposed exemption does not involve unfair discrimination and is in fact necessary to avoid the imposition of sales charges which are unfairly detrimental to this class of purchasers. Applicants further assert that since a secondary market in variable annuity contracts is not possible, the proposed exemption presents no danger of disrupting the orderly pattern of mutual fund distribution which Section 22(d) seeks to preserve. Accordingly, Applicants assert that the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions 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.

Notice is further given that any interested person may, not later than February 9, 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 Applicants at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing 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 Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-1347 Filed 1-22-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30—Region X; Amdt. 1]

CHIEF AND ASSISTANT CHIEF, REGIONAL FINANCING DIVISION ET AL.

Delegation of Authority To Conduct Program Activities in Region X

Delegation of Authority No. 30—Region X (37 FR 17628), is hereby amended by revising part I, section A, 3a and 3b; section B, 1a, 3a, 3b, and 3c; and parts II and VIII in their entirety. This amendment more clearly defines certain authorities; eliminates references to class B disasters; and includes authority to contract for local credit bureau services and loss verification services.

Parts I, II, and VIII are revised to read as follows:

PART I—FINANCING PROGRAM

SECTION A. Loan Approval Authority.

* * * * *

3. *Displaced business and other economic injury loans.* a. To decline displaced business loans, coal mine health and safety loans, consumer protection loans (meat, egg, poultry), occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters in any amount and to approve such loans up to the following amounts (SBA share):

(1) Chief and Assistant Chief Regional Financing Division	$1,000,000

b. To approve or decline displaced business loans, coal mine health and safety loans, consumer protection loans (meat, egg, poultry), occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to the following amounts (SBA) shares):

(1) Regional Supervisory Loan Officer	$100,000
(2) District Director	1,000,000
(3) Chief, District Financing Division	350,000
(4) Branch Manager, Fairbanks Branch Office	350,000

SEC. B. *Other Financing Authority*—1. *Loan Participation Agreements.* a. To enter into business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational health and safety, and strategic arms limitation economic injury loan participation agreements with banks:

(1) Chief and Assistant Chief, Regional Financing Division.
(2) Regional Supervisory Loan Officer.
(3) District Director.
(4) Chief, District Financing Division.
(5) Branch Manager, Fairbanks Branch Office.

* * * * *

3. *Cancel, reinstate, modify, and amend authorizations.* a. For business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational health and safety, and strategic arms limitation economic injury loans:

(1) District Director.
(2) Branch Manager, Fairbanks Branch Office.

b. For fully undisbursed or partially disbursed business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), occupational health and safety, coal mine health and safety, and strategic arms limitation economic injury loans:

(1) Chief and Assistant Chief, Regional Financing Division.
(2) Regional Supervisory Loan Officer.
(3) Chief, District Financing Division.
(4) Branch Manager, Fairbanks Branch Office.

c. For business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational safety and health and strategic arms limitation economic injury loans personally approved under delegated authority: None.

* * * * *

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 loans, occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disaster) except to the extent of refinancing of a previous SBA disaster loan:

(1) Chief and Assistant Chief, Regional Financing Division.
(2) District Director.
(3) Chief, District Financing Division.
(4) Disaster Branch Managers as assigned.

2. To decline direct disaster and immediate participation disaster loans (excluding displaced business loans, coal mine health and safety loans, occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters), in any amount and to approve such loans up to the total SBA funds of $50,000:

(1) Supervisory Loan Officer, Regional Financing Division.

3. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guarantee of the following amounts:

(1) Chief & Assistant Chief, Regional Financing Division	$1,000,000
(2) Supervisory Loan Officer, Regional Financing Division	100,000
(3) District Director	1,000,000
(4) Chief, District Financing Division	350,000
(5) Branch Manager, Fairbanks Branch Office	350,000
(6) Disaster Branch Managers as assigned	1,000,000

4. To appoint as a processing representative any bank in the disaster area:

(1) Chief and Assistant Chief, Regional Financing Division.
(2) District Directors.
(3) Branch Manager, Fairbanks Branch Office.
(4) Disaster Branch Manager as assigned.

5. To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired:

(1) Chief and Assistant Chief, Regional Financing Division.
(2) District Director.

SEC. B. *Administrative Authority*—1. *Establishment of Disaster Field Offices.* a. To establish field offices upon receipt of advice of the designation of a disaster area; and to close disaster field offices when no longer advisable to maintain such offices:

(1) Chief and Assistant Chief, Regional Financing Division.
(2) District Director.
(3) Disaster Branch Managers as assigned.

b. To obligate the Small Business Administration to reimburse the General Services Administration for the rental of temporary office space:

(1) Regional Chief, Administrative Division.

2. *Purchase and Contract Authority.* a. To contract for local credit bureau services and loss verification services pursuant to Chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that chapter:

(1) Regional Chief, Administrative Division.
(2) District Director.
(3) Disaster Branch Manager as assigned.

b. *Other Administrative Authority: See Part VIII.*

PART VIII—ADMINISTRATIVE

SECTION A. *Authority to Purchase, Rent, or Contract for Equipment, Services, and Supplies*—1. *To purchase reproductions of loan documents,* chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases:

(1) Chief, Regional Administrative Division.
(2) District Director.
(3) Chief, District Administrative Division.
(4) Branch Manager, Fairbanks Branch Office.

2. *Purchase and contract authority* to purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that chapter:

(1) Chief, Regional Administrative Division.
(2) Regional Office Services Specialist.
(3) District Director.
(4) Chief, District Administrative Division.
(5) Branch Manager, Fairbanks Branch Office.
(6) Disaster Branch Managers as assigned.

3. *Rental of Motor Vehicles.* To rent motor vehicles and garage space for the storage of such vehicles when not furnished by this Administration:

(1) Chief, Regional Administrative Division.
(2) Regional Office Services Specialist.
(3) District Director.
(4) Chief, District Administrative Division.
(5) Branch Manager, Fairbanks Branch Office.
(6) Disaster Branch Managers as assigned.

4. *Rental of Conference Space.* To rent temporarily SBA conference space located within the respective geographical jurisdiction:

a. Chief, Regional Administrative Division.
b. Regional Office Services Specialist.
c. District Director.
d. Chief, District Administrative Division.
e. Branch Manager, Fairbanks Branch Office.

Effective date: Part I, Section A, 3a, and 3b, Section B, 1a, 3a, 3b, and 3c, September 28, 1972. Parts II and VIII, July 1, 1972.

DAVID A. WOLLARD,
Regional Director.

[FR Doc.73-1267 Filed 1-22-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 160]

ASSIGNMENT OF HEARINGS

JANUARY 17, 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 Office Docket of the Commission. An attempt will be made to publish notices of cancellations 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 115162 Sub 212, Poole Truck Line, Inc., now being assigned continued hearing February 20, 1973, will be held at the Battle House Hotel, 26 North Royal Street, Mobile, AL.

MC-FC 73286, L & V Trucking Co., Inc., Gardner, Mass., transferee and S & H Transfer, Inc., Gardner, Mass., transferor, now assigned February 26, 1973, MC-F-11677, Brush Hill Transportation Co.—purchase (portion)—Union Street Railway Co., now assigned February 28, 1973, MC 113843 Sub 185, Refrigerated Food Express, Inc., now assigned March 5, 1973, at Boston, Mass., will be held at 150 Causeway Street, fifth floor.

MC-126278 Sub 7, Frigid Way Cartage Co., now assigned February 5, 1973, MC-111545 Sub 172, Home Transportation Co., Inc., now assigned February 6, 1973, MC-123476 Sub 15, Curtis Transport, Inc., now assigned February 7, 1973, MC-134599 Sub 52, Interstate Contract Carrier Corp., now assigned February 8, 1973, will be held in Room 4, State Office Building, 65 South Front Street, Columbus, OH.

AB-18 Sub 3, Chesapeake & Ohio Railway Co., abandonment between Kinde and Port Austin, in Huron County, Mich., now assigned February 12, 1973, will be held at County Building, third floor, Bad Axe, Mich.

MC 133095 Sub 33, Texas Continental Express, Inc., now assigned January 30, 1973, at New York, N.Y., is canceled and application dismissed.

MC-107818 Sub 56, Greenstein Trucking Co., now assigned February 14, 1973, will be held in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 65697 Sub 47, Theatres Service Co., now being assigned March 6, 1973 (3 days), at Atlanta, Ga., in a hearing room to be later designated.

MC-133363 Sub 3, William T. Harris and Theatris Harris, doing business as Harris Bros. Co., now being assigned hearing February 21, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-136343 Subs 4 and 5, Milton Transportation, Inc., now being assigned hearing February 21, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

W-1265, Bigge Drayage Co., now being assigned hearing March 12, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

W-471 Sub 3, Merry Shipping Co., Inc., common carrier application now being assigned hearing February 26, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 107107 Sub 414, Alterman Transport Lines, Inc., extension—New Orleans, La., now assigned January 22, 1973, at Miami, Fla., will be held at the Florida Public Service Commission, 5720 Southwest 17th Street, instead of Room 208, Federal Building, 51 Southwest First Avenue.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1311 Filed 1-22-73;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 17, 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. 42604—*Chemicals between points in southwestern and southern territories.* Filed by Southwestern Freight Bureau, agent (No. B-379), for interested rail carriers. Rates on chemicals, in tank carloads, as described in the application, between points in Louisiana and Texas, on the one hand, and points in Georgia, North Carolina, South Carolina, and Virginia, on the other.

Grounds for relief—Market competition.

Tariff—Supplement 15 to Southwestern Freight Bureau, agent, tariff ICC 5002. Rates are published to become effective on February 15, 1973.

FSA No. 42605—*Slag between Memphis, Tenn., and points in southwestern territory.* Filed by Southwestern Freight Bureau, agent (No. B-376), for interested rail carriers. Rates on slag, not pulverized, in bulk, in carloads, as described in the application, between Memphis, Tenn., on the one hand, and points in southwestern territory, on the other.

Grounds for relief—Market competition.

Tariff—Supplement 171 to Southwestern Freight Bureau, agent, tariff ICC 4797. Rates are published to become effective on February 12, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1307 Filed 1-22-73;8:45 am]

[Notice 196]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73936. By order of December 14, 1972, the Motor Carrier Board approved the transfer to The Stout Trucking Co., Inc., Urbana, Ill., of the operating rights in permit No. MC-5352 issued June 3, 1965, to Paul S. Cooper, Champaign, Ill., authorizing the transportation of malt and carbonated beverages, and advertising matter, pertaining to such commodities, from St. Louis, Mo., to Urbana, Ill., serving the intermediate point of Champaign, Ill.; and empty beverage containers, from Urbana, Ill., to St. Louis, Mo., serving the intermediate point of Champaign, Ill. Dual operations were authorized. James F. Flanagan, 111 West Washington Street, Chicago, IL 60602, attorney for applicants.

No. MC-FC-73976. By order of December 19, 1972, the Motor Carrier Board approved the transfer to B & G Moving, Inc., 5706 North Fifth Street, Philadelphia, PA 19120 of the operating rights in certificate No. MC-89195 issued February 12, 1958, to Gus J. Steffan and William J. Steffan, a partnership, doing business as B. G. Moving, 5706 North Fifth Street, Philadelphia, PA 19120, authorizing the transportation of household goods, as defined by the Commission, from Philadelphia, Pa., to points in New Jersey.

No. MC-FC-74068. By order of December 19, 1972, the Motor Carrier Board approved the transfer to Hall H. Edwards, doing business as H. H. Edwards, North Platte, Nebr., of the certificate of registration in No. MC-99326 (Sub-No. 3) issued November 18, 1963, to Harvey H. Edwards, Scottsbluff, Nebr., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in certificate No. M-786 Supplement No. 3 dated December 22, 1954, issued by the Nebraska State Railway Commission. James E. Ryan, 214 Sharp Building, Lincoln, Nebr., 68508, attorney for applicants.

No. MC-FC-74092. By order of December 19, 1972, the Motor Carrier Board approved the transfer to Dan A. Grossmueller, and C. Gene Wolfinbarger, a partnership, doing business as John Galt Line, 9950 Cherry Avenue, Fontana, CA 92335, of the operating rights in permit No. MC-33899 issued July 29, 1943, to Hans Bolliger, Chino, Calif., authorizing the transportation of canned goods, from Chino, Calif., to Los Angeles, Calif., serving the off-route points of Long Beach and Los Angeles Harbor, Calif.

No. MC-FC-74099. By order of December 12, 1972, the Motor Carrier Board approved the transfer to Mid Seven Transportation, a corporation, Des Moines, Iowa, of the operating rights in certificates No. MC-16831, MC-16831 (Sub-No. 10), MC-16831 (Sub-No. 12), MC-16831 (Sub-No. 13), MC-16831 (Sub-No. 15) issued May 6, 1964, March 28, 1962, October 31, 1963, June 28, 1968, and February 24, 1969, respectively, to La Vern W. Simpson, doing business as Mid Seven Transportation Co., Des Moines, Iowa, authorizing the transportation of various commodities, from, to, and between specified points and areas in Illinois, Iowa, Kansas, Minnesota, Nebraska, South Dakota, and Wisconsin. William N. Dunn, 1123 Edginton Street, Eldora, IA 50627, attorney for applicants.

No. MC-FC-74105. By order of December 19, 1972, The Motor Carrier Board

approved the transfer to Richard E. Fusselman, doing business as Gene Fusselman, Quincy, Ill., of permit No. MC-125180 (Sub-No. 1), issued December 4, 1963, to Eugene M. Drew, Quincy, Ill., authorizing the transportation of dairy products and ice cream, from Quincy, Ill., to points in Adams and Hancock Counties, Ill., Lee County, Iowa, and Scotland, Adair, Knox, Lewis, Marion, Clark, and Schuyler Counties, Mo.; and empty containers, from the above-specified destination points to Quincy, Ill. Robert T. Lawley, 300 Reisch Building, Springfield, Ill., 62701.

No. MC-FC-74136. By order entered December 29, 1972, the Motor Carrier Board approved the transfer to Cargo Transport, Inc., Arlington, Mass., of the operating rights set forth in certificate of registration No. MC-87451 (Sub-No. 2), issued September 8, 1967, to Irving F. Mix, Jr., doing business as I. F. Mix Jr. Transportation, Pembroke, Mass., evidencing a right to engage in operations in interstate commerce, in the transportation of general commodities anywhere within the Commonwealth of Massachusetts, over irregular routes. Francis P. Barrett, 60 Adams Street, Milton, MA 02187, and John E. Sullivan, 111 High Street, Pembroke, MA 02359, attorneys for transferee and transferor, respectively.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1310 Filed 1-22-73;8:45 am]

[Notice 4]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 12, 1973.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 61396 (Sub-No. 238 TA), filed January 3, 1973. Applicant: HERMAN BROS., INC., 2501 North 11th Street 68110, Post Office Box 189, Downtown Station, Omaha, NE 68101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid oxygen, liquid nitrogen, liquid argon, gaseous hydrogen, and compressed gases*, in bulk, in tank vehicles, from Kansas City and Neosha, Mo.; East Alton, Morris, Granite City, and Chicago, Ill.; Ashland, Ky.; Middleton and Warren, Ohio; and Mount Vernon, Ind., to points in the continental United States, for 180 days. Supporting shipper: Airco Industrial Gases, Post Office Box 124, 2001 West 16 Street, Broadview, IL. 60153. Send protests to: Carroll Russell, Bureau of Operations, Interstate Commerce Commission, District Supervisor, 711 Federal Office Building, 106 South 15 Street, Omaha, NE 68102.

No. MC 82492 (Sub-No. 73 TA), filed January 3, 1973. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Post Office Box 2853, Kalamazoo, MI. 49003. Applicant's representative: Mr. William C. Harris (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, except commodities in bulk, from Eau Claire, Reedsburg, Spencer, and Whitehall, Wis., and points in Minnesota to Maumee and Toledo, Ohio, and points in the Lower Peninsula of Michigan. Restricted to traffic originating at the facilities utilized by Land O'Lakes, Inc., for 180 days. Supporting shipper: Land O'Lakes, Inc., 614 McKinley Place, Minneapolis, MN 55413. Send protests to: C. R. Fleming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 225, Federal Building, Lansing, Mich. 48933.

No. MC 93840 (Sub-No. 11 TA), filed January 4, 1973. Applicant: W W GLESS, doing business as GLESS BROS. Post Office Box 216, Blue Grass, IA 52726. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid feed and liquid feed supplements*, in bulk, from the plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Illinois on and south of Interstate Highway 70 and points in Indiana, and (2) *molasses*, in bulk, from the plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Illinois on and south of Interstate Highway 70, for 150 days. Supporting shipper: Cargill, Inc., Cargill Building, Minneapolis, Minn. 55402. Send protests to: Herbert W. Allen, Transportation Specialists, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, IA 50309.

No. MC 94350 (Sub-No. 322 TA), filed November 22, 1972. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Haywood Road at Transit Drive, Greenville, SC 29602. Applicant's representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, initial shipments, *and building*, in sections, mounted on wheeled undercarriages, from points of manufacture Herkimer, N.Y., to Cincinnati, Ohio, Scottsville, Mich., Elkhart, Ind., Clifton Park, N.J., Melbourne, Fla.; Intervale, N.H.; Quincy, Ill, Kirksville, Mo., and La Plata, Mo., for 180 days. Supporting shipper: Highland Homes, Inc., 340 Harter Street, Herkimer, NY, 13350. Send protests to: E. E. Strotheld, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 103721 (Sub No. 21 TA), filed January 4, 1973. Applicant: INDIAN VALLEY BULK CARRIERS, INC., Ridge Road, Tylersport, Pa. 18971. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the facilities of Lehigh Valley Anthracite, Inc., in Luzerne and Schuylkill Counties, Pa., to points in New York, restricted against traffic destined to the plantsite of Allied Chemical Corp., Solvay Division, at or near Solvay, N.Y., and restricted against traffic originating at the Mammoth Colliery at or near Raven Run, Pa., for 180 days. Supporting shipper: Joseph A. Frank, Vice President-Sales, Lehigh Valley Coal Sales Co., Post Office Box 450, Pittston, PA 18640. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 106688 (Sub-No. 18 TA), filed January 5, 1973. Applicant: EDWARD M. RUDE CARRIER CORP., R.F.D. No. 1, Falling Waters, W. Va. 25419. 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: *Mine rock bolt resin compound*, in boxes, from the plantsite of E. I. du Pont de Nemours & Co. at or near Falling Waters, W. Va., to Madisonville, Ky., Oakdale, Allegheny County, Pa., and Beckley and Gary, W. Va., for 180 days. Supporting shipper: E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 107515 (Sub-No. 819 TA), filed October 9, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE.,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 1600, First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, from Dalhart, Tex., to points in Kentucky, for 150 days. Supporting shipper: Caviness Packing Co., Post Office Box 10, Dalhart TX 79022. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street, Atlanta, GA 30309.

No. MC 109689 (Sub-No. 242 TA), filed December 22, 1972. Applicant: W. S. HATCH CO., Office: 643 South 800 West, Mail: Post Office Box 1825, Salt Lake City, UT 84110, Woods Cross, UT 84087. 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: *Petroleum crude oil*, in bulk, in tank vehicles, from Altamont Field, Duchesne County, Utah, to Denver, Colo., for 180 days. Supporting shipper: Shell Oil Co., 1008 West Sixth Street, Los Angeles, CA 90051 (O. B. Brooks, Supervisor Services, Traffic Operations WOR). Send protests to: District Supervisor Lyle D. Helfer, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 111729 (Sub-No. 366 TA), filed January 3, 1973. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media and advertising material of all kinds*, between Milwaukee, Wis., on the one hand, and, on the other, points in Minnesota, North Dakota, and South Dakota; (2) *ophthalmic goods and business papers and records moving therewith*, between Philadelphia, Pa., on the one hand, and, on the other, Hagerstown, Md.; East Orange and Trenton, N.J.; and Washington, D.C.; and (3) *unprocessed specimens of drugs pharmaceuticals, blood, other items related to the drug industry, and business reports and documents*, between Cincinnati, Ohio, on the one hand, and, on the other, points in Indiana, for 90 days. Supporting shippers: Allstate Insurance Co., 808 North Third Street, Milwaukee, WI 53511; Bausch & Lomb Inc., 1814 Chestnut Street, Philadelphia, PA 19103; American Biomedical Corporation of Ohio, Inc., 5889 Colerain Avenue Cincinnati, OH 45239. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112769 (Sub-No. 4 TA) filed December 11, 1972. Applicant: CHEMICAL TRANSPORT, INC., 1705 South Harding Street, Indianapolis, IN 46221. Applicant's representative: Robert W. Loser, Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, in tank Vehicles, from Indianapolis, Ind., to Columbus, Washington Court House, Sidney, Fostoria, Findlay, Orrville, and Moraine, Ohio, for 180 days. Supporting shipper: Marion Manufacturing Corp., Indianapolis Stock Yards, Indianapolis, Ind. Send protests to: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 113024 (Sub-No. 124 TA), filed January 3, 1973. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery 2, South Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Luggage and materials and supplies* (except in bulk) used in the manufacture thereof, between Clayton, Del., on the one hand, and, Elizabeth, N.J., and points in New Jersey and New York within 50 miles of City Hall, New York, N.Y., on the other, for the account of Leeds Travelwear Division, Rapid-American Corp., Clayton, Del., for 180 days. Supporting shipper: James R. Bowen, Traffic Manager, Leeds Travelwear, Division of Rapid-American Corp., Bassett Street, Clayton, Del. 19938. Send protests to: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 814-B, Federal Building, Baltimore, Md. 21201.

No. MC 113908 (Sub-No. 249 TA), filed December 29, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, Post Office Box 3180, Glenstone Station, 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: John Erickson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed additive*, in bulk, in tank vehicles from Louisville, Ky., to Easton, Md., for 180 days. Supporting shipper: Diamond Shamrock Chemical Co., Nopco Chemical Division, Louisville, Ky. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119934 (Sub-No. 188 TA), filed January 3, 1973. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: Jerry F. Crouch (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup, liquid sugar, and blends of corn syrup and liquid sugar*, in bulk, in tank vehicles, from Houma, La., to Mobile, Ala., and Newton and Jackson, Miss., for 180 days. Supporting shipper: Penick & Ford, Ltd., Post Office Box 428, Cedar Rapids, IA 52406. Send protests to: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 123392 (Sub-No. 47 TA), filed December 27, 1972. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive, (Route 1, Box 444), Amarillo, TX 79106. Applicant's representative: Weldon M. Teaque (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied carbon dioxide*, in bulk, between points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, South Dakota, Tennessee, Wisconsin, and Wyoming. NOTE: Applicant does not intend to tack with its MC-123392 Sub 39 TA, granted October 10, 1972, for authority to transport liquefied carbon dioxide, in bulk, between Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper: J. C. Saele, National Equipment Manager, Carbon Dioxide Division, Liquid Carbonic Corp., 135 South La Salle Street, Chicago, IL 60603. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, TX 79101.

No. MC 134022 (Sub-No. 7 TA), filed January 4, 1973. Applicant: RICHARD A. ZIMA, doing business as ZIPCO, 4008 Schoster Drive, Post Office Box 115, West Bend, WI 53095. Applicant's representative: William E. McCarty, 211 West Wisconsin Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and cheese products*, in packages, and (2) *food and food products*, in packages (except cheese and cheese products), when moving in mixed shipments with the commodities in (1) above, between Kaukauna, town of Vinland, and Little Chute, Wis., on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, Florida, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, North Dakota, Oklahoma, Louisiana, South Dakota, Texas, and West Virginia, restricted to the transportation of shipments originating at and destined to the plantsites and warehouses of Kaukauna Dairy Products at Kaukauna, town of Vinland, and Little Chute, Wis., for 180 days. Supporting shipper: Kaukauna Dairy Products, 213, East Fourth Street, Kaukauna, WI 54130. Send protests to: Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 134449 (Sub-No. 7 TA), filed January 4, 1973. Applicant: LESTER V. MOZNIK, 3753 Grandview Highway, Burnaby, BC, Canada. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic camper canopies and parts thereof*, from Paramount, Calif., to the international boundary line between the United States and Canada at or near Blaine and Sumas, Wash., for 180 days. Supporting shipper: King of the Road Enterprises, Ltd., Post Office Box 2137, New Westminster, BC. Send protests to: L. D. Boone, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, WA 98104.

No. MC 138217 (Sub-No. 1 TA), filed December 29, 1972. Applicant: BETA-WAYS CARGO CARRIERS, INC., 435-437 Greene Street, Buffalo, NY 14212. Applicant's representative: Robert D. Gunderman, Suite 1708, Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Buffalo, N.Y., to points in Erie, Mercer, Blair, Allegany, Westmoreland, and Cambria Counties, Pa., restricted to shipments of less truckload shipments, for 180 days. Supporting shippers: Freezer Queen Foods Inc., 2544 Clinton Street, Cheektowaga, NY; Abel's Bagels, Inc., 299 Kehr Street, Buffalo, NY; Rich Products Corp., 1150 Niagara Street, Buffalo, NY; Merchants Refrigerating Co., Division of Pet, Inc., 101 Columbia, Buffalo, NY. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 138288 (Sub-No. 1 TA), filed December 19, 1972. Applicant: ASSOCIATED DELIVERY SERVICE, INC., 100 Crows Mill Road, Keasbey, Woodbridge Township, NJ 08832. Applicant's representative: Richard Newman, 1180 Raymond Boulevard, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home and garden appliances and supplies and equipment connected therewith*, from Keasby, NJ., on the one hand, and, on the other, points in Orange, Rockland, and Richmond Counties, NY., for 180 days. Restriction: Traffic is limited from the warehouse facility of and under contract with Bamberger's, a division of R. H. Macy & Co., Inc., at Keasbey, NJ. Supporting shipper: Bamberger's, a division of R. H. Macy & Co., Inc., Keasbey, NJ 08832. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 138290 TA, filed December 20, 1972. Applicant: ROBERT SCHMIDT AND DAVID CROOKS, doing business as UNIVERSAL DELIVERY SYSTEMS, 3718 Broadway, Kansas City, MO 64109. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Human blood*, from Community Blood Center of Greater Kansas City, Kansas City, Mo., to Garnett, Iola, Leavenworth, Olathe, Paola, Osawatomie, Atchison, and Winchester, Kans., and (2) *unused blood units*, from above-named points to Community Blood Center of Greater Kansas City, Kansas City, Mo., for 150 days. Supporting shippers: Community Blood Center of Greater Kansas City, 4040 Main Street, Kansas City, MO 64111; St. John Hospital, 3700 South Fourth Street, Leavenworth, KS 64048; Atchison Hospital, 1301 North Second, Atchison, KS 66002; Jefferson County Memorial Hospital, Winchester, KS 66097; Miami County Hospital, Paola, KS 66071; Allen County Hospital, Iola, KS 66749; Cushing Memorial Hospital, Marshall Street at West Seventh, Leavenworth, KS 66048; Department of the Army, U.S. Munson Army Hospital, Fort Leavenworth, KS 66027. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1308 Filed 1-22-73;8:45 am]

[Notice 5]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 16, 1973.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR, Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 28478 (Sub-No. 39 TA), filed January 4, 1973. Applicant: GREAT LAKES EXPRESS CO., 172 Davenport Street, Saginaw, MI 48602. Applicant's representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment because of size or weight, between Lexington, Ky., and Mount Sterling, Ky., (1) from Lexington, Ky., over U.S. Highway 60 to Mount Sterling, Ky., and return, serving no intermediate points; and (2) from Lexington, Ky., over Interstate Highway 64 to Mount Sterling, Ky., serving no intermediate points, for 180 days. NOTE: The requested authority, if granted, will be tacked to the existing authority of applicant to provide a through service between Mount Sterling, Ky., on the one hand, and, on the other, points presently served by applicant in such States as Alabama, Georgia, Illinois, Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania, and Tennessee. Supporting shippers: Hobart Manufacturing Co., 711 Pennsylvania Avenue, Troy, OH 45373; A. O. Smith Corp., Post Office Box 584, Milwaukee, WI 53201. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 29120 (Sub-No. 148 TA), filed January 3, 1973. Applicant: ALL-AMERICAN TRANSPORT, INC., 900 West Delaware Street, Post Office Box 769, 57101, Sioux Falls, SD 57104. Applicant's representative: Michael J. Ogborn (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products*, from Dakota City, Nebr., to points in Tennessee (except Memphis), for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731, Joseph A. Eschenbacher, Jr. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 30844 (Sub-No. 448 TA), filed December 15, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, Waterloo, IA 50702. Applicant's representative: Paul Rhodes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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 the plantsite and facilities utilized by John Morrell & Co., Ottumwa, Iowa, to points in North Carolina and South Carolina, for 180 days. Supporting shipper: John Morrell & Co., 208 South La Salle Street, Chicago, IL 60604. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 32367 (Sub-No. 21 TA) (Amendment), filed October 31, 1972, published in the FEDERAL REGISTER issue of November 18, 1972, amended and republished in part as amended this issue. Applicant: RED & WHITE MARKET & TRANSFER, INC. (Nebraska Corporation), 607 South Burlington Avenue, Hastings, NE 68901. Applicant's representative: Gailyn L. Larsen, Box 80806, Lincoln, NE 68501. NOTE: The purpose of this partial republication is to include part (3) to read as follows: To transport engine parts and accessories, from Rockport, Ill., to Hastings, Nebr. The rest of the notice remains the same.

No. MC 105350 (Sub-No. 22 TA), filed January 5, 1973. Applicant: NORTH PARK TRANSPORTATION CO., 5150 Columbine Street, Denver, CO 80216. Applicant's representative: Leslie R. Kehl, 1600 Lincoln Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel products*, which products, because of size or weight require the use of special equipment, from Denver, Colo., to bridge sites located at or near Mills, Wyo., and Orin, Wyo., for 180 days. Supporting shipper: Midwest Steel & Iron Works Co., Post Office Box 5384, Terminal Annex, Denver, CO 80217. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 107496 (Sub-No. 871 TA), filed January 5, 1973. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Illinois on and south of Interstate Highway 70 and points in Indiana; and (2) *molasses*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Illinois on and south of Interstate Highway 70, for 150 days. Supporting shipper: Cargill, Inc., Cargill Building, Minneapolis, Minn. 55402. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 110563 (Sub-No. 97 TA), filed January 2, 1973. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Ohio Building, Post Office Box 747, Sidney, OH 45365. Applicant's representative: John L. Maurer, Coldway Food Express, Inc., Post Office Box 747, Sidney, OH 45365. 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* (except hides and commodities in bulk), as described in sections A and C in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Coldwater, Mich., to points in New York, Connecticut, New Jersey, Ohio, Pennsylvania, Maryland, Massachusetts, Tennessee, Kentucky, and Illinois, for 180 days. Supporting shipper: Walter Packing Co., Inc., Coldwater, Mich. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, Toledo, OH 43604.

No. MC 112801 (Sub-No. 139 TA), filed January 3, 1973. Applicant: TRANSPORT SERVICE CO., Post Office Box 50272, 5100 West 41st Street, Chicago, IL 60650. Applicant's representative: Levy, Andrin & Stillerman, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Residual fuel oil*, from Kansas City, Kans., to Decatur, Ill., for 180 days. Supporting shipper: John E. Harvey, Director of Corporate Transportation, Archer Daniels Midland Co., 4666 Faries Parkway, Decatur, IL 62526. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 114004 (Sub-No. 123 TA), filed January 4, 1973. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Post Office Box 1715, 72203, Little Rock, AR 72209. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (mobile homes) *and portable building* mounted on wheeled undercarriages, initial movements, from points in Rockingham County, N.C., to points in the United States east of the Mississippi River, for 180 days. Supporting shipper: G. W. Morris, Jr., Sales Manager, Broadmore Homes of North Carolina, Inc., Box 665, Reidsville (Rockingham County), NC 27320. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 115841 (Sub-No. 448 TA), filed January 5, 1973. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Office: 1215 Bankhead Highway West, Post Office Box 168, Concord, Tenn. 37720, Birmingham, AL 35204. Applicant's representative: C. E. Wesley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from Amarillo, Tex., to points in California, for 180 days. Supporting shipper: Glover Packing Co., Post Office Box 92, Amarillo, TX 79105. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 117730 (Sub-No. 12 TA), filed January 5, 1973. Applicant: KOUBENEC MOTOR SERVICE, INC., 641 Maple Lane, Batavia, IL 60510. Applicant's representative: Frank J. Belline, McDonald's Plaza, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin coated sand and industrial sand*, from Bridgman, Mich., to Dayton, Defiance, and Sidney, Ohio; Warsaw, Muncie, and La Porte, Ind., and Whitewater, Wis., for 180 days. Supporting shipper: Manley Bros., Post Office Box 67, Chesterton, Ind. 46304. Send protests to: District Supervisor Richard K. Shullaw, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 121658 (Sub-No. 3 TA), filed January 4, 1973. Applicant: STEVE D. THOMPSON, 1205 Percy Street, Mailing: Post Office Box 149, Winnsboro, LA 71295. Applicant's representative: Harry E. Dixon, Jr., Post Office Box 4319, Monroe, LA 71201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, with the usual exceptions, from, to and between Jackson, Miss., on the one hand, and, points in Louisiana as presently named in Docket No. MC 121658 and MC 121658 Sub 1 as follows: between Monroe, La., and Sicily Island, La., over Louisiana Highway 15, serving all intermediate points. The major points on this route are Monroe, Alto, Archibald, Mangham, Baskin, Winnsboro, Chase, Gilbert, Wisner, Peck, and Sicily Island. Also between Crowville and Winnsboro La., over Louisiana Highway No. 17; and between Fort Necessity and Winnsboro, La., over Louisiana Highway No. 4. The transportation of cement and lime in excess of 25 percent of loaded truck is prohibited under this authority. Between Ruston, La., and Delta, La., along U.S. Highway 80 and all intermediate points using Interstate Highway 20 for operating conveniences. Between Tallulah, La., and Vidalia, La., along U.S. Highway 65 and all intermediate points. Between Ferriday, La., and Winnfield, La., and all intermediate points, along U.S. Highway 84. Between Winnfield, La., and Ruston, La., and all intermediate points along U.S. Highway 167. Between Fort Necessity, La., and Columbia, La., along Louisiana Highway 4. Between Sicily Island, La., and Jonesville, La., along Louisiana Highway 8 and Louisiana Highway 124

and all intermediate points. Between Sicily Island, La., and Ferriday, La., along Louisiana Highway 15 and all intermediate points.

Between Monroe, La., and Tullos, La., along U.S. Highway 165 and all intermediate points. Between Harrisonburg, La., and Whitehall, La., along Louisiana Highway 8 and all intermediate points. Between Archibald, La., and Rayville, La., along Louisiana Highway 137 to U.S. Highway 80 (Interstate 20). Between Crowville, La., and Delhi, La., along Louisiana Highway 17 and all intermediate points; (2) Applicant also files for temporary authority for *General Commodities* with usual exceptions, from, to and between Jackson, Miss., and points bounded on the south by U.S. Highway 80 and/or Interstate Highway 20 between Delta Point (Delta), La., and Ruston, La., bounded on the west by U.S. Highway 167 between Ruston, La., and Arkansas-Louisiana State line to Junction City, La., bounded on the north by Arkansas-Louisiana State line from U.S. Highway 167 to Mississippi River and bounded on the east by Mississippi River, from Arkansas-Louisiana State line to Delta Point, La., and including all points within the boundaries so named above, for 180 days. NOTE: Applicant states it does intend to tack with this authority at Jackson, Miss. Supported by: There are approximately 12 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 126276 (Sub-No. 73 TA), filed January 3, 1973. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Levy, Andrin & Stillerman, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty metal containers and metal container ends*, from the plantsite of American Can Co. at Morrisville (Bucks County), Pa., to Cleveland and Berea, Ohio, for 180 days. Supporting shipper: R. H. Lorenz, Director-Transportation, American Can Co., American Lane, Greenwich, Conn. 06830. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 126389 (Sub-No. 2 TA), filed January 3, 1973. Applicant: MARY KIRKPATRICK, doing business as KIRKPATRICK TRUCKING, 11317 Route 14 North, Harvard, IL 60033. Applicant's representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat*, from the plantsite and facilities of Big Foot Packing Co., Inc., at Big Foot, Ill., to Green Bay, Madison, and Milwaukee, Wis., for 180 days. Supporting shipper: Robert C. Eimers, President, Big Foot Packing Co., Inc., Post Office Box 266, Harvard, IL. Send protests to: William J. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 133035 (Sub-No. 18 TA), filed January 3, 1973. Applicant: DILTS TRUCKING, INC., Route 1, Crescent, Iowa 51526. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum gas and propane*, from Conway and McPherson, Kans., to points in Iowa, for 180 days. Supporting shipper: Farmland Industries, Inc., Kansas City, Mo. Send protests to: Carroll Russell, District Supervisor, 711 Federal Office Building, 106 South 15 Street, Omaha, NE 68102.

No. MC 133035 (Sub-No. 19 TA), filed January 3, 1973. Applicant: DILTS TRUCKING, INC., Route 1, Crescent, Iowa 51526. Applicant's representative: Arlyn L. Westergren, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum gas*, from La Porte, Tex., to Red Oak, Iowa, for 180 days. Supporting shipper: Farmers Mercantile Co., 203 West Oak Street, Red Oak, IA. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, 106 South 15 Street, Omaha, NE 68102.

No. MC 133630 (Sub-No. 4 TA), filed January 3, 1973. Applicant: LEO KING, doing business as LEO TRUCKING SERVICE, Hubert Street, Ashkum, Ill. 60911. Applicant's representative: Charles R. Young 4 West Seminary Street, Danville, IL 61832. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bags or in bulk, from Shakum, Ill., to Green Bay, Madison, and Milwaukee, Wis., for 180 days. Supporting shipper: Occidental Chemical Co., Northeast Region, Post Office Box 38, Ashkum, IL 60911. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 134467 (Sub-No. 2 TA), filed January 2, 1973. Applicant: POLAR EXPRESS, INC., Post Office Box 691, Springdale, AR 72764. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Seafood*, from Ocean Park and South Bend, Wash., to points in Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper: Wiegardt Bros., Inc., Ocean Park, Wash. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 134477 (Sub-No. 28 TA), filed January 5, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat*, fresh or frozen, suspended or other than suspended, from Denison and Fort Dodge, Iowa, and Dakota City and West Point, Nebr., to Washington, D.C., Boston, Mass., Woodbridge, N.J., Brentwood, Long Island, N.Y., New York, N.Y., and Philadelphia, Pa., for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135007 (Sub-No. 25 TA), filed January 4, 1972. Applicant: AMERICAN TRANSPORT, INC., Post Office Box 37406, Millard, NE 68137. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, from the plantsites and storage facilities of Spencer Foods, Inc., at or near Schuyler, Nebr., and Fremont, Nebr., to points in Maine, for 180 days. Supporting shipper: Spencer Foods, Inc., Box 1228, Spencer, IA 51301. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Building, 106 South 15 Street, Omaha, NE 68102.

No. MC 138269 (Sub-No. 1 TA), filed January 4, 1973. Applicant: GREEN RIVER TRANSPORTATION CO., INC., Post Office Box 204, Lake Village, IN 46349. Applicant's representative: Samuel Ruff, 2109 Broadway, East Chicago, IN 46312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets and parts thereof*, from points in Muhlenberg and Logan Counties, Ky., on the one hand, and, on the other, points in Illinois and Indiana within 75 miles of Gary, Ind., including Gary, Ind., for 180 days. Supporting shippers: Geibel Lumber Co., Greenville, Ky; Expandable Pallet Manufacturing Co., Central City, Ky; Kentucky Mill Lumber & Mfg. Co. of Logan County, Louisburg, Ky. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 138293 TA, filed December 29, 1972. Applicant: TIDEWATER DISTRIBUTION SERVICES, INC., 47 Sixth Street, East Brunswick, NJ 08816. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Packaging materials, equipment, and supplies*, between the facilities of Jiffy Manufacturing Co., at or near Clyde, N.J., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, as defined by the Commission, points in Nassau, Suffolk, Westchester, Orange, Rockland Counties, N.Y., and Fairfield County, Conn., for 180 days. Supporting shipper: Jiffy Manufacturing Co., 360 Florence Avenue, Hillside, NJ 07205. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 138295 TA, filed January 5, 1973. Applicant: CYCLONE TRANSPORT, INC., 104 Black Hawk Street, Reinbeck, IA 50669. Applicant's representative: Larry D. Knox, Ninth Floor, Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refuse containers and compactors;* (2) *hoists;* (3) *truck bodies, boxes, and platforms;* and (4) *parts and accessories* for commodities in (1), (2), and (3) from Grundy Center, Nev., and Sioux City, Iowa, to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, Ohio, New York, Oklahoma, North Carolina, Pennsylvania, South Carolina, Texas, Tennessee, Virginia, Wisconsin, and West Virginia, for 180 days. Supporting shipper: Mid Equipment, Inc., Highway 175 West, Grundy Center, IA 50638. Send protests to: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc 73-1309 Filed 1-22-73; 8:45 am]

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TUESDAY, JANUARY 23, 1973
WASHINGTON, D.C.
Volume 38 ■ Number 15
PART II

DEPARTMENT OF COMMERCE

Economic Development Administration

■

REVISION OF REGULATIONS

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter III—Economic Development Administration, Department of Commerce

REVISION OF CHAPTER

The Economic Development Administration has completely revised Title 13, Chapter III of the Code of Federal Regulations. This revision as set forth below expands, reorganizes, and brings current the rules and regulations of the Economic Development Administration.

The revised rules and regulations become effective on January 19, 1973.

Dated: January 17, 1973.

ROBERT A. PODESTA,
Assistant Secretary for Economic Development.

NOTE: The Area Redevelopment Act expired on August 31, 1965, and the Economic Development Administration succeeded to, among other things, certain responsibilities of the Area Redevelopment Administration, including liquidation thereof.

Part

PART 301—ESTABLISHMENT AND ORGANIZATION

Subpart A—Introduction

Sec.

Subpart B—Description of Program Areas

Subpart C—Description of Organization

Subpart D—Disclosure of Information to the Public

Sec.

AUTHORITY: Sec. 701, Public Law 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (April 1, 1970).

Subpart A—Introduction

§ 301.1 Purpose.

The purpose of the Economic Development Administration is to provide assistance in economically distressed areas and regions in order to alleviate conditions of substantial and persistent unemployment and underemployment and to establish stable and diversified economies.

§ 301.2 Definitions.

"Act" used in this chapter means the Public Works and Economic Development Act of 1965, as amended.

"Administration," "Agency," or *"EDA"* means the Economic Development Administration.

"Advisory Committee" means the Committee on Regional Economic Development appointed by the Secretary in accordance with section 602 of the Act.

"Alaskan Native Village" means town or village sites occupied and used by natives of Alaska—Indians, Eskimos, and Aleuts—pursuant to the 1926 Native Townsite Act.

"ARA" means the Area Redevelopment Administration (now expired) which was an experimental program designed to cope with the problems of long-term unemployment and underemployment.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development.

"Designated Area" means any area or center which has been determined by the Assistant Secretary pursuant to sections 102, 401, or 403 of the Act as eligible to apply for financial assistance.

"Designation" means the act of the Assistant Secretary whereby a geographic area, district or economic development center is determined to be eligible to apply for assistance under the Act.

"Disaster Area" means areas designated under Titles I or IV of the Act and designated by the President under the Disaster Relief Act of 1970 (Public Law 91-606). The disaster area shall remain such for as long a period as it retains both EDA and Disaster designations, and such concurrent designations have not exceeded 1 year in duration.

"Economic Development Center" means any geographic area within the United States having a population of 250,000 or less, not located in a redevelopment area, which has been identified in an approved district overall economic development program as having the potential for economic growth and the ability to alleviate the economic distress of the redevelopment areas within the district.

"Economic Development District" means a geographic area composed of adjoining and economically related areas which are of proper size to permit effective economic planning, including at least two redevelopment areas and one or more economic growth center(s) and having been designated by the Assistant Secretary.

"Economic Growth Center" means an economic development center or redevelopment center, designated or recognized by the Assistant Secretary, whose growth may be reasonably expected to contribute significantly to the alleviation of distress in the district's redevelopment areas.

"Indian Tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority or other tribal organization or entity or Alaskan Native Village.

"Local Government" means any municipality, county, town, parish, or other general purpose political subdivision of a State.

"OEDP" means an Overall Economic Development Program (or orderly plan of action) pertaining to an area or district.

"Planning Grants" means grants for administrative expenses to eligible applicants under section 301(b) of the Act for planning purposes.

"Public Works Impact Program Area" means any community or neighborhood (defined without regard to political or other subdivisions or boundaries) which has been designated by the Assistant Secretary pursuant to section 401(a)(6) of the Act and which is exempted from the requirements of subparagraphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of the Act.

"Qualified Area" means an area which meets the criteria of the Act for designation as "redevelopment area" or "Title I area" subject to the other provisions of the Act.

"Redevelopment Area" means any geographic area which has been designated by the Assistant Secretary pursuant to section 401 of the Act and is eligible for the full range of EDA assistance.

"Redevelopment Center" means any geographic area constituting all or part of a redevelopment area which has been identified in an approved district overall economic development program as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the redevelopment areas composing the economic development district.

"Secretary" means the Secretary of Commerce, the Assistant Secretary when exercising authorities delegated by the Secretary of Commerce, or any person

duly authorized to act for the Secretary of Commerce in his stead.

"Special Impact Area" means:

(a) Any community or neighborhood (defined without regard to political or other subdivision or boundaries) which has been designated by the Assistant Secretary pursuant to section 401(a)(6) of the Act. It does not include a Public Works Redevelopment Area which has been designated by the Assistant Secretary pursuant to section 401(a)(6) of the Act.

(b) Any area selected as special impact area (as defined under the Economic Opportunity Act of 1964, as amended), funded by the Office of Economic Opportunity, and designated by the Assistant Secretary.

"Sudden Rise Area" means any area which has been designated by the Assistant Secretary as a redevelopment area under Section 401(a)(4) of the Act.

"Supplemental Grant" means the amount of additional grant assistance provided pursuant to section 101(c) of the Act.

"Title I Area" means any area which the Assistant Secretary designates pursuant to the provisions of section 102 of the Act.

"Working Capital" means the excess of current assets over current liabilities and identifies the relatively liquid portion of total enterprise capital which constitutes a margin or buffer or meeting obligations within the ordinary operating cycle of the business.

Subpart B—Description of Program Areas

§ 301.20 Public works and development facility grants.

(a) Direct grants are authorized for:

(1) Public works, public service and development facility projects which directly or indirectly contribute to long-range economic growth or benefit long-term unemployed and members of low-income families in redevelopment areas.

(2) Public works, public service and development facility projects which provide immediate useful work to the unemployed and underemployed of the project area.

(b) Supplementary grants to augment the direct grants received under the Act or to augment the basic grants under other Federal grant-in-aid programs may be provided to public works, public service and development facility projects which directly or indirectly contribute to long-range economic growth or benefit long-term unemployed and members of low-income families in redevelopment areas.

§ 301.21 Loans.

(a) Loans are authorized for public works, public service, and development facility projects in redevelopment areas and economic growth centers, but not in title I areas.

(b) Loans are authorized for industrial and commercial purposes in redevelopment areas and economic growth centers, but not in title I areas.

(c) Guarantees of working capital loans made to private borrowers by private lending institutions for projects assisted under paragraph (b) of this section are authorized.

§ 301.22 Technical assistance.

(a) Technical assistance in the form of direct assistance by EDA personnel, payment to other Federal agencies, contracts, and grants may be extended to redevelopment areas and other areas that have substantial need for such assistance. Any such technical assistance must be useful in alleviating or preventing conditions of excessive unemployment or underemployment.

(b) Planning and administrative grants are available to eligible applicants.

(c) EDA conducts a continuing program of study, training and research in the problems of economic development through members of its staff, payments to other Federal agencies, contracts, and grants.

(d) EDA provides technical assistance for national projects to national or public associations or public bodies.

(e) EDA aids redevelopment areas and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas.

Subpart C—Description of Organization

§ 301.30 Washington office.

The central and principal office of the Economic Development Administration is in the Department of Commerce, 14th Street at Constitution Avenue NW., Washington, DC 20230.

§ 301.31 Economic Development Administration Regional Offices.

Locations:

(a) *Atlantic.* 320 Walnut Street, Philadelphia, PA 19106. Serving: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.

(b) *Southeastern.* Suite 55, 1401 Peachtree Street NE., Atlanta, GA 30309. Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(c) *Rocky Mountain.* Suite 505, Title Building, 909 17th Street, Denver, CO 80202. Serving: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

(d) *Midwestern.* Civic Towers Building 32 West Randolph Street, Chicago, IL 60601. Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

(e) *Western.* 1700 Westlake North, Seattle, WA 98109. Serving: Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

(f) *Southwestern.* 702 Colorado Street, Austin, TX 78701. Serving: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

§ 301.32 Assistant Secretary.

The Assistant Secretary for Economic Development directs the programs and is responsible for the conduct of all activities of the Economic Development Administration subject to the policies and directions prescribed by the Secretary of Commerce.

§ 301.33 Deputy Assistant Secretary for Economic Development.

The Deputy Assistant Secretary for Economic Development assists the Assistant Secretary in all matters affecting the Agency. The Deputy Assistant Secretary for Economic Development shall exercise the powers and perform the duties of the Assistant Secretary when there is a vacancy in office or when the Assistant Secretary is absent or disabled. The Deputy Assistant Secretary for Economic Development also directs and supervises the Investigations and Inspections Staff, the Special Assistant for Environmental Affairs, the Special Assistant for Field Operations and the Special Assistant for Indian Affairs.

(a) The Investigations and Inspections Staff formulates and recommends policies, plans, and procedures, for the development and conduct of the investigation programs; and conducts inspections and special compliance studies and surveys on programs and technical operations.

(b) The Special Assistant for Environmental Affairs acts as principal advisor to the Assistant Secretary on environmental affairs; serves as the Agency's responsible official under the National Environmental Policy Act of 1969 (NEPA); develops and directs the Agency's procedures for complying with NEPA and other environmental legislation, reviews projects and makes recommendations to the Assistant Secretary for approval or disapproval based upon the environmental effects of the proposed project; coordinates the agency's environmental program with the environmental programs of local, State, and other Federal agencies which become involved with EDA projects; represents the Assistant Secretary at conferences and meetings and on interagency committees dealing with environmental matters; maintains liaison on environmental matters with interested public groups and local, State, and other Federal agencies; reviews and evaluates legislative and administrative proposals in terms of their environmental impact.

(c) The Special Assistant for Field Operations shall maintain liaison with EDA regional office directors on matters of an administrative or policy nature which affect the organization or operation of the Regional Offices; and directs, coordinates, and monitors the Regional Office Directors' implementation of policies and directives relating to the or-

ganization and operation of the Regional Offices.

(d) The Special Assistant for Indian Affairs provides advice and direction for development and implementation of a viable program providing assistance to American Indians; recommends approval or denial of all Indian project proposals; operates the selected Indian Reservation Program in order to develop strong and permanent economic activity on Indian reservations, resulting in increased employment opportunities and a rise in the per capita income of the Indian people; provides assistance and advice to economic development planners employed by Indian tribes or groups funded through the Agency's planning grant program; initiates and develops seminars, conferences, and other programs which disseminates information to assist Indian tribes in economic development programs; coordinates Federal, State and private agencies which work with Indian tribes in formulating and implementing beneficial programs.

§ 301.34 Deputy Assistant Secretary for Economic Development Operations.

The Deputy Assistant Secretary for Economic Development Operations provides coordinated direction and supervision of all Agency activities related to financial assistance for or to physical projects for improving local economies; recommends standards, policies, and criteria for the technical evaluation and processing of applications for assistance; directs, conducts, coordinates, monitors and, where appropriate, originates technical assistance projects subject to coordination with the Deputy Assistant Secretary for Economic Development Planning on proposed technical assistance projects related to area, district, center or regional planning; reviews and recommends approval or denial of project applications to the Assistant Secretary; evaluates activities of the Regional Offices in applying policies, standards, and procedures for processing project applications; studies and evaluates manpower development and training needs of redevelopment areas and economic development districts and recommends appropriate joint action with the Departments of Labor, and Health, Education, and Welfare; and executes agreements with other Federal departments and agencies in consultation with the Deputy Assistant Secretary for Policy Coordination for the conduct of specialized technical assistance; and directs and supervises the Office of Business Development, Office of Public Works and Office of Technical Assistance.

(a) The Office of Business Development maintains surveillance over and conducts training for implementation of policies, standards and procedures by the Regional Offices related to the processing of loan applications and working capital guarantees to assure efficient, effective, and economic accomplishment of the business development programs; evaluates and recommends approval or denial of commercial or industrial loans and working capital guarantees; develops and implements Agency agreements with other Federal agencies in support of business development programs; administers loans in connection with commercial and industrial projects, including outstanding loans approved under the provisions of the Area Redevelopment Act (ARA); arranges for or provides needed specialized assistance to recipients of industrial and commercial loans and guarantees; and develops and implements policies, plans and procedures to improve or terminate projects in default of loan conditions.

(b) The Office of Public Works recommends and implements public works policies, standards and procedures for accepting, processing, reviewing, approving and carrying out public works grant and loan projects under the Act; reviews and recommends public works applications for approval or denial; directs and maintains surveillance over the Regional Office public works functions; trains and develops public works field staffs; and maintains operating liaison with other Federal agencies having grant-in-aid programs which may supplement Agency projects.

(c) The Office of Technical Assistance develops and recommends policies, standards, and procedures for the receipt, evaluation, monitoring and implementation of technical assistance projects; formulates innovative technical assistance projects; develops and recommends policies and activities to assist business development in the private sector by means of technical assistance; promotes the economic development content of public sector activities involving physical and human resources, emphasizing the guidance of public investment in the delivery of public services affecting economic development; coordinates and obtains where necessary the participation of other Federal agencies; develops, monitors and follows the national technical assistance projects; recommends policies and practices to facilitate effective relationships with other Federal agencies where their programs affect economic development, and assists Regional Offices in carrying out their technical assistance duties.

§ 301.35 Deputy Assistant Secretary for Policy Coordination.

The Deputy Assistant Secretary for Policy Coordination acts as principal advisor to the Assistant Secretary on matters of policy coordination, providing staff assistance in the development, formulation, review and evaluation of policy; exercises responsibility for the Agency's interagency and intergovernmental relations and its relations with quasi-public and private agencies interested in economic development; monitors and coordinates EDA's urban programs and advises local governments and community groups in developing urban economic development programs; serves as Executive Secretary and provides staff support for the National Public Advisory Committee on Regional Economic Development; reviews and evaluates legislative and administrative proposals related to economic development and intergovernmental relations; and represents the Agency on international organizations when requested.

§ 301.36 Deputy Assistant Secretary for Economic Development Planning.

The Deputy Assistant Secretary for Economic Development Planning acts as the principal advisor to the Assistant Secretary on matters of development planning; coordinates and directs the Agency's economic development planning activities relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial need, and directs the administration of planning grants for areas, Indian reservations and districts; formulates and recommends standards and criteria for administration of economic development planning by the Regional Offices; recommends designation of economic development districts, economic development centers, redevelopment areas, and Title I areas which fulfill statutory criteria; conducts an annual review of the areas and districts designated for assistance under the Act and recommends such modifications or terminations of eligibility as may be appropriate; coordinates and directs a program of economic research and research and analysis carried out through grants, contracts and in-house research; informs the Deputy Assistant Secretary for Operations on the compliance of applications for financial assistance with section 702 of the Act; provides economic data, analyses and studies, and planning grants to development districts and areas; recommends technical assistance proposals for areas and districts; and directs and supervises the Office of Development Organizations, Office of Economic Research, and Office of Planning and Program Support.

(a) The Office of Development Organizations initiates policy guidelines and criteria concerning development districts and area organizations for use by other elements of the Agency and appropriate State and local agencies; designs direct programs to establish multicounty development districts in consultation with the assistance and cooperation of Regional Offices and concurrence of States affected; evaluates and approves for purposes of the Act proposed area and district economic development organizations and assists Regional Office efforts to organize economic development districts; reviews Regional Office recommendations for designation and/or termination of economic development districts and centers; advises interested Federal, State, and local agencies of all changes affecting the eligibility status of proposed or existing economic development districts; and determines whether an area meets and continues to meet the statistical qualification criteria for designation as a redevelopment area.

(b) The Office of Economic Research directs and conducts a program of internal and external economic research to meet planning and operating needs relat-

ing to economic development problems and opportunities for geographical subdivisions; arranges and monitors Agency-sponsored research conducted by other elements of the Department, and other Federal and non-Federal organizations; encourages and stimulates economic development research and data collection in and out of Government; reviews, evaluates, integrates, and disseminates Agency research and other research findings that are relevant to the Agency objectives and programs; and encourages educational institutions to develop curricula and establish service-learning mechanisms that enable students to participate in State and local economic planning and development of programs.

(c) The Office of Planning and Program Support coordinates the preparation, review, and approach of Agency developed planning documents including a system of priorities for Agency financial assistance to areas and districts; provides guidance to Regional Offices on the application of economic development planning techniques and systems to the specific problems of the Region, further advising and assisting Regional Offices in implementing economic planning activities after formal designation of economic development districts and areas; formulates planning and development policies, procedures, and standards for review of OEDP's by Regional Offices; evaluates services, efficient existing capacity and competitive procedures for use in determinations of excess capacity pursuant to section 702 of the Act; and initiates suspension of receipt and processing of applications for assistance from areas and districts which fail to submit acceptable OEDP progress reports.

§ 301.37 Office of Administration and Program Analysis.

The Office of Administration and Program Analysis develops, administers, and promulgates administrative management policies, programs, and standards for the Agency; develops cost benefit studies employing techniques of operations research analysis, econometrics and mathematical economics to the relative merit between, and the optimum balance among, alternative programs for economic development projects, activities and programs in achieving the objectives of the Act.

§ 301.38 Office of Chief Counsel.

The Office of the Chief Counsel renders all necessary legal services to the Agency, and has primary responsibility for the preparation, coordination, and clearance of all legislation, regulations, and external orders.

§ 301.39 Office of Civil Rights.

The Office of Civil Rights advises the Assistant Secretary in the development and implementation of policy guidelines affecting equality of opportunity in economic development programs; provides assistance in civil rights matters to all economic development program units and to the participants and beneficiaries for the economic development programs; maintains liaison with Federal, State, and local governmental organizations and nongovernmental organizations to coordinate operations aimed at achieving nondiscrimination and equality of opportunity; establishes equal opportunity requirements for participants in economic development programs; conducts on-site inspections and receives, investigates, and resolves complaints; and evaluates the Agency's internal civil rights program.

§ 301.40 Office of Congressional Relations.

The Office of Congressional Relations advises on all congressional matters pertinent to the activities under the direction of the Assistant Secretary and serves as the primary point of coordination for continuing liaison with the Congress in collaboration with the Special Assistant to the Secretary for Congressional Relations.

§ 301.41 Office of Public Affairs.

The Office of Public Affairs advise on all public information matters; conducts a public information program under the policy guidance of the Assistant Secretary and provides assistance in the editing, printing, or reproduction, and distribution of technical materials and publications.

§ 301.42 Economic Development Regional Offices.

(a) Regional Offices cooperate with and assist local areas in organizing for economic development; provide economic development informational services covering all programs, Federal and otherwise; assist in obtaining field surveys of local area problems through staff or through contract; cooperate with local area and other economic development representatives in the development or modification of Overall Economic Development Programs (OEDP); review those OEDP submitted for approval and take appropriate action in accordance with prescribed Agency policies and procedures; review applications for industrial and commercial assistance, for public works loans and grants, and for technical assistance, including administrative grants, and take appropriate final action in accordance with Agency policies, rules, regulations, and procedures and within the authority specifically delegated by the Assistant Secretary; review financial assistance project reports of processing offices, submitting analyses and recommendations for action to the Agency's Washington office; develop and comment upon proposals for training projects within the area served by the Regional Office; and provide for official liaison channels with State economic development agencies, district and redevelopment area economic development organizations, and regional or local offices of other Federal agencies located within the same area, particularly those with related programs.

(b) Organization structure:

(1) The Regional Director, who reports to and is under the supervision and direction of the Assistant Secretary, directs the programs and is responsible for the conduct of all activities of the Regional Office.

(2) The Civil Rights Division implements programs of equal opportunity including surveillance and compliance for the prevention of discrimination in any program or activity receiving Agency assistance; contacts community information sources, analyzes areas in relation to their civil rights posture, including the presence or absence of certain skills in the minority workforce, and quality and availability of educational and training opportunities; encourages employment of the unemployed and underemployed, especially in areas of minority group concentration; reviews employment plans for the beneficiaries and managers of Agency projects; and assists the program divisions in evaluating projects as to the economic impact on minority groups and relationships to community and area plans and projects of other Federal, State, and local entities.

(3) The Special Programs Division recommends general development strategies and investment programs for special program areas for endorsement by the Regional Director and appropriate Washington officials; assists Economic Development Representatives in development of projects dealing with the special program assigned; and assists in the evaluation of projects for economic impact and relationships to community and area plans and projects of other Federal, State, and local entities.

(4) The Regional Counsel provides legal services to the Regional Director, subject to the general policy guidance and legal supervision of the Chief Counsel; performs preliminary review of all applications received in the Regional Office, making recommendations as appropriate; and advises and assists in the legal aspects of project development and management, including the closing of loans, and upon request of the Chief Counsel, provides assistance in connection with general litigation and the administration and liquidation of business development loans and working capital guarantees.

(5) The Business Development Division advises Regional Office personnel, Economic Development Representatives, members of the banking and industrial community, and the public of the possible uses of business development financial assistance to meet the objectives of the Act; appraises the potential of redevelopment areas for industrial and commercial development and devises plans to meet the needs of these areas through use of business development program tools or alternative methods of financing; advises the Planning Division in its review and evaluation of OEDP progress and preparation of recommended program strategies; assists applicants, in cooperation with Economic Development Representatives, by providing appropriate financial guidance needed to structure loan proposals into acceptable applications for assistance;

conducts prefiling conferences; processes all business development assistance applications; counsels applicants and borrowers on improving opportunities for the financial success and economic benefits of projects; evaluates business development projects for economic impact and relationships to community and area plans and projects of other Federal, State, and local entities; and receives all business development project applications, prepares project files on all applications for action by the Regional Director and, after approval, acceptance of offer, and completion of loan disbursements delivers the project files to the Technical Support Division for loan administration.

(6) The Public Works division advises Regional Office personnel, Economic Development Representatives, appropriate community officials and the public of the possible uses of public works and development facility assistance to meet the objectives of the Act; develops and implements program strategies with assistance of the Planning Division for utilizing public works and development facility program tools to enhance the development process; advises the Planning Division in its evaluation of OEDP and other program strategies; assists Economic Development Representatives in developing proposed public works and development facility projects; conducts prefiling conferences; advises applicants of alternative sources of financing, program requirements and intergovernmental coordination arrangement, as appropriate; processes all public works applications with financial and engineering review by the Technical Support Division as appropriate; evaluates public works projects for economic impact and relationships to community and area plans and projects of other Federal, State, and local entities; receives all public works project applications, prepares project files on all applications for action by the Regional Director and upon approval and acceptance of offer, delivers the project files to the Technical Support Division for maintenance.

(7) The Technical Assistance Division advises Regional Office personnel, Economic Development Representatives and the public of possible uses of technical assistance to meet the objectives of the Act; implements program strategies with the assistance of the Planning Division for the utilization of technical assistance to accelerate the development process; assists the Planning Division in its review and evaluation of OEDP and other program strategies; assists Economic Development Representatives in developing technical assistance projects; advises the Public Works and Business Development Divisions in developing technical assistance projects related to their programs; conducts prefiling conferences; processes all technical assistance applications and monitors approved projects with assistance of the Technical Support Division; coordinates with other Federal organizations in the development and conduct of specialized technical assistance programs and individual projects; provides for dissemination of technical assistance information to groups and agencies within the region; evaluates all technical assistance projects for economic impact and relationships to community and area plans and projects of other Federal, State, and local entities; receives all technical assistance project applications; prepares files on all applications for action by the Regional Director; and coordinates the Manpower Development and Training Act program as it relates to Regional Office jurisdiction.

(8) The Technical Support Division provides the Public Works, Planning and Technical Assistance Divisions, and Economic Development Representatives, with financial and technical guidance needed to assist prospective applicants in the planning of acceptable applications; applies established criteria in the engineering and financial evaluation of proposed projects except Business Development projects; initiates and participates in closing approved Public Works loans and monitors the completion of approved Public Works projects including construction management and portfolio management; performs duties assigned in connection with disbursement of appropriate project funds, services all Public Works and Business Development projects after their transfer to the Technical Support Division and develops plans and recommendations to improve or terminate projects in default of loan or grant conditions; and advises the Planning Division in its review and evaluation of OEDP in regard to engineering and financial aspects of development programs.

(9) The Planning Division advises and assists the Regional Director in recommending the designation of economic development districts and centers, redevelopment areas and centers; assists districts and other economic development organizations in developing or modifying OEDP as part of an overall grant monitoring responsibility; reviews and evaluates OEDP progress reports submitted for approval and, in cooperation with other Regional Office divisions and Economic Development Representatives, recommends appropriate action in accordance with prescribed policies and procedures; coordinates with State and local officials in sponsoring and assisting district economic planning and development groups; assesses and assists State and local efforts to recruit professional economic development staff and recommends model programs and procedures for economic development organizations; directs and coordinates economic development planning for use of Agency program offices in designated districts, centers, and areas; collects and maintains an information system relative to economic development programs in the regional jurisdiction, to support development planning in districts and redevelopment areas; evaluates significant developments and problems affecting intergovernmental development planning for districts and redevelopment areas, recommending appropriate action to the Regional Director; considers the economic impact of each proposed project; conducts program planning conferences; reviews performance of Agency funded organizations through annual appraisals, recommending appropriate actions to improve effectiveness of the organizations if necessary; prepares grant offers for newly designated planning organizations for approval by the Assistant Secretary and prepares continuation grant offers for approval by the Assistant Secretary and prepares continuation grant offers for approval by the Regional Director; performs duties assigned in connection with the disbursement of planning grant funds and monitoring use of such funds; and develops with assistance of other Regional Office program divisions, program strategies for use of Agency assistance consistent with State and local plans.

(10) The Economic Development Representatives disseminate information to the public about the Agency's program and activities; assist prospective borrowers or grantees in the preparation of applications for financial or technical assistance by explaining the manner in which statutory requirements are to be met, indicating alternative forms of assistance as might be available under other Federal programs or from private sources, and providing guidance and advice on planning the contents of applications; and serve as principal assistants to the Regional Director, under the guidance of and with the coordination of program divisions, for formulating strategies for the effective use of Agency resources to assist areas and districts to meet the objectives of the Act.

Subpart D—Disclosure of Information to the Public

§ 301.50 Disclosure of information to the public.

This section describes the arrangements whereby the materials specified in 5 U.S.C. 552(a)(2) and repeated below, § 301.52(a), are made available for public inspection and copying, and the procedures and other conditions whereby identifiable records requested by persons may be made available to them pursuant to 5 U.S.C. 552(a)(3).

§ 301.51 Publication in the Federal Register.

Those materials which are required to be published in the FEDERAL REGISTER pursuant to the provisions of 5 U.S.C. 552(a)(1) and repeated below, § 301.53, have been and shall continue to be published in the FEDERAL REGISTER and shall, to the extent practicable and to further assist the public, be made available for inspection and copying at the facility identified in § 301.52(c).

§ 301.52 Availability of materials for inspection and copying.

(a) In accordance with 5 U.S.C. 552(a)(2) and other provisions of law, a public information facility is established wherein EDA maintains a reference facility for the public inspection and copying of:

(1) Final opinions, including concurring and dissenting opinions, as well as

orders, made in the adjudication of cases.

(2) Those statements of policy and interpretations which have been adopted by EDA and are not published in the FEDERAL REGISTER.

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(4) A current index, EDA Directive Systems, Index, providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and required to be made available or published by 5 U.S.C. 552(a)(2).

(5) Such additional materials as the Assistant Secretary of Commerce for Economic Development, in his discretion may consider desirable and practicable to make available for the convenience of the public.

(b) In order to prevent unwarranted invasion of personal privacy, EDA may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and shall, in each such case, explain in writing the justification for the deletion.

(c) The above materials may be inspected in the Office of Public Affairs, Publications Division, Room 6814 B, Commerce Building, 14th Street between Constitution and E Streets NW., Washington, D.C. 20230. In addition, for the convenience of the public, most of these materials may also be inspected at each of the EDA Regional offices listed in § 301.31. The Office of Public Affairs, Publications Division, Washington, D.C., and the respective EDA Regional Offices are open to the public Monday through Friday of each week, except on official holidays, between the hours of 9 a.m. and 4:30 p.m. There are no fees or formal requirements for such inspections. Copies of these materials may be obtained at these facilities at cost. In addition, copies of various EDA materials regularly available for sale by EDA may be purchased from the Office of Public Affairs, Publications Division, and EDA Regional Offices.

(d) Correspondence concerning the materials available in the facility should be sent to the Office of Public Affairs, Publications Division, Economic Development Administration, Department of Commerce, 14th Street and Constitution NW., Washington, D.C. 20230.

§ 301.53 Federal Register public information.

In accordance with 5 U.S.C. 552(a)(1), the EDA public information facility described in § 301.52(c) also maintains a reference facility for the public inspection and copying of the following public information published in the FEDERAL REGISTER.

(a) Descriptions of EDA central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency.

(e) Each amendment, revision, or repeal of the foregoing.

§ 301.54 Requests for identifiable records.

(a) A person who wishes to inspect a record which is not customarily available to the public as part of the regular information activities of EDA should complete Form CD–244, "Application to Inspect Records," and submit this form, in person or by mail, to the Office of Public Affairs, Publications Division, Room 6814 B, Commerce Building, Washington, D.C. 20230. Copies of Form CD–244 are available at the Office of Public Affairs, Publications Division and each of the EDA Regional Offices listed in § 301.31.

(b) An application form shall be submitted for each record or group of records related to the same general subject matter. Each application form shall be accompanied by the nonrefundable application fee of $2.

(c) Detailed instructions for the completion of Form CD–244 are stated on the back of the form. Employees of the Office of Public Affairs, Publications Division and the EDA Regional Offices will be available to answer questions concerning the application form and its filing. The applicant has the sole responsibility to identify each record sought in sufficient detail so that it can be located by personnel familiar with the filing of agency records. Each application shall clearly itemize, when there are more than one, each record requested so that it may be identified and its availability separately determined.

(d) All requests for agency records not customarily made available to the public received by EDA Regional Offices shall promptly be referred, without further action, to the Office of Public Affairs, Publications Division for a determination in accordance with § 301.54.

(e) The Office of Public Affairs, Publications Division, will review the application for completeness, and will record receipt of the fee. If the application is incomplete in some substantial and material respect, it shall be promptly returned to the applicant to complete.

§ 301.55 Determinations of availability of records.

(a) Upon receipt of requests for information, the Office of Public Affairs, Publications Division shall initially determine:

(1) Whether the requested record can be identified on the basis of the information supplied by the applicant. If it cannot identify the record, the application shall be returned to the applicant, specifying why it is not identifiable and what additional clarification, if any, the applicant may make to assist EDA in its identification.

(2) Whether the record, if identifiable, is still in existence or has been destroyed as provided by law, or is not in the possession of EDA. If the record no longer exists, the applicant shall be so notified, with the reason stated. If the record is not in EDA's possession and its existence is not otherwise reasonably ascertainable, the applicant shall be so notified. If the requested record is in another organization of the Department of Commerce, or is the exclusive or primary concern of another executive department or agency, the application for the record shall be promptly referred to such other organization or agency for further action under its rules, and the applicant shall be promptly informed of this referral by the Office of Public Affairs, Publications Division.

(b) If the requested record is identifiable and subject to EDA's determination as to its availability, the application shall be reviewed by an official authorized pursuant to Department Administrative Order 205–12 to initially determine its availability. If it is determined, after consultation with the Office of the Chief Counsel that, as provided by law, the record is not to be made available to the requesting person, said party shall receive in writing the specific reason(s) why the record is not being disclosed, signed by the official making the determination.

(c) If the record is to be made available and there are no further charges or fees, it shall be furnished to the requesting person. If, in accord with § 301.56, there are additional costs to be recovered from the applicant, they shall be estimated and the applicant notified that upon his payment of such estimated costs subject to adjustment as provided in § 301.56, the record shall be made available to him at the Office of Public Affairs, Publications Division, or transmitted to him by it.

§ 301.56 Fees and charges.

(a) In accord with congressional policies that services performed hereunder are to be self-sustaining, and as provided by law, appropriate fees and charges are hereby established to cover costs for application handling, record searching, reproduction, certification, and authentication, and for related expenses incurred by EDA with respect to records made available upon request under 5 U.S.C. 552(a)(3).

(b) The following fees are hereby established and payable to EDA:

(1) Application fee—per application—$2. This fee is nonrefundable, and covers costs of accepting and reviewing the application, and making a determination as to the availability of the requested record, or group of related records.

(2) Records search fee—per half hour, or any fraction thereof, per person—$2.50.

This fee covers the cost of locating the desired record, transporting it by government messenger service to a point of inspection, supervising the inspection, and returning the record to its regular file. It also includes the costs of any copies or records made at EDA's option. The minimum fee charged for records search per one-half hour ($2.50).

(3) Copies of records, if requested by applicant:	
(i) Xerographic or similar process—	
Up to 9 x 14 inches (each page)	$0.25
(ii) Photocopy or similar process—	
Up to 12 x 18 inches (each copy)	1.00
Over 12 x 18 inches but less than 18 x 25 inches (each copy)	2.00
(4) Other forms of reproduction as may be required by the nature of the original records: Individual fee, sufficient to recover full cost	-----
(5) Certification fee, if requested—Applicable to each certification	1.00
(6) Postage, registration, or other forwarding or packing fees [1]—Applicable only if copies of records are requested to be shipped to a point other than the Office of Public Affairs, Publications Division.	

[1] Actual cost.

(c) All fees and charges will be collected in advance. The applicant will be given an estimate of the cost of records search for each application where disclosure availability is authorized. If actual cost exceeds the estimate, the applicant will have the option of either paying any additional costs, or inspecting the requested record to the extent covered by his payment. If the advance estimated payment is $1 or more in excess of both the actual cost and the minimum charge, a refund will be made of the excess above the higher of these two amounts.

(d) The fees set forth above are based upon an initial estimate of the costs to be incurred in providing the indicated services and may be revised as necessary to insure the recovery of full costs by EDA.

(e) The above fees are established solely for services provided pursuant to 5 U.S.C. 552(a)(3), and do not affect fees charged for other EDA services to the public, as may be performed under other authorities.

§ 301.57 Arrangements for public inspection and copying of agency records subject to disclosure.

(a) Upon receipt of the records search fee, and any fees for additional services requested by the applicant, the requested record which has been determined to be available shall, unless the applicant has otherwise indicated, be transferred to the Office of Public Affairs, Publications Division, where it will be held for inspection by the applicant for 5 working days. The address and hours of operation of this facility are stated in § 301.52(c).

(b) During his inspection of the record at the facility, the applicant may copy by hand any portion of the record, may use the coin-operated copying equipment at the facility to make a copy thereof, and may obtain certification of a machine-copied record.

(c) No changes or alterations of any type may be made to the record being inspected, nor may any matter be added to or subtracted therefrom. Papers bound or otherwise assembled in a record file may not be disassembled during inspection. Staff of the facility shall provide assistance if disassembly of a record is necessary for copying purposes, and are authorized to supervise public inspection as necessary to protect the records of EDA.

(d) If an applicant does not want to inspect a record by personal visit to the Office of Public Affairs, Publications Division, he may request that a copy thereof be mailed to him, upon payment of the copying and postage fees set forth in this subpart.

(e) No person may, without permission, remove any record made available to him for inspection or copying under this subpart from the place where it is made available. In addition, no person may steal, alter, mutilate, obliterate, or destroy, in whole or part, such a record. See sections 641 and 2071 of title 18 of the United States Code.

§ 301.58 Requests for reconsideration.

(a) Any person whose application to inspect a record has been rejected because the record was not to be made available for stated reason(s), may request a reconsideration of the initial denial, as set forth herein.

(b) The request for reconsideration should be made by completing the applicable section of the Form CD-244, and returning it to the Office of Public Affairs, Publications Division, within 30 days of the date of the original denial. (This date is shown on the Form CD-244.) No additional fee is required to obtain reconsideration. In submitting a request for reconsideration, the applicant should include any written arguments he desires to support his belief that the record requested should be made available. No personal appearance, oral argument, or hearing shall be permitted.

(c) The decision upon such review shall be made by the Assistant Secretary for Economic Development and shall be based upon the original application, the denial, and any written argument submitted by the applicant.

(d) The decision upon review shall be promptly made in writing and communicated to the applicant. If the decision is wholly or partly in favor of the applicant, the requested record shall to the extent determined be made available for inspection, as described in § 301.55(c). To the extent that the decision is adverse to the request, the reason for the denial shall be stated.

(e) A decision upon review completed as provided by this subpart shall constitute the final decision and action of EDA as to the availability of a requested record, except as may be required by court proceedings initiated pursuant to 5 U.S.C. 552(a)(3).

(f) Reconsiderations resulting in final decisions as prescribed herein shall be indexed and kept available for public reference in the Office of Public Affairs, Publications Division.

§ 301.59 Subpena or other compulsory process.

Procedures applicable in the event of a subpena, order, or other compulsory process or demand of a court or other authority are set forth in section 7 of Department Administrative Order 205-12.

§ 301.60 Record of application.

The Assistant Secretary will maintain as a permanent part of the records of the Economic Development Administration a list of applications approved for financial assistance under Parts 305, 306, and 307 of the regulations in this chapter, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information will be posted in such list as soon as each application is approved:

(a) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof;

(b) The amount and duration of the loan or grant for which application is made;

(c) The purposes for which the proceeds of the loan or grant are to be used; and

(d) A general description of the security offered in the case of a loan.

PART 302—DESIGNATION OF AREAS

Subpart A—Standards for Designation of Redevelopment Areas Under Section 401(a) of the Act

Subpart B—Limitations on Designation of Areas

Subpart C—Standards for Designation of Areas Under Section 102 of the Act

Subpart D—Annual Review, Modification, and Termination of Designated Areas

Subpart E—Notice

Sec.

Subpart F—Information

AUTHORITY: Sec. 701, Public Law 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (April 1, 1970).

Subpart A—Standards for Designation of Redevelopment Areas Under Section 401(a) of the Act

§ 302.1 Standards for designation on the basis of unemployment.

The Assistant Secretary shall designate those areas as redevelopment areas on the basis of unemployment figures supplied by the Secretary of Labor:

(a) Where the current rate of unemployment, as determined by appropriate annual statistics for the most recent available calendar year is 6 percent or more and has averaged at least 6 percent for the qualifying time periods specified in paragraph (b) of this section; and

(b) Where the annual average rate of unemployment has been at least—

(1) 50 percent above the national average for 3 of the preceding 4 calendar years, or

(2) 75 percent above the national average for 2 of the preceding 3 calendar years, or

(3) 100 percent above the national average for 1 of the preceding 2 calendar years.

§ 302.2 Standards for designation on the basis of loss of population.

The Assistant Secretary shall designate those areas as redevelopment areas where he determines there has been a substantial loss of population due to lack of employment opportunity.

§ 302.3 Standards for designation on the basis of median family income.

(a) The Assistant Secretary shall designate those areas as redevelopment areas which he finds have a median family income not in excess of 50 percent of the national median family income.

(b) Determinations of median family income are to be based on the income statistics shown in the 1970 U.S. census.

§ 302.4 Standards for designation on the basis of Indian lands.

(a) The Assistant Secretary shall designate those Indian reservations, Indian trust land areas, and restricted Indian-owned land areas which manifest the greatest degree of economic distress as redevelopment areas.

(1) Indian reservations shall consist of land areas which by official Federal or State action or recognition have been validly set apart for use or occupancy by Indians under superintendence by the Federal or State Government which retains title to the land.

(2) Indian trust land areas shall consist of land areas held in trust by or under the authority of Federal or State Government for use and occupancy by Indians.

(3) Restricted Indian-owned land areas shall consist of land areas owned by Indians but subject to legislation by Congress enacted in the exercise of the Federal Government's guardianship over Indian tribes and their property and over which the Federal Government has the power of imposing restriction on alienation.

(b) (1) The Assistant Secretary upon consultation with the Secretary of Interior or an appropriate State agency shall designate those areas under this section which he determines manifested the greatest degree of economic distress on the basis of unemployment and income statistics and other appropriate evidence of economic underdevelopment.

(2) When the determination of economic distress required for designation under this subsection pertains to land areas which include lands which are not contiguous, it must be shown that there is a clear economic connection between the noncontiguous lands and that the inclusion of such lands in the redevelopment areas will contribute to a more effective program for economic development.

§ 302.5 Standards for designation on the basis of sudden rise in unemployment.

The Assistant Secretary shall designate those areas where he determines that the loss, removal, curtailment, or closing of a major source of employment has caused within 3 years prior to, or threatens to cause within 3 years after the date of the request of the area, an unusual and abrupt rise in unemployment of such magnitude that the unemployment rate for the area exceeds or will exceed the national average by 50 percent or more unless assistance is provided.

(a) Requests from such areas for designation must be made by the local official governing body having jurisdiction over the proposed redevelopment area.

(b) Where the loss, removal, curtailment, or closing of the major source of employment has occurred:

(1) The major source of employment shall be construed as a single firm or industry.

(2) Job losses in more than in a single firm may be considered in the aggregate where:

(i) There is a clear demonstrable economic connection between or among the firms or industries, or

(ii) More than one firm or industry has been affected by a common disaster.

(3) A major source of employment is deemed such when its loss, removal, curtailment, or closing has caused or can reasonably be expected to cause:

(i) An increase of 500 or more in the number of unemployed persons in the area, or

(ii) An increase of 2 percentage points or more in the area's unemployment rate. The percentage-point increase in the unemployment rate for the area shall be based upon the relationship of the number of jobs lost to the number of persons in the labor force of the area.

(c) Where the actual or threatened closing has caused or threatens to cause within 3 years after the date of the area's request an unusual and abrupt rise in unemployment:

(1) The rise in unemployment must be shown to be unusual or unique for the area, the industry, and the time of year.

(2) The rise in the rate of unemployment, to be considered abrupt or unusual, must have occurred or be reasonably expected to occur during a 1-year period within the qualifying span of 3 years before to 3 years after the date of the request for designation.

(d) In determining whether an area's unemployment rate can be reasonably expected to exceed the national average by 50 percent or more, consideration shall be given to those job-loss situations in which it is public knowledge that the jobs lost were or will be of a type in such great demand that the persons laid off were or will be readily reemployable.

(e) Areas designated under this section are allowed a reasonable time after designation to submit for approval an OEDP, Part 304 of this chapter. Notwithstanding, an area designated under this section which does not have an approved OEDP is not eligible for financial assistance under Titles I and II of the Act.

§ 302.6 Standards for designation on the basis of the Area Redevelopment Act.

(a) The Assistant Secretary shall designate as redevelopment areas those areas which were designated redevelopment areas under the Area Redevelopment Act on or after March 1, 1965.

(b) After the first annual review of eligibility, the areas designated under this section shall be dependent on their qualifying for continued designation under the criteria set forth in §§ 302.1–302.5.

§ 302.7 Standards for designation of public works impact program areas.

(a) The Assistant Secretary shall designate communities or neighborhoods defined without regard to political or other subdivisions or boundaries when he determines one of the following conditions has been met.

(1) A large concentration of low income persons. This includes:

(i) An area presently identified by the Office of Economic Opportunity as an urban or rural special impact area, or

(ii) An area in which a majority of the families are living in poverty, as defined by the Office of Economic Opportunity.

(2) Rural areas having substantial outmigration. This includes an area which has experienced a minimum outmigration rate of at least 25 percent during the period from 1960 to 1970 as established by the Bureau of Census or by other data indicating outmigration for a more recent 10-year period as established by the Bureau of Census.

(3) Substantial unemployment as established by an annual average unemployment rate of 8.5 percent or more during the most recent quarter for which appropriate data is available.

(4) An actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment. The area must meet the qualifications as set forth in § 302.5. However, no boundary constraints, § 302.20 (a) (3) and (4), shall apply.

(b) A public works impact program area may be designated on the basis of a smaller area within the proposed redevelopment area, if the smaller area meets any one of the criteria in paragraph (a) of this section: *Provided*, The unemployed and underemployed within the smaller area will benefit from the proposed designation of the public works impact program area.

(c) No public works impact program area designated under this section shall be eligible to be considered a redevelopment area for the purposes of district designation.

§ 302.8 Standards for designation of special impact areas.

The Assistant Secretary shall designate special impact areas where:

(a) One of the following criteria have been met:

(1) A large concentration of low-income persons, or

(2) Rural areas having substantial out-migration, or

(3) Substantial unemployment, or

(4) Actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

(b) Written requests have been submitted by State or local governments, agencies or instrumentalities thereof, or with the concurrence of the appropriate governmental authority of the political subdivision of which the area is a part, by any public or private nonprofit organization or association representing the area for which designation is sought. Requests should contain the following material:

(1) A description of the proposed boundary and facility characteristics of the proposed special impact area including a map showing the relation to the larger area to which it is a part. Such description should show conformity with area wide zoning ordinances and appropriate land use plans.

(2) A description of the socioeconomic characteristics of the proposed special impact area.

(3) An OEDP.

(4) Written evidence of support from members of the community at large.

(c) No special impact area designated under this section shall be eligible to be considered a redevelopment area for the purposes of district designation.

§ 302.9 Standards for designation on the basis of the Economic Opportunity Act of 1964, as amended.

The Secretary shall designate those areas selected as special impact areas under the Economic Opportunity Act of 1964 and funded by the Office of Economic Opportunity.

§ 302.10 Standards for designation on the basis of per capita employment.

The Assistant Secretary shall designate as redevelopment areas those areas which have suffered a significant decline in per capita employment. Such areas shall be defined as those having a decline in per capita employment of more than 1.2 percentage points between 1960 and 1970, and which also have net outmigration during the same period, as determined by the 1970 census.

§ 302.11 Exception to criteria for qualification.

The Assistant Secretary shall designate in a State which has no redevelopment area that area which most nearly qualifies under §§ 302.1–302.10 of this subpart. However, an area qualified in this manner shall be terminated if any other area within the same State subsequently becomes qualified.

Subpart B—Limitations on Designation of Areas

§ 302.20 Standards for designation on the basis of limitations as to size and boundaries of redevelopment areas.

(a) The Assistant Secretary shall determine the size and boundary of redevelopment areas.

(1) No area will be designated which does not have a population of at least 1,500 persons, except for areas designated in accordance with §§ 302.4 and 302.7–302.9.

(2) Except for areas designated in accordance with §§ 302.4–302.9, no area will be designated which is smaller than a "labor area" (as defined by the Secretary of Labor), a county, or a municipality with a population of over 250,000 persons, whichever the Assistant Secretary deems appropriate.

(3) All parts of the area seeking designation under § 302.5 must be contiguous.

(4) Delineation of the area designated under § 302.5 must be based on a reasonable grouping of census tracts or similar geographical units, or the area must be defined by specific boundaries incorporating commercial or industrial sites and enterprises which can offer employment opportunities for the work force of the area.

(b) No area shall be designated until it has an approved overall economic development program except those areas eligible for designation under §§ 302.5 and 302.7.

(c) Areas qualified in accordance with § 302.5 may be designated subject to the receipt of an acceptable OEDP within 6 months following such conditional designation, or within such additional period as the Assistant Secretary may grant for good cause.

(d) Any area, other than those areas eligible for designation pursuant to §§ 302.5 and 302.7, which does not submit an acceptable OEDP within 6 months after notification of its qualification for designation, shall not thereafter be designated prior to the next annual review of eligibility; however, such period may be extended for good cause.

Subpart C—Standards for Designation of Areas Under Section 102 of the Act

§ 302.30 Standards for designation on the basis of Title I.

The Assistant Secretary will designate as Title I Areas those areas which the Secretary of Labor determines, on the basis of available unemployment statistics, were areas of substantial unemployment during the preceding calendar year. Substantial unemployment for the purpose of this section is defined as an average unemployment rate of 6 percent or more during the preceding calendar year.

Subpart D—Annual Review, Modification, and Termination of Designated Areas

§ 302.40 Adjustment of boundaries.

(a) The Assistant Secretary may make minor modifications in the boundaries of redevelopment areas designated under §§ 302.1 through 302.11 and § 302.30 where—

(1) Such modification will contribute to a more effective program for economic development within such area.

(2) There is a request in writing which—

(i) Outlines the exact extent of the boundary adjustment.

(ii) States how the absence of the boundary adjustment would impede the implementation of the approved OEDP.

(iii) States why a specifically proposed project cannot be located within the existing boundaries of the designated redevelopment area.

(3) The interested State official or agency is informed and given opportunity to submit comments on the request or endorse the request.

(b) No additional area will be included within the boundary line within the redevelopment area than is necessary to accomplish the project for which the boundary adjustment is being sought.

§ 302.41 Annual review of area eligibility and termination.

(a) Prior to December 1 of each year, the Assistant Secretary will conduct an annual review of area eligibility.

(b) The review will be made to determine:

(1) Whether there are any newly qualified areas.

(2) Which previously qualified areas continue to meet established qualification criteria.

(3) Whether the designation status of an area is to be terminated or modified in accordance with the prescribed standards. Any area designated under § 302.11 shall have its designation terminated if any other area in the State subsequently becomes designated as a redevelopment area.

(c) Notice of termination of an area's designation shall be given to local, State,

and national officials not less than 30 days before its effective date.

(d) The termination of an area's designation status will not:

(1) Affect the validity of any application filed or contract or undertaking entered into, with respect to such area prior to such termination, so long as the applicant pursues such application diligently and submits promptly thereafter such information as the Assistant Secretary may from time to time request.

(2) Prevent any area from being designated in the future if it again satisfies the criteria for designation.

(3) Be made in the case of any designated area where the Assistant Secretary determines that an improvement in the unemployment rate of the area is expected to be of short duration.

(4) Be made when it would result in a State having no designated redevelopment area.

Subpart E—Notice

§ 302.50 Notification of public officials.

(a) The Assistant Secretary shall notify local, State, and national officials of:

(1) An area's qualifying under criteria set forth in §§ 302.1–302.11 and § 302.30.

(2) An area's designation when all the requirements have been met.

(3) Termination or modification of qualifying or designation status.

(b) Those officials to be notified are:

(1) The two Senators from the State and the Congressman within whose district the area is located.

(2) The elected local official(s) of the area.

(3) The chairman of the OEDP committee.

(4) The State agency designated by the Governor to handle EDA activities.

(5) The appropriate Economic Development Administration Regional Office.

(c) Notice of termination will be at the conclusion of the annual review of area eligibility.

(d) Notice of qualification will be at the conclusion of the annual review except when qualified for termination as the result of a special unemployment survey made during the year.

(e) Notice of designation is made immediately following the official designation action, whenever such action is taken.

§ 302.51 Lists of redevelopment areas and centers designated under the Act.

The Economic Development Administration will maintain current lists of areas and centers designated under the Act. The lists shall be kept available for public inspection during the regular business hours of the Department of Commerce. Inquiries for such lists shall be made to the Deputy Assistant Secretary for Economic Development Planning, Economic Development Administration, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Subpart F—Information

§ 302.60 Information.

Upon the request of the Assistant Secretary the heads of such governmental agencies as may be appropriate are authorized to conduct such special studies, obtain such information, and compile and furnish to the Assistant Secretary such data as the Assistant Secretary may deem necessary or proper to enable him to make the determinations provided for in this Part. The Assistant Secretary shall reimburse when appropriate, out of any funds appropriated to carry out the purposes of the Act, the foregoing officers for any expenditures incurred by them under this section.

PART 303—ECONOMIC DEVELOPMENT DISTRICTS

Subpart A—Standards for Designation, Modification and Termination of Economic Development Districts

Sec.

Subpart B—Standards for Designation, Modification, and Termination of Economic Development Centers

Subpart C—Financial and Other Assistance to Economic Development Centers and Districts

AUTHORITY: Sec. 701, Public Law 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce organization order 10-4 (April 1, 1970).

Subpart A—Standards for Designation, Modification and Termination of Economic Development Districts

§ 303.1 Authorization of economic development districts.

(a) The Assistant Secretary may authorize the Governor(s) of the State or States the delineation of economic development district (hereinafter district) boundaries as a prerequisite to designation of an economic development district and as a prerequisite to the provision of planning grants, Subpart B of Part 307 of this chapter.

(b) Authorization of delineation of districts may be made:

(1) Where the State or States after analyzing economic and social relationships among the various redevelopment areas and nonredevelopment area counties proposed to EDA a tentative district boundary delineation.

(2) Where the district proposed for authorization meets the general standards for designation set forth in § 303.2.

(3) Where a consideration of the following factors has been made:

(i) The percentage of the population living in redevelopment areas.

(ii) District per capita income.

(iii) The percentage of families with annual income below the poverty threshold.

(iv) Unemployment rates and labor force participation rates of the proposed district.

(v) Economic characteristics of economic growth centers.

(vi) The proposed district's readiness to hire a professional staff and begin work.

(4) Where the district proposed for authorization of delineation of boundaries conforms to an officially delineated sub-State district, if such exists, or where the Governor has provided the Assistant Secretary with an explanation and support from any variation of the officially delineated sub-State district.

§ 303.2 Designation of economic development districts.

The Assistant Secretary is authorized to designate economic development districts with the concurrence of the States in which the districts will be wholly or partially located.

(a) Where the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single redevelopment area.

(b) Where the proposed district contains two or more redevelopment areas.

(c) Where the proposed district contains one or more redevelopment areas or economic development centers identified in an approved district overall economic development program (hereinafter OEDP) as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the redevelopment areas within the district.

(d) Where the proposed district has a district OEDP which identifies one or more proposed economic growth centers, includes adequate land use and transportation planning, contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary.

(e) Where at least three-fourths of the counties within the proposed district

boundaries have submitted documentation of their commitment to support the economic development activities of the district.

(f) Where the proposed district requests such designation.

§ 303.3 Designation of nonfunded districts.

Designation is not limited to districts receiving EDA planning grants. However, any nonfunded district receiving authorization and designation is subject to the same criteria and organization requirements applicable to funded districts.

§ 303.4 District organization.

(a) The district organization is a prerequisite to initial and continued designation of an economic development district and to provision of planning grants.

(b) (1) District organizations may incorporate as nonprofit organizations under the laws of the State or States in which they are located.

(2) Other organizational forms may be accepted when incorporation is not feasible or when State law specifies such other forms.

(c) (1) The governing board of the district organization shall be broadly representative of the principal economic interests of the district, including business, labor, agriculture, minority groups and representatives of the unemployed and underemployed. District organizations shall comply with Subpart E of Part 311 of this chapter.

(2) The governing board of the district organization shall include at least a simple majority of elected public officials.

(3) The governing body of each county and major city which joins the district shall name an elected official to represent it in the district organization.

(d) (1) The district governing board shall be assisted by a professional staff drawn from professional personnel in planning, economics, business administration, engineering, and related disciplines.

(2) The professional staff shall coordinate with local, State, regional and Federal organizations and shall work closely with redevelopment area representatives, and others within the district in carrying out proposals which further economic development.

(3) EDA may provide planning grants to economic development districts to employ professional staff, Subpart B of Part 307 of this chapter.

(e) The district organization engages in a continuous planning and action process involving self-analysis, identification of problems and potentials, establishment of economic development goals and strategy and program implementation. Its activities include the following:

(1) Establishment of a strong and broadly supported economic development process.

(2) A professional analysis of the district's economy.

(3) Formulation of an effective economic development program.

(4) Implementation of the district's development program.

(5) Coordination of Federal, State, and local development activities within the district.

§ 303.5 Coordination with State and local organizations.

The Assistant Secretary will cooperate with State and local organizations in activities leading to designation of economic development districts including participation in the district program, formulation of the OEDP, and identification and analyses of potential economic growth centers.

§ 303.6 Modification of district boundaries.

The Assistant Secretary, with concurrence of the State or States affected, may modify the boundaries of a district consistent with standards for authorizing new districts set forth in § 303.1 if the Assistant Secretary determines that such modification will contribute to a more effective program for economic development.

§ 303.7 Termination and suspension of district designation.

(a) The Assistant Secretary will, upon 30 days' prior notice, terminate or suspend the designated status of an economic development district:

(1) Where a district no longer meets the standards for designation set forth in § 303.2.

(2) Where a district has not maintained a currently approved district OEDP in accordance with Part 304 of this chapter.

(3) Where a district has requested termination with the approval of the State or States affected.

(4) Where a funded district fails to comply with terms and conditions of an EDA planning grant agreement.

(b) Terminations and suspensions resulting from failure to comply with title VI of the Civil Rights Act of 1964 will be processed in accordance with the provisions of that Act.

§ 303.8 Benefits.

(a) Designation of an economic development district is a prerequisite to EDA providing financial assistance to economic development centers.

(b) Projects in redevelopment areas which are located within designated economic development districts and which actively participate in the economic development district's OEDP planning process are eligible for 10-percent bonus grants, §§ 303.23 and 305.6 of this chapter if the project is consistent with a currently approved district OEDP.

Subpart B—Standards for Designation, Modification, and Termination of Economic Development Centers

§ 303.10 General standards for designation of economic development centers.

The Assistant Secretary may designate an economic development center if such proposed center:

(a) Has been identified and included in an approved district OEDP.

(b) Is recommended by the State or States affected. Written concurrence from the State must be received by EDA.

(c) Is geographically and economically so related to the economic development district that the economic development center's economic growth may be expected to contribute significantly to the alleviation of distress in the redevelopment areas of the district.

(d) Does not have a population in excess of 250,000 according to the last preceding Federal census.

(e) May reasonably be expected to accelerate or maintain existing rates of growth in terms of population, employment, and income.

(f) Has the prospect of developing a diversified economy providing a wide range of health, educational, recreational, and cultural facilities; a relatively large local market; a relatively large well-trained labor force; and other similar qualities which encourage the continuing growth of economic activities.

(g) Is an active participant in the district economic development program.

(h) Is within a nonredevelopment area of the economic development district.

§ 303.11 Number of economic development centers per district.

The Assistant Secretary will designate the single leading growth point in an economic development district as the economic development center. However, additional centers may be designated where unusual conditions exist in the district.

(a) Where the district contains a relatively large number of redevelopment area residents who do not have reasonable community access to any one economic development center.

(b) Where the district contains several smaller growth points rather than one leading economic development center.

§ 303.12 Boundaries of economic development centers and boundary modifications.

(a) An economic development center is administratively defined as a city or grouping of contiguous incorporated places. However, where justified, boundaries may be extended to include adjoining minor civil divisions or corridors of growth between centers.

(b) The Assistant Secretary may modify either the boundaries of an economic development center or the number of economic development centers in a district after giving notice and opportunity for comment to the State or States affected, if such modification will contribute to a more effective program.

§ 303.13 Termination and suspension of economic development centers.

The Assistant Secretary may, upon 30 days prior notice to interested State and

local agencies, terminate the designated status of an economic development center when—

(a) The economic development center is no longer identified or recommended for designation in an approved district OEDP.

(b) The economic development center no longer meets the standards for designation, § 303.10.

(c) The economic development center fails to actively pursue its role as an economic development center in a manner that makes a significant impact on the performance of the economic development district within which it is located.

§ 303.14 Redevelopment centers.

The Assistant Secretary may recognize a redevelopment center which meets the criteria for economic development centers but which falls in a designated redevelopment area. There is no limit on the size of the population of a redevelopment center.

Subpart C—Financial and Other Assistance to Economic Development Centers and Districts

§ 303.20 Financial assistance to economic development centers.

The Assistant Secretary may provide financial assistance (including public works and development facility loans and grants and, commercial and industrial loans and working capital guarantees) in accordance with the criteria contained in Parts 305 and 306 of this chapter for projects in economic development centers when—

(a) The project will further enhance the objectives of the overall economic development program of the district in which the economic development center is located.

(b) The project will enhance the relationship between the economic development center and the economic development district, particularly the redevelopment areas.

(c) The project will achieve one or more of the following:

(1) Encourage economic growth.

(2) Discourage out-migration from the district.

(3) Have a beneficial impact on the district's redevelopment areas.

§ 303.21 Economic development center project characteristics.

Projects in economic development centers shall have one or more of the following characteristics:

(a) High job producing capability.

(b) Remove barriers of access to jobs for the target population.

(c) Ability to trigger further project activity.

(d) Ability to trigger further economic impact.

(e) Provision of facilities and services deemed essential to stimulate further growth, at a level above that normally required for simple maintenance of a substantial community.

§ 303.22 Grant rate for economic development center projects.

The grant rate for projects in economic development centers shall not exceed 50 percent of the project costs.

§ 303.23 Supplementary grants to district redevelopment areas.

Subject to the limitation that the maximum Federal share for any project may not exceed 80 percent of the aggregate cost (except as provided in §§ 305.5 and 305.6 of this chapter), the Assistant Secretary may increase the amount of grant assistance for public works and development facilities projects within redevelopment areas by an amount not to exceed 10 percent of the aggregate cost of any such project, if:

(a) The redevelopment area is situated within a designated economic development district and is actively participating in the economic development activities of the district and

(b) The project is consistent with the currently approved district OEDP.

§ 303.24 Financial assistance to redevelopment centers.

The eligibility of redevelopment centers for EDA financial assistance, including the 10 percent bonus as provided for in §§ 303.23 and 305.6 of this chapter, is the same as for any designated redevelopment area within the district. The grant rate for the redevelopment center shall be determined by the rate applicable to the redevelopment area within which it is located.

§ 303.25 Assistance to economic development districts.

Pursuant to Title III of the Act, the Assistant Secretary may provide other assistance to the district including:

(a) Technical assistance.

(b) Planning grants, Subpart B of Part 307 of this chapter, to assist the district organization in engaging a professional staff and carry on its planning activities.

(c) Research assistance.

PART 304—OVERALL ECONOMIC DEVELOPMENT PROGRAM

Sec.

AUTHORITY: Sec. 701, Public Law 89-136 (August 26, 1965); 42 U.S.C. § 3211; 79 Stat. 570 and Department of Commerce organization order 10-4 (April 1, 1970).

§ 304.1 OEDP requirement.

(a) Approval of an overall economic development program, hereinafter referred to as OEDP, is a prerequisite for designation of a redevelopment area, title I area, or economic development district except those areas designated under §§ 302.4 and 302.6 of this chapter.

(b) A redevelopment area, title I area, or economic development district, where appropriate, is required to maintain a currently approved OEDP to retain its previous designation for eligibility to receive EDA funds.

§ 304.2 Redevelopment areas may use district OEDP's.

Those qualified areas within existing economic development districts may use the district's accepted OEDP in lieu of drawing up a separate area OEDP:

(a) Where the area has actively participated in and supported the district OEDP planning process, and

(b) Where the area has submitted a letter to EDA signed by the area's chief elected official or governing body and, where appropriate, a letter from the local OEDP committee wherein the area's decision to use the district OEDP is stated.

§ 304.3 OEDP committee.

(a) The preparation of the OEDP and the ongoing development program which it charts is the primary responsibility of the OEDP committee reporting to the board at the district level and of the OEDP committee itself at the area level, where appropriate.

(1) Area OEDP committees are required only in those areas not located in districts.

(2) However, because of the crucial role of the OEDP committee, EDA recommends that all areas establish such an organization even though located within a district and using the district OEDP, § 304.2.

(b) It is a policy of EDA that the governing body of each district shall include at least a simple majority of elected public officials (see § 303.4 for further district organization requirements).

(c) The OEDP committee shall be representative of the community so that all view points are considered in discussion and decisionmaking and all available local skills are engaged in program formulation. Representation on the committee shall include representatives of local government (county, city, and town), business, industry, finance, agriculture, the professions, organized labor, utilities, education, racial or cultural minorities, and the unemployed or underemployed. Subpart E of Part 311 of this chapter contains the requirements as to specific representation of minority groups.

(d) If an existing development group meets the criteria as set forth in paragraph (c) of this section, that group may function as an OEDP committee.

§ 304.4 Initial OEDP.

(a) The initial OEDP is the beginning of a planning program required by qualified redevelopment areas, title I areas, and economic development districts before the designation process can be completed.

(b) The initial OEDP will provide a concise and accurate background of the area or district in order to assist the local leaders and EDA to understand the current development situation. Such background may include a discussion of the district or area's geography, population, labor force, natural and manmade resources, economic and social activities.

(c) The initial OEDP will examine economic development and community improvement opportunities and problems. This includes an identification of major current activities of other organizations in connection with economic development and community improvement opportunities and problems.

(d) The initial OEDP will provide a realistic development program and work program that will be developed and implemented in an effort to:

(1) Promote the district or area's economic progress.

(2) Improve community facilities and services.

(3) Serve as a basis for a continuing planning and development program.

§ 304.5 Initial OEDP for districts.

The requirements for the initial OEDP for districts are those contained in § 304.4 and the following:

(a) The identification and proposal for designation or recognition of at least one economic growth center.

(b) An economic growth center program describing the role to be played by the proposed center in the implementation of the district wide development program, particularly as it relates to the redevelopment areas.

§ 304.6 Submission of initial OEDP.

When the initial OEDP is completed, the following steps shall be taken to obtain EDA approval:

(a) The initial OEDP of the area or district to be designated is to be reviewed by appropriate governmental bodies and all organized interested groups, especially the appropriate State agency, those organizations with OMB Circular A-95 review authority, and the EDA Regional Office.

(b) Dissenting opinions or comments from the above entities shall be submitted to EDA as attachments. If no comments are received, there shall be a note from the submitting party indicating to whom and when the OEDP was sent to the various organizations for comments.

(c) The OEDP committee shall reproduce the initial OEDP in sufficient quantity for the use of all groups taking part in the program. The local organization shall submit seven copies to its EDA Economic Development Representative including one copy for his use and six copies for the EDA Regional Office. Two copies shall also be sent to the State agency designated by the Governor to handle EDA activities and to the appropriate Regional Commission, if any.

(d) The EDA Regional Office Planning Division staff will review the OEDP for its adequacy. If the OEDP can be approved, the staff will notify the Economic Development Administration in Washington of its approval. If, however, the staff finds the initial OEDP inadequate, it will contact the chairman of the OEDP committee by letter and outline the required revisions or request a supplement.

§ 304.7 The continuing program.

After setting up and organizing the committee and submitting the initial OEDP, the area or district shall implement the development program, and periodically update the development program with annual progress reports, § 304.8, or with a revised OEDP, § 304.9.

§ 304.8 Progress report.

(a) The OEDP annual progress report for the annual designation and eligibility review for redevelopment and title I areas shall be submitted after January 1, but not later than March 31 of each year, covering the preceding calendar year.

(b) If located within an economic development district, a redevelopment area, or title I area may, at its discretion, notify EDA annually, on or before March 31, that the district annual OEDP progress report satisfactorily covers the area's own planning and programing.

(c) The annual progress report for districts shall be submitted annually 30 days after the anniversary date of the EDA planning grant, Part 307, Subpart B, and shall cover the period of the planning grant. Those districts which do not receive EDA planning grants, shall submit the report annually within 30 days of either their district designation date or their fiscal year.

(d) Extensions for submitting the area and district progress reports will be granted only under exceptional circumstances.

(e) Areas and districts submitting initial or revised OEDP during the last quarter of the calendar year will not be required to submit an annual progress report by the following March 31. The report will be due the following year covering a period of 1 year to 15 months.

(f) If the area progress report has not been submitted by March 31, or cannot be approved, the Regional Director:

(1) Will inform the area or district chairman of the nonreceipt or disapproval of the progress report.

(2) Will direct a member of the EDA regional office staff to visit and consult with the area or district chairman on the most expeditious way of submitting the progress report.

(3) May allow a reasonable extension of time (not to exceed 60 days) to prepare the report or supplemental data. Under very exceptional circumstances the Regional Director may allow a further extension. However, the report must be received not later than June 15.

(4) Will recommend that the Assistant Secretary notify the State and the affected area or district officials that the eligibility status of the area or district is suspended pending receipt of an acceptable progress report if the progress report has not been received within the required time period. This means no applications for projects for financial assistance from the affected area or district will be approved.

(g) If an unacceptable progress report was submitted, a supplement covering the deficiencies shall be prepared by the OEDP committee.

§ 304.9 Revised OEDP.

(a) A revised OEDP will be required if EDA determines that the initial OEDP of the area or district is inadequate.

(b) A revised OEDP will be required if EDA determines that the initial OEDP is outdated.

(c) An area or district shall also revise its initial OEDP if the OEDP committee determines that a complete reassessment of the local situation or a complete reassessment of the economic development program is desirable.

(d) A revised OEDP may be submitted in lieu of the annual OEDP progress report. Failure of an area or district to submit a revised OEDP in acceptable form within the time specified, and extensions thereof, may result in the suspension or termination of such area's or district's designation after 30 days written notice by EDA.

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Subpart A—Direct and Supplementary Grants for Public Works and Development Facilities

Subpart B—Public Works and Development Facility Loans

Subpart C—Specific Types of Projects

Subpart D—Limitations

Subpart E—Project Costs

AUTHORITY: Sec. 701, Public Law 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (April 1, 1970).

Subpart A—Direct and Supplementary Grants for Public Works and Development Facilities

§ 305.1 Purpose.

The purpose of this subpart is to set forth the requirements and procedures pursuant to which eligible applicants in designated areas may receive Public Works direct and supplementary grants until title I of the Act.

§ 305.2 Applicants.

The following applicants are eligible for Public Works direct and supplemental grants, provided such projects are located in designated areas.

(a) Any State or political subdivision thereof, including municipalities, and all agencies, instrumentalities, and quasi-public corporations and authorities created by a State or political subdivision thereof.

(b) Indian tribes.

(c) Any private or public nonprofit organization or association representing any redevelopment area or part thereof, if EDA determines that the organization or association is potentially capable of furthering the objectives of the economic development program of the area in which it is located.

§ 305.3 Direct grants for Public Works projects.

(a) The Assistant Secretary may make direct grants not exceeding 50 percent of the costs of public works and development facility projects if he determines that the project for which the grant is sought will:

(1) Directly or indirectly:

(i) Tend to improve the opportunities in the designated area where the project is or will be located for the successful establishment or expansion of industrial or commercial plants or facilities, or

(ii) Otherwise assist in the creation of additional long-term employment opportunities for such area, or

(iii) Primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964.

(2) Fulfill a pressing need of the designated area or part thereof in which it is or will be located; and

(3) Be consistent with a currently approved OEDP for the area in which it is or will be located.

(b) In the case of projects to be located in economic development centers, the following requirements must be met in addition to paragraphs (a) (1) and (2) of this section:

(1) The amount of Federal financial assistance extended must be reasonably related to the size, population, and economic needs of the economic development district;

(2) The project must enhance the economic growth potential of the economic development district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance extended;

(3) The project must further the objectives of the economic development district in which it is or will be located.

§ 305.4 Direct grants for Public Works Impact Program.

The Assistant Secretary may make direct grants not exceeding 50 percent of the cost of a Public Works Impact Program project under sections 101 and 401 (a) (6) of the Act, if he determines that the project for which the grant is sought will:

(a) Fulfill a pressing need of the designated redevelopment area or part thereof in which it is or will be located;

(b) Provide immediate useful work primarily through construction jobs to the unemployed and underemployed persons in the redevelopment area or part thereof in which it is or will be located;

(c) Have maximum on-site employment costs as a substantial portion of the total project;

(d) Have the largest possible proportion of the project expenditures within the project area;

(e) Be such that construction can commence within 3 months and be substantially completed within 12 months;

(f) Satisfy public need and timing in getting construction underway and becoming operational.

§ 305.5 Supplementary grants.

(a) Subject to the limitations on the maximum Federal share for projects, set forth in paragraph (b) (3) of this section, EDA may make supplementary grants to enable eligible applicants under § 305.2 to take maximum advantage of EDA direct grants pursuant to §§ 305.3 and 305.4, and such existing or future Federal grant-in-aid programs that in opinion of the Assistant Secretary further the purposes of the Act.

(b) In determining the amount of any supplementary grant assistance which would raise the EDA share to more than 50 percent of the aggregate cost of a project, the Assistant Secretary will take into consideration the following factors (Projects of Indian Tribes which are concerned with general economic development will be given special consideration, and the Assistant Secretary may reduce or waive the non-Federal share for such projects):

(1) The nature of the project to be assisted.

(2) The amount of such fair user charges or other revenues as the project may reasonably be expected to generate in excess of those which would amortize the local share of initial costs and provide for its successful operation and maintenance (including depreciation).

(3) The maximum grant rate for projects in designated areas, determined by relative needs as follows:

Projects	*Maximum grant rates (percent)*
(i) Projects of Indian tribes which are or will be located on Indian reservations, or trust or restricted Indian-owned land areas	100
(ii) Projects located in redevelopment areas designated under section 401 (a) (6) of the Act, applied for by States or political subdivisions thereof which have demonstrated they have exhausted their effective taxing and borrowing capacity	100
(iii) Projects located in redevelopment areas designated under section 401 (a) (6) of the Act but which cannot meet the requirements of paragraph (b) (3) (ii) of this section	80
(iv) Projects located in areas designated under Title I or Title IV of the Act, which areas have been designated by the President of the United States under the Disaster Relief Act of 1970 (Public Law 91-606), provided: (*a*) Such areas retain both EDA and disaster designations, and (*b*) Such concurrent designation has not exceeded one year in duration	80
(v) Projects located in redevelopment areas in which the median annual family income is $3,743 or below or the annual unemployment rate is 12 percent or higher	80%
(vi) Projects located in redevelopment areas in which the median annual family income is $3,744 to $4,094 or the annual average unemployment rate is 10 percent to 11.9 percent	70%
(vii) Projects located in redevelopment areas in which the median annual family income is $4,095 to $4,445 or the annual average unemployment rate is 8 percent to 9.9 percent	60%
(viii) Projects in all other areas	50%

§ 305.6 Ten percent bonus supplemental grants.

Subject to the limitation that the maximum Federal share for any project may not exceed 80 percent of the aggregate project cost or 100 percent for projects listed in § 305.5(b)(3) (i) and (ii), the Assistant Secretary may increase the amount of grant assistance for projects within redevelopment areas by an amount not to exceed 10 percent of the aggregate cost of any such project if:

(a) The redevelopment area is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

(b) The project is consistent with a currently approved district OEDP.

Subpart B—Public Works and Development Facility Loans

§ 305.21 Purpose.

The purpose of this subpart is to set forth the requirements and procedures pursuant to which eligible applicants in designated areas may receive loans for public works and development facilities under section 201 of the Act.

§ 305.22 Applicants.

The following applicants are eligible for Public Works and Development Facility loans, provided such projects are located in designated areas.

(a) Any State or political subdivision thereof including municipalities, and all agencies, instrumentalities, and quasi-public corporations and authorities created by a State or political subdivision thereof.

(b) Indian tribes.

(c) Any private or public nonprofit organization or association representing any redevelopment area or part thereof if EDA determines that the organization or association is potentially capable of furthering the objectives of the economic development program of the area in which it is located.

§ 305.23 Loan requirements.

The Assistant Secretary may purchase evidence of indebtedness and make loans for public works and development facilities in redevelopment areas and centers if he determines that:

(a) The project for which the loan is sought will directly or indirectly:

(1) Tend to improve the opportunities in the redevelopment area or center where the project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

(2) Otherwise assist in the creation of additional long-term employment opportunities for such redevelopment area or center; or

(3) Primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964;

(b) The funds requested for such project are not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Assistant Secretary will permit the accomplishment of the project;

(c) The amount of such loan plus the amount of other available funds for such project are adequate to insure the completion thereof;

(d) There is a reasonable expectation of repayment; and

(e) The project is consistent with a currently approved OEDP for the area, or district (if any), in which it will be located.

§ 305.24 Maturity of loans.

Loans must be repaid within the minimum reasonable time which the Assistant Secretary finds to be consistent with the financial capabilities and prospects of the applicant. In no event may a loan, including renewals and extensions thereof, be made, or evidence of indebtedness be purchased, with a maturity exceeding 40 years.

§ 305.25 Interest rates.

Loans made under this subpart will bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 percent, less not to exceed one-half of 1 percent per annum.

Subpart C—Specific Types of Projects

§ 305.41 Purpose.

The purpose of this subpart is to state requirements for certain specific types of public works and development facility projects.

§ 305.42 Hospitals, nursing homes, and convalescent care facilities.

Applications for assistance in the construction or improvement of hospitals should be submitted to EDA only after all other efforts to obtain the requested funds have failed, including requests under the Hill-Burton program of the Department of Health, Education, and Welfare.

(a) Where no other assistance is available, it must be clearly demonstrated that:

(1) The facility requested is immediately necessary to the establishment or expansion of an identified industrial or commercial enterprise having significant employment potential in relation to the cost of the requested facility;

(2) The facility to be assisted will meet appropriate accreditation standards;

(3) The lack of medical facilities is seriously hampering the implementation of economic development programs of the community in which the project will be located and of the broader area planning and development districts or organization in which the community is located, and;

(4) The economic benefits will exceed the economic effect of employment in the construction and operation of the facility.

(b) Where Hill-Burton funds are available and supplementary assistance is requested under the Act to provide a combined grant at the applicable maximum grant level, the requirements of paragraphs (a) (2), (3), and (4) of this section must be met.

(c) In exceptional circumstances, assistance for nursing homes and convalescent care facilities may be considered if the applicant demonstrates that the facility requested is immediately necessary to the establishment or expansion of an identified industrial or commercial enterprise having significant employment potential in relation to the cost of the requested facility.

§ 305.43 Industrial parks and sites.

(a) Financial assistance is provided for public works and development facilities which will serve industrial parks on sites owned by public entities or nonprofit organizations where the purpose of such assistance is to provide sites for new industries in order to accelerate the economic development process of the community. The following are among the requirements for such assistance:

(1) Options held by eligible applicants to purchase land for industrial parks and sites must normally be exercised prior to construction of the project.

(2) The applicant owners or operators of an industrial park or site must covenant not to sell, lease, or otherwise make any part of such premises available for occupancy by any person, firm, or entity, unless the occupant first furnishes to the applicant, for transmittal to EDA, properly executed EDA forms:

(i) Evidencing the assurance of such occupant to comply with the Civil Rights Act of 1964, and

(ii) Evidencing that such occupancy is not in violation of the relocation prohibitions of section 702 of the Public Works and Economic Development Act of 1965, as amended. (See § 309.3 of this chapter.)

(3) Assurances must be provided that the public facilities for which EDA assistance is obtained will be retained for primary public benefit and will be available for use by the general public, and will not be transferred for the exclusive benefit of any individual user at any time, except that:

(i) Certain types of public works construction such as bulkheads and retaining walls which have as their sole purpose the prevention of soil erosion, may be funded under the Act, and may be considered a part of the industrial site, and

(ii) Assistance may be provided for the construction of public facilities designed primarily or essentially to serve a single occupant, provided that the facilities can be made available to other users if and when necessary, without the approval or consent of the single user.

(4) Public works assistance for direct site improvement or preparation of land may be considered only where it is for the purpose of reclaiming useless or uneconomic land in order to enable it to become available for long-term produc-

tive use, where no other suitable land is more readily or economically available, and where the proposed reclamation is for the primary benefit of the entire community. In such cases, assistance is strictly limited to site preparation directly connected with the reclamation aspects of the project.

(b) Financial assistance for public works and development facilities to serve privately owned industrial parks or sites may be considered, provided one or more of the following conditions are met:

(1) The private developer has secured binding commitments from industrial tenants for the use and occupancy of a sufficient portion of the land to warrant participation in the project, and the sale price of the land would not be raised as a result of the facilities assisted under the Act.

(2) Public works facilities to be assisted will serve primarily a publicly owned industrial park or site or any other public purpose, and only incidentally will serve privately held industrial land.

(3) The owner or operator of a privately owned industrial park or site will enter into an agreement with the applicant, subject to approval by EDA, that for a reasonable length of time satisfactory to EDA he will sell his unoccupied land at the fair market value existing prior to its improvement by the public works and development facilities project.

(4) The land to be served is held by an industrial firm or firms committed to construct or expand plant facilities which will employ the unemployed and underemployed in the area.

(5) The project will serve portions of a privately owned industrial park occupied by industrial firms, which require the availability of public works facilities in order to increase or expand their operations and employment. However, participation in such projects generally will be limited to serving the requirements of the identifiable users, unless the owner or operator commits himself to the requirements of paragraph (b)(3) of this section.

§ 305.44 Tourism and recreation.

(a) An applicant qualified under the Act, which is actively cooperating in the implementation of a comprehensive tourism development program and which is able to demonstrate its capability to undertake and administer a project in the tourism and recreation field, may be eligible for assistance for tourism and recreation projects.

(b) Tourism and recreation projects must meet the following requirements:

(1) There must be an overall plan for development of the tourism potential of the area in which the project is to be located on a scale sufficient to attract visitors from outside the area.

(2) The project must be a multifaceted tourism complex or an integral and essential part thereof, including facilities attractive to varied age groups and opportunities for both active and passive recreation. Projects which are not related to development of a varied tourism complex, but are of local value only, such as community swimming pools or municipal golf courses, will not be eligible.

(3) The applicant must show that:

(i) Development of tourism and recreation potential offers the only opportunity for economic growth; or

(ii) Development of tourism and recreation potential will result in a significant broadening of the economic base.

(c) Grants may be provided for the construction of facilities which will ultimately be leased or rented to private profitmaking organizations, subject to terms and conditions acceptable to the Assistant Secretary.

§ 305.45 Vocational or skill training facilities.

(a) EDA may provide financial assistance to construct or improve vocational or skill training facilities. However, financial assistance will not be provided:

(1) For secondary-level vocational schools,

(2) Except in unusual circumstances, for Junior or Community Colleges.

(b) General requirements for EDA financial assistance for vocational or skill training facilities include the following:

(1) Evidence must be presented that efforts to secure financial assistance have failed.

(2) The facility must be located in a designated area. If it is located in an economic development center, it must be easily accessible to residents of a redevelopment area.

(3) The project must contribute to the economic development program of the area. Evidence is required of the approval and support of the Employment Security Commission and State Manpower Planning Agencies.

(4) The facility must have the approval of the State Vocational Education Department and assurance that it will be included in the State Vocational Education Plan.

(5) Assurance is required of the continued financial support of operational and administrative activities and of the continuity of the operational programs in accordance with the objectives of the application to EDA.

(6) Evidence must be submitted of lack of a similar institution in the area.

(c) The vocational skill and training program must include:

(1) Designation of the unemployed, underemployed, and educationally disadvantaged adults and out-of-school youths of the area for preferential recruitment as the primary targets of the training effort to provide skilled labor for available jobs. Such designation must be supported by a demographic description of the area to be served, utilizing the most current data available.

(2) Systematic procedures, including a formal permanent staff, for recruitment of the target population as trainees and as employees.

(3) A transportation program providing for adequate, economical, and convenient transportation to serve the target population.

(4) Plans for the establishment of a formal job development and placement staff, which plans should establish placement and monitoring procedures.

(5) Procedures for promoting cooperation with local private industry in maintaining an on-going supply-demand relationship for a trained work force.

(d) The vocational skill and training facility must provide a systematic plan for the training of a present and future labor force for identifiable jobs, including:

(1) Regularly scheduled daytime and evening sessions, as required,

(2) Remedial or compensatory programs conducted prior to or concurrently with skill training to allow educationally disadvantaged students to receive basic educational skills, and should include such services as

(i) Counseling,

(ii) Referral to legal, personal, and medical consultation, and

(iii) Concentrated courses in basic arithmetic, language, and communication skills.

(e) Training facilities should not impose tuition fees except where required by State statute. Where such fees are required, evidence must be provided that funds will be made available to ensure that no member of the target population will be denied any services of the facility for economic reasons.

(f) The program staff must include professional personnel skilled in recruitment, counseling, job development, and job placement.

(g) All manpower programs are subject to periodic monitoring by EDA during and after construction of the project. A quarterly report shall be submitted to EDA by the recipient of financial assistance describing in detail program planning and staffing.

Subpart D—Limitations

§ 305.51 Assistance limitation by State.

Not more than 15 percent of the total amount appropriated by Congress for the purposes of title I of the Act may be made available for public works and development facilities within any one State.

§ 305.52 Appalachian region.

No part of the total amount appropriated by Congress for the purpose of title I of the Act may be used for any project which is located within the "Appalachian region" (as that term is defined in section 403 of the Appalachian Regional Development Act of 1965) and which has been approved for assistance under the Appalachian Regional Development Act of 1965.

§ 305.53 Competition with privately owned public utilities.

Except for projects specifically authorized by Congress, no financial assistance under this part for public service and development facilities will be approved for any facility which would compete with an existing privately owned public utility rendering a service to the public at rates or charges subject to regulation by a State or Federal regulatory body. However, approval may be

granted if the State or Federal regulatory body determines that in the area to be served by the development facility for which the financial assistance is to be extended, there is a need for an increase in such service (taking into consideration reasonably foreseeable future needs) which the existing public utility is not able to meet through its existing facilities through an expansion which it agrees to undertake.

§ 305.54 Employment of local labor.

(a) The maximum feasible employment of local labor shall be made in the construction of public works and development facility projects receiving direct grants and loans. Accordingly, every contractor and subcontractor undertaking to do work on any such project which is or reasonably may be done as on-site work, shall be required to employ in carrying out such contract work, qualified persons who regularly reside in the designated area where such project is to be located, or in the case of economic development centers, qualified persons who regularly reside in the center or in the adjacent or nearby redevelopment areas within the economic development district, except:

(1) To the extent that qualified persons regularly residing in the designated area or economic development district are not available;

(2) For the reasonable needs of any such contractor or subcontractor to employ supervisory or specially experienced individuals necessary to assure an efficient execution of the contract;

(3) For the obligation of any such contractor or subcontractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that in no event shall the number of nonresident persons employed under this subparagraph exceed 20 percent of the total number of employees employed by such contractor and his subcontractors on such project.

(b) Every such contractor and subcontractor shall furnish the U.S. Employment Service office in the area in which the public works or development facility project is located with a list of all positions for which it may from time to time require laborers, mechanics, and other employees, the estimated numbers of employees required in each classification, and the estimated dates on which such employees will be required;

(c) The contractor shall give full consideration to all qualified job applicants referred by the local employment service, but is not required to employ any job applicants referred whom the contractor does not consider qualified to perform the classification of work required;

(d) The payrolls maintained by the contractor shall contain the following information: the employee's full name, address, and social security number and a notation indicating whether the employee does, or does not, normally reside in the area in which the project is located or, in the case of an economic development center, in such center or in an adjacent or nearby redevelopment area within the economic development district;

(e) The contractor shall include the provisions of this section in every subcontract for work which is, or reasonably may be, done as on-site work.

§ 305.55 Project review and comment by local governmental authorities.

When the applicant is not the State, county, city, town, parish, village, or other general-purpose governmental authority of the area in which a project is to be located, the applicant must afford the appropriate local governmental body 15 days in which to review and comment upon the proposed project, and then must submit such comments, or a detailed statement of the efforts made to obtain them, with the application for Federal assistance. The following guidelines will determine which governmental body should review and comment in particular cases:

(a) If the project is located within an incorporated municipality, or substantially affects only one municipality, appropriate officials of the municipal government affected must be asked to review and comment upon the project.

(b) If the project is located outside the limits of any incorporated municipality and affects more than one municipality, the appropriate officials of the county in which it is located must be asked to review and comment upon the project.

(c) If the project is located within an Indian reservation, appropriate authorities of the reservation must be asked to review and comment upon the project.

(d) If the project substantially affects several major political subdivisions, review and comment by several local governments may be required, as the Assistant Secretary may deem appropriate.

(e) Additional time for comment may be requested by local governmental authorities.

§ 305.56 Technical feasibility.

Completed plans and specifications are not required in applications for public works and development facilities, except for applications for Public Works Impact Program projects.

(a) Sufficient information to determine the nature and scope of the project, its probable useful life, and a reasonable estimate of cost is required.

(b) The design and performance criteria must conform to professionally recognized national standards and must adequately define the technical capability of the project to serve current and foreseeable needs.

(c) Evidence of unorthodox design must be fully justified by the applicant.

§ 305.57 Comprehensive planning.

A project should result from and conform to the OEDP for the area and, where applicable, should be designed as an integral part of any existing or planned functional system unless EDA determines there is sufficient justification for deviation.

§ 305.58 Other requirements.

The requirements of Part 309 of this chapter are pertinent to EDA public works assistance.

Subpart E—Project Costs

§ 305.61 Purpose.

The purpose of this subpart is to set forth requirements and procedures with regard to project costs in public works and development facility projects.

§ 305.62 General criteria for eligible project costs.

EDA will participate in the costs of a project to the extent to which EDA determines such costs are eligible for assistance. To be eligible for assistance, costs must meet the following general criteria:

(a) Costs must be necessary and reasonable for the project, and not general expenses required to carry out the overall responsibilities of the recipient.

(b) Costs must be authorized or not prohibited by applicable Federal, State, or local laws or regulations.

(c) Costs must be accorded consistent treatment through application of appropriate generally accepted accounting principles.

(d) Costs must not be allocable to or included as a cost of any other federally financed project in either the current or a prior period.

§ 305.63 Unallowable project costs.

The following costs are not allowable project costs:

(a) Bad debts, including any losses arising from uncollectible accounts and other claims, and related costs.

(b) Costs resulting from changes in project scope.

(c) Contributions and donations.

(d) Entertainment, including costs of amusements, social activities, and incidental costs relating thereto.

(e) Fines and penalties, including costs resulting from violations of, or failure to comply with, Federal, State, and local laws and regulations.

(f) Governor's expenses, including the salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision.

(g) Interest and other financial costs unless specifically allowable by EDA.

(h) Legislative expenses, including salaries and other expenses of the State legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction.

(i) Under-recovery of costs under grant agreements.

§ 305.64 Preliminary expenses as eligible project costs.

Eligible project costs for preliminary expenses include specific costs, except for construction costs, for noncustomary engineering or special services incurred prior to submission of the application for financial assistance, which costs are directly related to the development and/or the feasibility of the project or the application. Where supplementary grant assistance to that of another Federal

agency is being provided, the policies of that agency apply and only those pre-application costs recognized by the other agency will be considered eligible.

§ 305.65 Land, easements, and rights-of-way as eligible project costs.

(a) Costs necessary for project site acquisition, including land, rights-of-way, and easements, may be eligible project costs if such interests in land will remain in public ownership or for public use and if applicable requirements of § 305.72 are met.

(b) Costs directly related to such acquisition, including costs of deeds, title search/title clearing, and appropriate surveys may also be allowed as eligible project costs.

(c) When financial assistance is provided under the Act for a project, tandem to or interconnected with, a project funded by another Federal agency, costs for land on which to construct both facilities may be included in the EDA assistance.

§ 305.66 Construction costs as eligible project costs.

Eligible project costs for construction of the project include the reasonable costs of construction work to be performed under contract, including the cost of such necessary fixtures and appurtenances as are approved by EDA as part of the project. However, such costs must be reasonable and comparable to the cost of similar work awarded through open competitive bidding in the geographic area of the project.

§ 305.67 Machinery and equipment as eligible project costs.

The costs of essential movable (and where appropriate fixed), machinery and equipment needed to carry out the project, as determined by EDA, are allowable as eligible project costs. Expendable supplies, equipment available on a rental or lease basis, stockage items in excess of initial operating requirements, and luxury items are not eligible for assistance.

§ 305.68 Architect/engineer services as eligible project costs.

Eligible project costs may include costs for architect/engineer fees, resident inspection, test borings, and testing of materials provided under an agreement or contract with the recipient. However, the architect/engineer fees should be based on existing professional fee schedules and the other costs will be evaluated for conformity with similar costs in the geographic area of the project during the construction period.

§ 305.69 Legal and administrative expenses as eligible project costs.

(a) Allowable legal expenses must be reasonable and consistent with professional fees in the area of the project. Such expenses may include costs for any necessary approving opinion of bond counsel, and printing and advertising of bonds or other debt obligations, as well as other legal expenses necessary for the project.

(b) Allowable administrative expenses include the cost for audit and necessary expenses required in the preparation of a bond issue for advertised sale, as well as other administrative expenses necessary for the project.

§ 305.70 Capitalized interest as an eligible project cost.

(a) Capitalized interest during construction may be an eligible project cost for a project in which it is necessary for the recipient to borrow funds to finance construction costs and where State law permits such a loan.

(b) Capitalized interest during development may be an eligible project cost only when an EDA public works and development facility loan has been made for the project. The allowable amount is limited to that which is required to meet interest payments after the project is operating but before income is sufficient to provide for such payment. However, such amount will be an eligible project cost only to the extent that the recipient does no have any other funds or sources of revenue for such interest payments.

§ 305.71 Financial advisors.

(a) *Purpose.* This section describes EDA regulations to be followed in engaging a Financial Advisor when needed for an EDA public works project.

(b) *Policy.* EDA will authorize as an allowable project cost the use of a Financial Advisor when needed to complete funding of an approved public works project. All such Financial Advisors will be selected by the grantee and approved by the Agency. Fees for these services must be reasonable and EDA will participate in accordance with the grant percentage.

(c) *Definition.* A "Financial Advisor" is an individual or firm which is qualified by reason of training and experience to advise the applicant on structuring and marketing a private bond issue needed to complete funding of an approved EDA public works project. It may be an investment banker who deals with municipal securities; a commercial bank with a syndicate department or comparable capability; or a municipal financial consultant who advises on municipal underwritings.

(d) *Financial Advisor services.* (1) The major objectives in the incurrence of long-term debt by a unit of local government are:

(i) The adequacy of the loan and the assurance that funds will be available when needed.

(ii) The arrangement of the loan so that it blends into the existing overall debt structure.

(iii) The issuance and sale of bonds at the lowest interest cost consistent with all other considerations.

(2) Services normally performed by the Financial Advisor are:

(i) *Survey of financial resources.* The Financial Advisor shall make a survey of the financial resources of the issuing subdivision to determine the extent of its borrowing capacity. Such a survey shall include an analysis of the existing debt structure as compared to existing and projected sources of income which may be pledged to secure payment of debt service.

(ii) *Financial plan.* On the basis of information developed by the survey, the Financial Advisor shall establish a financial plan which shall be submitted to the governing body of the issuing subdivision. The financial plan shall be complete as to maturity schedule and estimated interest rate of the proposed bonds and shall reflect the resulting overall amount of debt service requirements as compared to existing and projected income sources.

(iii) *Bond elections.* If a bond election is deemed necessary, the Financial Advisor shall assemble and transmit to the bond attorneys such data as is required in preparation of the necessary petitions, resolutions, notices, etc.

(iv) *Terms of bond issue.* The Financial Advisor shall submit his written recommendations as to the various provisions, terms, and conditions of the proposed bond issue. He shall make recommendations as to the date of the issue, interest payment dates, schedule of maturities, options of prior payment, and place of payment. He shall also, whenever possible, suggest additional security provisions designed to make the issue more attractive to investors.

(v) *Selecting date of bond sale.* In the event the bonds are to be sold at competitive bidding, the Financial Advisor shall make a recommendation as to the date on which bids are to be considered. This recommendation shall be based on an estimate of expected market conditions, having given due consideration to such factors as the general trend of the bond market, conflict with offerings of other such divisions and other known relevant factors.

(vi) *Notice of sale.* If required in the marketing of bonds, the Financial Advisor will be expected to prepare and submit the following:

(*a*) Official Notice of Sale, into which shall be incorporated all necessary information as to time and place of the bond sale, the conditions under which the bonds shall be amended, and the terms and conditions of delivery.

(*b*) Prospectus: Which shall be fully descriptive of the bonds offered and which shall additionally contain complete information on the issuing subdivision.

(*c*) Uniform Bid Form: Containing provisions recognized as standard by the municipal securities industry.

(*d*) Bond Rating: If proper and desirable, to submit to the national bond rating agencies financial and economic data necessary to obtain a rating on the proposed issue.

(vii) *Bond sale—award of bonds.* The Financial Advisor shall be represented at the bond sale by experienced personnel whose services shall be available to the issuing government in the tabulation and comparison of bids.

(viii) *Issuance of bonds.* As soon as a bid for the bond shall be accepted by the issuing agency, the Financial Advisor shall proceed at once with the general consideration of the efforts of all concerned to the end that the bonds may be delivered and paid for as expeditiously as possible. His services shall be available in the passage or adoption of all required ordinances, resolutions and documents which may be required by the Attorney General of the State in which the issuing subdivision is located.

(ix) *Delivery of bonds.* It shall be the duty of the Financial Advisor to inform and assist all concerned with the delivery of the bonds, and to generally coordinate their efforts. He shall notify the purchasers of the time that payment for the bonds can be made and shall assist the issuer in the escrow of closing documents and the giving of proper instruction for the receipt and transfer of bond proceeds.

(3) The fee for Financial Advisory services shall be reasonable and be in keeping with the magnitude of the service performed. Instances may arise where the preparation of the financial package for a relatively small issuer may be intricate and time consuming. The converse situation may also arise where the preparation of a large issue for a municipality with an extensive marketing history may warrant a lower fee than might normally be expected. The financial staff, Technical Support Division, shall review and approve the Financial Advisor's fee submitted with the public works application.

(e) *Selection and approval of Financial Advisors.* Selection of a Financial Advisor for a public works project will be made by the grantee. Those firms interested in participating in the solicitation of financial advisory contracts shall file their qualifications and experience with the appropriate EDA Regional Offices. The financial staff, Technical Support Division, shall review these submissions and notify approved firms that their fees may be considered as acceptable project costs.

(f) *Financial Advisor precluded as bidder.* The Financial Advisor shall be precluded from bidding except in those cases where the best interests of the grantee and the Federal Government make it necessary that they be the bidder. Any request for a right to bid on all or a part of the issue by the Financial Advisor shall be initiated by the grantee.

(g) *Written agreement with Financial Advisor.* Agreement between the grantee and the Financial Advisor shall be in writing and shall include a listing of the services to be performed, substantially as outlined in paragraph (d) of this section, and provisions for reimbursement for services rendered and precluding the Financial Advisor from bidding except in certain circumstances. The contract shall be approved by the financial component of the Office of Public Works.

§ 305.72 Previously acquired assets as part of total project cost.

(a) The value of land and facilities (including buildings, machinery, and equipment) acquired by the recipient before receipt of public works and development facility assistance, may be allowed as part of the total project cost if the following conditions are met:

(1) The land and/or facilities are so physically related to the project as to be required for the successful functioning of the project.

(2) The facility to be constructed substantially exhausts the use of the land.

(3) The project cost does not include more land and/or facilities than EDA determines to be reasonably necessary for the successful completion of the project to be constructed.

(4) Easements and rights-of-way meet the additional requirements of paragraph (d) of this section.

(b) EDA will not grant or lend more than the difference between the total project cost and the value of such previously acquired land and/or facilities.

(c) The value of such previously acquired land and/or facilities will be set at a conservative figure determined by EDA appraisal or by an independent appraiser satisfactory to EDA, but in no event shall the valuation exceed the amount of equity in such assets actually owned by the recipient.

(d) In exceptional circumstances, previously acquired easements and rights-of-way may be included in project costs, however such previously acquired easements and rights-of-way will not be included in project cost at a sum in excess of the lower of their actual cost or their current fair market value. In addition, the following conditions must be met:

(1) The easements and/or rights-of-way must have been purchased for value and for the specific project.

(2) The successful construction of the project must require inclusion of the easements and rights-of-way.

(e) Where an EDA grant is supplementary to a basic grant from another Federal agency, the policy of that agency regarding inclusion of previously acquired assets in the project cost will be controlling.

Subpart F—Disbursement of Funds for Grant and Loan Projects

§ 305.81 Policy for loans.

It is the policy of EDA to purchase, when the project is physically 75 percent complete, the bonds or promissory notes stated in the EDA "Offer of Loan."

§ 305.82 Interim financing in loan projects.

Borrowers may, on request, receive from EDA the form entitled "Statement of Interest with Respect to an EDA Development Loan" to aid them in obtaining interim financing from sources other than EDA. This form is not an unqualified pledge, since the borrower has yet to comply with the terms and conditions of the EDA "Offer of Loan." The terms and conditions of the interim financing are subject to prior approval by EDA.

§ 305.83 Early purchase in loan projects.

(a) EDA may, in its discretion, make an early purchase of all or part of bonds or promissory notes, upon presentation of facts and documentation establishing, to EDA's satisfaction, the borrower's inability to obtain interim financing.

(b) Approval of such early purchase shall be made after receipt by EDA of:

(1) A favorable preliminary approving opinion of bond counsel on the validity of the proposed interim and final bond or promissory note and

(2) Satisfactory evidence of receipt of firm construction, service, and/or supply bids as well as compliance with the other loan conditions required to be fulfilled before disbursement. Advances or partial purchases shall be made in units of not less than 25 percent spaced so as to enable the Borrower to pay incurred costs as they come due. Advances must be deposited in a bank with Federal Deposit Insurance Corporation coverage, and the balances exceeding such coverage must be collaterally secured as provided in 12 U.S.C. 265.

§ 305.84 Bond counsel.

The Borrower must receive prior approval by EDA when engaging bond counsel, trustees, and paying agents. EDA shall approve or disapprove, for its participation, the fees for Bond Counsel and trustees, in part on the basis of compliance with EDA requirements as to bond issues.

§ 305.85 Private participation in bond issues.

(a) It is EDA policy to maximize private participation for each of the designated blocks of the bond issues subject to the offer of purchase by EDA.

(b) The borrower shall accord preference to bids by non-EDA bidders for an entire bond issue over bids for individual or combined blocks, and preference to bids for combined blocks over bids for individual blocks.

(c) In calculating the net interest cost of the respective non-government bids, the borrower shall exclude the bid submitted by EDA.

§ 305.86 Disbursement of funds for grants.

Disbursements of funds for grants are made upon application to EDA for disbursement and

(a) After execution of all contracts required for the completion of the project,

(b) For itemized and certified eligible costs incurred, as substantiated by such documentary evidence as EDA may require,

(c) For the percentage of EDA participation, but in no event for more than the total sum, stated in the "Offer of Grant" accepted by the grantee,

(d) Upon proof that grantee's proportionate share of funds is on deposit,

(e) After a determination by EDA that all applicable conditions of the grant have been met,

(f) Upon proof that the grantee has withheld 10 percent from all contractors and suppliers who have not had EDA inspection and approval, and

(g) After such other requirements as EDA shall establish are met and approved.

§ 305.87 Installments in grant disbursements.

Disbursements are normally made in four installments, as follows:

(a) For up to 25 percent of the total grant, after all contracts are awarded,

(b) For an additional 50 percent when the project is completed to that amount,

(c) For an additional 15 percent when the project is at least 90 percent completed,

(d) For the remaining grant sums when EDA approves a final audit of the eligibility of the project costs, unless such audit indicated another amount is due.

§ 305.88 Construction account for grant funds.

Grantees shall establish a construction account in accordance with applicable Federal law, into which grant funds shall be deposited and from which payments therefrom shall be made. Payments from this account may not be made for change orders without specific EDA approval.

§ 305.89 Variance in cost of grant and loan projects.

(a) In the event the total cost of the project shall exceed the amount stated in the "Offer of Grant," the grant disbursement will be based on the grant rate percentage for EDA participation revised to reflect a figure equal to the rate multiplied by the total project cost.

(b) In the event the total cost of the project shall be less than the amount stated in the "Offer of Grant," the grant rate will be unchanged.

Subpart G—Servicing of Grant and Loan Projects

§ 305.91 Planning conference.

After the EDA offer of financial assistance has been accepted by the applicant, EDA will schedule a planning conference to explain EDA requirements for administration of projects. If representatives of the grantee or borrower, who have been authorized by EDA to attend such conference, must travel to an EDA Regional Office, the costs of such travel shall be eligible for proportionate reimbursement as a project cost.

§ 305.92 Financial systems.

(a) Grantees shall establish financial management systems in accordance with applicable Federal law.

(b) Borrowers shall establish such systems as are necessary in accounting for revenues to be applied to the payment of the loan and for the allocation of expenses.

§ 305.93 Financial records.

Financial records, supporting documents, statistical records, and all other records pertinent to the project shall be kept and preserved so long as any sum shall be due and unpaid to EDA or its successor agency or agencies and for at least 3 years thereafter, with the following qualifications:

(a) If EDA audit findings have not been resolved, these records are to be retained beyond the 3 year period;

(b) Records for nonexpendable property shall be retained for 3 years after its final disposition;

(c) The retention period starts from the date of the submission of the final expenditure report;

(d) In nonconstruction grants and loans, or for construction contracts for less than $100,000, the grantee or borrower shall utilize the retention requirements set by State or local law, as applicable.

§ 305.94 Construction project bonding.

Where construction contracts exceed $100,000, the minimum bonding requirements shall be as follows:

(a) A bid guarantee is required from each bidder equivalent to 5 percent of the bid price,

(b) A performance bond is required on the part of the contractor for 100 percent of the contract price, and

(c) A payment bond is required on the part of the contractor for 100 percent of the contract price.

§ 305.95 Procurement.

Recipients may use their own procurement procedure regulations which reflect applicable State and local law, rules, and regulations, provided that procurements made with Federal grant funds adhere to the following standards:

(a) The recipient shall maintain a code of standards of conduct which shall govern the performance of its officers, employees or agents in contracting with and expending Federal funds. Such persons shall not accept gratuities, favors or anything of monetary value from potential contractors. Such code or standards shall provide for penalties, sanctions or other disciplinary actions for violations;

(b) All procurement procedures shall provide for maximum open and free competition to avoid organizational conflicts of interest or noncompetitive practices; and

(c) Procurement procedures shall meet the following minimum requirements:

(1) Avoidance of unnecessary or duplicatory items is required.

(2) Clear and accurate description requirements are necessary ("Brand Name-or-Equal" may be used).

(3) Utilization of small business and minority owned business sources of supplies and services is required.

(4) Procurement contracts shall be appropriate for the particular procurement and the project. The "cost-plus-a-percentage-of-cost" contract shall not be used.

(5) Formal advertising shall be required unless negotiation, as permitted in subparagraph 6 of this paragraph, is necessary. Procurements of $2,500 or less need not be so advertised. Awards shall be made to the responsible bidder whose bid is responsive to the invitation, price, and other factors considered. Any and all bids may be rejected when it is in the grantee's interest and such action is in accord with applicable law.

(6) Competition shall be obtained to the maximum extent possible. However, procurements may be negotiated under the following circumstances and if EDA gives prior approval. When:

(i) There is a sole source procurement;

(ii) The procurement is less than $2,500;

(iii) The contract is for personal or professional services or the service is to be rendered by an educational institution;

(iv) No acceptable bids have been received after formal advertising; or

(v) Federal law authorizes negotiated procurement.

(7) Procurement records for contracts for more than $2,500 shall include at least the justification for the use of negotiation and contractor selection and the basis for the cost or price negotiated.

(8) A system for contract administration shall be maintained to assure contractor performance is consistent with the terms, conditions, and specifications of the contract, and to assure timely follow-up by the recipient of all purchases.

§ 305.96 Contracts and subcontracts.

In all contracts and subcontracts, the recipient shall include and require the following:

(a) Provisions for administrative, contractual, and legal remedies, and provide for sanctions and penalties as appropriate.

(b) Contracts in excess of $2,500 shall contain provisions for termination for default as well as for circumstances beyond the control of the contractor.

(c) Contracts and subcontracts shall contain substantially the same provisions contained in the grant and/or loan and which are appropriate to the contractor and subcontractor, such as requirements for compliance with applicable labor standards. The recipient shall establish procedures to assure compliance and to assure that violations are investigated.

(d) Contractors and subcontractors shall maintain records for audit and examination by EDA and the Comptroller General of the United States, as required by § 309.9 of this chapter.

§ 305.97 Title to real property.

The Grantee or Borrower must furnish evidence to EDA that it has good and merchantable title to the real property on which improvements will be located, with liens or encumbrances noted, and that it has or can acquire all necessary easements and rights-of-way. The evidence shall be presented in such manner as EDA requires.

§ 305.98 Other requirements.

(a) Grantees and Borrowers shall comply with such additional requirements as are incidental to or explicitly required by the grant and/or loan.

(b) The tabulation of project costs attached to or made a part of the loan or grant or letter transmitting the loan

or grant is the controlling budget for the project. Transfer of funds between line items therein may not be made without EDA approval.

(c) Requests by grantees or borrowers for amendments to the grant or loan shall be submitted in writing to the Regional Office for processing, and shall contain such information and documentation necessary to justify the request.

(d) All contract change orders must have prior EDA approval.

(e) A final inspection will be scheduled by the grantee or borrower, with EDA concurrence and/or participation, when the project has been completed and is functional and when all deficiencies have been corrected.

(f) Proposed subcontractors must submit a properly executed EDA "Certification Regarding Equal Employment Opportunity."

(g) Subcontractors shall submit evidence which will satisfy Federal labor standards statutes.

§ 305.99 Termination for default or for the convenience of recipient.

(a) An appropriate official of the recipient may request EDA to cancel or terminate a public works or development facility project. This request must be accompanied by a certified resolution or ordinance authorizing the requesting party to make such request. Before agreeing to such request, EDA will determine the legal sufficiency of such request.

(b) EDA may initiate a cancellation or termination action for failure by the recipient to proceed or for failure to adhere to the requirements of the grant and/or loan.

§ 305.100 Liquidation and administration of loans and evidences of indebtedness.

In the event that the Assistant Secretary determines that it is necessary or desirable to take actions to protect or further the interests of EDA in connection with loans or guarantees made or evidences of indebtedness purchased under the Act, the Assistant Secretary may:

(a) Assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions as he shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property, or security assigned to or held by him in connection with loans made or evidences of indebtedness purchased under the Act,

(b) Collect or compromise all obligations assigned to or held by him in connection with such loans or evidences of indebtedness until such time as such obligations may be referred to the Attorney General for suit or collection, and

(c) Take any and all other actions determined by him to be necessary or desirable in purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans made or evidences of indebtedness purchased under the Act.

PART 306—BUSINESS DEVELOPMENT PROGRAM

Subpart A—Business Development Loans for Industrial and Commercial Purposes

Subpart B Loan Closing and Servicing

Subpart C—Working Capital Guarantees

AUTHORITY: Sec. 701, Public Law 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (April 1, 1970).

Subpart A—Business Development Loans for Industrial and Commercial Purposes

§ 306.1 Purpose.

The purpose of this subpart is to set forth the procedures under which qualified applicants may obtain business development loans under section 202 of the Act.

§ 306.2 Applicants.

Any of the following entities or enterprises may be eligible to apply for a business development loan:

(a) A business enterprise including sole proprietorship, partnership, or corporation.

(b) A nonprofit organization or association.

(c) A State or political subdivision thereof including municipalities and all agencies, instrumentalities and quasi-public corporations or authorities created by a State or political subdivision thereof.

(d) Indian tribes.

§ 306.3 Loans.

The Assistant Secretary is authorized to make loans or purchase other evidences of indebtedness, on terms and conditions he shall establish, to:

(a) Purchase or develop land for commercial or industrial use.

(b) Purchase or develop facilities for commercial or industrial usage including:

(1) Machinery;
(2) Equipment;
(3) Fixtures;
(4) Furniture.

(c) Construct new buildings.

(d) Rehabilitate abandoned or unoccupied buildings.

(e) Alter, convert, or enlarge existing buildings.

§ 306.4 Location.

A business development loan project must be located within a redevelopment area or economic development center.

§ 306.5 Limitations.

The requirements stated in Part 309 of this chapter are pertinent to business development projects.

§ 306.6 State approval.

No application for a business development loan project will be approved by EDA until such application is approved by an agency or instrumentality of the State or political subdivision in which the project is to be located.

(a) Such agency or instrumentality must be directly concerned with the problems of economic development in such State or political subdivision.

(b) Such approval must include a determination that the project is consistent with the redevelopment area's approved OEDP, except, areas which will be designated under a "sudden-rise" criteria of the Act or redevelopment areas or economic development districts which do not have a currently approved OEDP will be evaluated if:

(i) The area will be designated within a reasonable period of time, or

(ii) Appropriate steps have been taken to secure the approval by EDA of an OEDP.

(c) Such approval of an agency or instrumentality shall be in a form satisfactory to EDA.

§ 306.7 Alleviation of unemployment.

A project for a business development loan must reasonably provide more than temporary alleviation of unemployment or underemployment within the redevelopment area in which the project will be located.

§ 306.8 Financing.

A business development applicant must provide evidence that other financing is not available on terms and conditions which, in the opinion of the Assistant Secretary, would permit completion of the project and that other lenders will not participate in the EDA business development loan. Such evidence will include:

(a) Letters from at least two qualified lending institutions declining to finance any part of the project or to participate in EDA's share of the financing.

(1) In the event only one qualified lending institution is located in the project area or lends in the project area, a

letter from one qualified lending institution will be sufficient.

(2) In the event no qualified lending institutions are located in the project area or lend in the project area, certification to that effect will be sufficient.

(b) Evidence that no qualified lending institution will participate in the project financing other than on a first lien basis.

(c) Evidence that other Federal financial assistance is not available to the project.

(d) In the event that the applicant is a large corporation which would normally have its own funds available or which appears to have access to non-Federal funds sufficient to finance the cost of the project, such corporation must certify that it would not locate the proposed project within the redevelopment area if it were not for the benefits of EDA's financial assistance.

§ 306.9 Repayment.

No business development loan or purchase of indebtedness will be made unless the Assistant Secretary has determined there is a reasonable assurance of repayment. The applicant shall provide, at a minimum, the following financial information to permit the Assistant Secretary to make this determination, unless the Assistant Secretary determines certain or all of such information is not necessary:

(a) Current audited financial statements of the applicant, including balance sheets, an income statement with auditors' footnotes, and supporting statements for the three most recent fiscal years.

(b) Audited consolidated financial statements and income statements, with auditors' footnotes, of parent and subsidiaries for the three most recent fiscal years.

(c) Audited financial statements including balance sheets, income statements, and auditors' footnotes, of all affiliated companies for the three most recent fiscal years.

(d) Most recent interim financial statements of all entities listed in paragraphs (a) and (b) of this section, certified to by officers of the respective companies and maintained current during EDA loan processing.

(e) Projected pro forma balance sheets, income statements, cash flow, and supporting statements of the applicant quarterly from the date of the latest interim financial statements to the date of the commencement of project operations.

(f) Projected pro forma balance sheet at the commencement of project operations, and pro forma balance sheets, income statements, cash flow and supporting statements of the applicant monthly, for the first 12 months of project operations and annually for the three succeeding 12-month periods. Such statements and balance sheets should reflect applicant's ability to repay debt principal out of earnings commencing within the first 3 years of operations.

§ 306.10 Term.

The term of the loan should be consistent with the purpose for which it will be used and the collateral position of EDA. The term of the loan should ordinarily not be greater than the weighted average useful life of the project fixed assets; provided, however, no loan including renewals or extensions may be made for a period exceeding 25 years from the date of the note evidencing the loan or the date of purchase of evidences of indebtedness.

§ 306.11 Interest.

Loans and evidences of indebtedness purchased under this subpart will bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 percent, plus such additional charge, if any, toward covering other costs of the program as the Assistant Secretary may determine to be consistent with its purpose.

§ 306.12 Allowable project costs.

Allowable costs includible in the total project cost for purposes of EDA financing may include the cost of land, building, machinery and equipment, and reasonable contingency reserves to cover the possibility of cost increases during processing of the application and during construction.

(a) In arriving at the total fixed asset cost of the project, EDA cannot, under the Act, include any item which is considered as properly allocable to working capital.

(b) Other types of costs which cannot be financed include: leasehold interests, mineral reserves, patents, organization expenses, preproduction costs, research and development expenses, goodwill, trade or brand names, franchises, and licenses.

(c) Land, building, machinery, and equipment already owned by the applicant lien-free may be included in project costs and be treated as an in-kind equity injection by the applicant, provided they will be an integral part of the expanded operation. However, such in-kind equity credit will be limited to the lesser of (1) appraised fair market value, or (2) net book value (cost less accumulated depreciation) in the hands of the applicant, its principals, parent, subsidiaries, or affiliates; *Provided, however*, That such credit may not exceed 10 percent of eligible project costs. In-kind injections of fixed assets by a local government or nonprofit organization may be credited toward the required local participation (State, political subdivisions, or agencies thereof, and community or area organizations) to the extent of appraised fairmarket value.

(d) Land included in the total project cost may include the following:

(1) Land acquisition costs, including reasonable real estate commission if paid by purchaser.

(2) Cost of engineering fees, surveys, plats, title insurance, recording fees and legal fees incurred in connection with acquisition of land.

(3) Costs of nondepreciable grading and site improvements, as well as costs of necessary depreciable land improvements.

(4) Costs of soil tests and test borings.

(5) Preparation of plans and specifications.

(e) Buildings included in total project cost may include the following:

(1) Building acquisition costs, including reasonable real estate commission if paid by purchaser.

(2) Cost of constructing, altering, converting, rehabilitating, or enlarging buildings.

(3) Engineering, architectural, and legal fees, paid in connection with the preparation of plans and specifications and the acquisition, construction, etc. of buildings and building equipment.

(4) Insurance during construction, including hazard insurance, performance, labor and material bonds.

(f) Machinery and equipment included in total project cost may include the following:

(1) Machinery acquisition costs including cost of delivery and reasonable costs of installation.

(2) Engineering, architectural, and legal fees paid in connection with machinery selection, design, acquisition, and installation.

(3) Insurance during installation including hazard insurance, performance, labor and material bonds.

(g) Other eligible project costs may include:

(1) Interest on interim construction financing and other necessary costs of obtaining financing, with prior concurrence of EDA.

(2) Sales and use taxes incurred in the acquisition of project fixed assets.

(3) Other costs contributing directly to the value of project fixed assets, with prior concurrence of EDA, but not including the cost of feasibility studies.

(h) Adequate contingency reserves are a necessary part of the provision for project costs in order to avoid the problem of incurring an overrun in total expenditures for the project and thereby forcing a renegotiation of the loan commitment. The contingency amount should be established according to the anticipated length of time for project construction, terms of contract, type of machinery and equipment, and technological and other developments which might be expected to increase cost.

(1) (i) Contingency reserves for building construction and machinery and equipment should be established at a reasonable figure and justified by the applicant, depending upon the characteristics of the specific project.

(ii) Construction bids or estimates and machinery and equipment quotes should

allow for sufficient time and remain valid during the estimated period of project processing or until execution of firm contracts. These quotes should not be over 60 days old when the application is submitted to EDA.

(2) Contingency reserves for land must be considered in the event an option to purchase, earnest money agreement, or real estate contract provides for a renegotiation of terms prior to project funding. The applicant will be required to provide evidence of ability to acquire the project land and any contractual arrangement therewith must be carefully reviewed in reference to establishment of a contingency for increased land costs above the project valuation at time of submission of the application.

§ 306.13 Amount of assistance.

Loan assistance shall never exceed 65 percent of the aggregate project cost to the applicant. In the event other Federal aid is available and used by the applicant to pay part of the project cost, such other Federal aid shall be subtracted from the aggregate project cost and the remainder shall be the aggregate cost for the purposes of the business development loan.

§ 306.14 Equity capital or loan.

Not less than 15 percent of the aggregate cost of a project (which may include amounts required by § 306.15) shall be provided as equity capital or a loan. Where a loan is provided:

(a) Such loan is repayable in no shorter period of time and at no faster rate of amortization than the business development loan.

(b) If such loan is secured, the security must be subordinate and inferior to the lien or liens securing the business development loan.

§ 306.15 Community share.

Not less than 5 percent of the aggregate cost of the project shall be supplied by:

(a) A State or any agency or instrumentality thereof;

(b) A political subdivision of a State or any agency or instrumentality thereof; or

(c) A community or area organization which is nongovernmental in character.

§ 306.16 Indian tribes.

Projects involving financial participation by Indian tribes are not required to meet the provisions of § 306.15. In such case, the 5 percent shall be supplied by the borrower as equity or by loan subject to the provisions of § 306.14.

§ 306.17 Waiver of community share.

The Assistant Secretary may waive all or part of the 5-percent community share of the aggregate cost of a project which is required by § 306.15, if he determines that all or part of the community share is not reasonably available to the project because of the economic distress of the area or for other good cause. The portion of the community share thus waived may be supplied by the applicant or by such other non-Federal sources as may be reasonably available to the project.

(a) In determining whether all or part of the community share is not reasonably available because of the economic distress of the area, the Assistant Secretary will consider the following factors:

(1) The extent of economic distress of the redevelopment area or district, as measured by unemployment, underemployment, and income levels;

(2) The nature and extent of the funds reasonably available to comprise the community share, as made known by the community;

(3) The extent of local support for the project, as manifested by previous bona fide community efforts to assist it financially;

(4) The extent of previous bona fide, broadly based efforts to obtain local financial support for community economic development activities generally.

(b) In determining whether all or part of the community share of the aggregate project cost is not reasonably available for other good cause, the Assistant Secretary may consider, in addition to the factors listed above, the following situations as representing sufficient good cause for waiver:

(1) Where the financial assistance is requested to replace, rehabilitate, or expand the facilities of an industrial or commercial enterprise already existing in the locality, and local investors can show a need to conserve their funds in order to encourage the establishment of new industry which will broaden the economic base of the community; or

(2) Where the Assistant Secretary determines that a bona fide community fundraising drive either has been made or, if made, would be unsuccessful in raising the necessary funds for the project, and provided that the total prior community investment in projects already assisted by either the Area Redevelopment Administration or EDA is equal to or exceeds the following amounts:

(i) Redevelopment areas eligible for 50 percent public works grants—$10 per area resident;

(ii) Redevelopment areas eligible for 60 percent public works grants—$7 per area resident;

(iii) Redevelopment areas eligible for 70 percent public works grants—$5 per area resident;

(iv) Redevelopment areas eligible for 80 percent public works grants—$3 per area resident.

§ 306.18 EDA's lien position.

In order to encourage financial participation in a project by other lenders and investors and to the extent necessary, a business development loan may be repayable only after other loans made in connection with the project have been repaid in full. The lien position of EDA may be subordinate and made inferior to lien or liens securing other loans made in connection with this project; provided, however, that nothing contained in this section shall affect § 306.14.

§ 306.19 Special considerations for projects located in economic development centers.

Business loans approved for projects located in economic development centers shall be subject to the following restrictions and limitations:

(a) The project must be consistent with a currently approved OEDP for the economic development district.

(b) The amount of the business development loan approved must be reasonably related to the size, population, and economic needs of such district.

(c) The project must enhance the economic growth potential in such district or result in additional long-term employment opportunities commensurate with the amount of financial assistance extended.

§ 306.20 Project financing.

Each project will be evaluated with the intent of obtaining a financing structure which demonstrates a minimum EDA participation in project fixed asset financing to accomplish the project, with maximum reliance on equity and junior lenders. Moreover, an EDA participation of $10,000 per job will ordinarily be the maximum acceptable for any particular project. In calculating the EDA participation per job, indirect jobs created in other parts of the local economy will not be considered. Seasonal jobs will be converted into full time job equivalents.

§ 306.21 Financing information.

The following information shall be included with respect to all participants, other than EDA, in project financing:

(a) A written commitment or firm letter of intent from participating lending institutions stating amount, interest rates, repayment terms, collateral and lien position they will require, or such other evidence as EDA may require to assure availability of funds. EDA requires that the proposed project financing upon which it bases a decision to lend remain firm, in order to obviate the lengthy reanalysis required by financing alterations proposed after EDA acceptance of an application.

(b) A written commitment by the applicant to provide equity funds, stating both the source and actual availability of funds and/or assets to be injected, and the names of the principal shareholders or owners.

(c) A written commitment of the participating local development organization or public body stating amount of commitment, interest rate, repayment terms, collateral and lien position required.

(d) A determination of the source and actual availability of local development organization funds or assets to be injected.

(e) A statement of any special conditions attaching to the financing arrangements proposed.

§ 306.22 Loan conditions.

The following loan conditions will generally be imposed on business development loans:

(a) Full personal guarantees of principals of borrower and/or related corporate guarantees by closely held corporate applicants or by the parent corporation of subsidiary corporate applicants, secured by collateral where deemed necessary, will be ordinarily required. Likewise, cross guarantees of related corporations will be required when deemed necessary to properly support the EDA loan.

(1) Guarantees should be understood to provide not only additional collateral benefits, but also to provide the necessary personal involvement of the principals required to provide assurance of continuity of job opportunities provided by the project.

(2) Applicants will provide, in the case of personal guarantors, current (not over 90 days old at the time of filing) personal financial statements signed by both husband and wife and disclosing community and individual assets and indebtedness.

(b) Applications submitted by closely held corporations, partnerships, or proprietorships dependent for their continuing success on certain individuals will ordinarily be expected to provide and assign to EDA life insurance on these key men.

(c) Loan conditions for new venture borrowers, closely held corporate borrowers and all marginally capitalized borrowers shall include restrictive covenants similar to those required by private financial lending institutions except in cases in which modification or omission of one or more of them can be clearly shown not to jeopardize EDA's reasonable assurance of both repayment of its loan and the long-term continuity of the project's employment. Restrictive covenants for well-capitalized business expansion borrowers will be tailored to the financial status of individual companies.

§ 306.23 Indian reservation projects.

In view of the inherent problems of collateralizing loans for projects to be located on Indian reservations due to the inability to obtain mortgages on such lands, project funding should afford EDA maximum collateral protection without undue hardship on the borrower. A lease agreement will enable EDA in the event of a default to reassign the right of occupancy to a third party and thereby improve the chances for continued operation of the project and the preservation of the collateral value of the loan.

§ 306.24 Feasibility reports.

(a) All new venture loan applications for a total project costing $1 million or more shall be accompanied by a technical and economic feasibility report from an acceptable independent consultant. New venture projects of less than $1 million must be accompanied by sufficient documentation to permit a determination of technical and economic feasibility.

(b) In projects which are expansions of a successful existing business or projects sponsored by a capable and financially sound parent organization, the requirement for a technical and economic feasibility report from an acceptable independent consultant may be waived by EDA. However, the prospective borrower shall provide all technical and economic information necessary for EDA to properly evaluate the application.

(c) An economic feasibility report from an acceptable independent consultant in connection with tourism and recreation facilities will be required if the cost of the proposed project exceeds $150,000. Evidence must be submitted that the proposed facility will provide services or have special attributes that tend to induce a net increase in tourist visits to the area and is part of a larger, area-wide program expected to attract tourists and provide jobs in the area. In cases where total project investment is less than the above minimums, sound judgment may require an independent feasibility study in light of the specific nature of the project.

Subpart B—Loan Closing and Servicing

§ 306.31 Loan closing.

(a) When an application is approved by the Assistant Secretary, a Loan Agreement will be submitted to the applicant. A preclosing conference will be arranged by the Regional Director, whenever the applicant requests one, to discuss the terms and conditions of the Loan Agreement.

(b) The applicant signifies acceptance of the Loan Agreement by executing the agreement. Immediately thereafter the Regional Office Loan Administrator shall arrange with the applicant (who on accepting the loan becomes the borrower) for the preparation, review, and signing of the promissory note, collateral documents, and other documents necessary to the disbursement of the loan.

(c) Periodic inspections will be made by EDA Loan Administrators to determine the satisfactory progress of the project and application of monies toward implementation of the project as set forth in the Loan Agreement. Particular attention will be paid to financial or management changes which might adversely affect the project. Loan Administrators will, for example, determine whether there is: conformance with plans and specifications, proper installation of equipment, sufficiency of funds for the completion of the project, substantiation of costs incurred, proper labor costs for compliance with the Davis-Bacon Act, and EDA approval of contract change orders.

(d) Disbursements will be made after a request by the borrower, to the Regional Office, on EDA Form "Requisition for Loan Advance." They will be based on costs incurred as certified on EDA Form "Certificate of Architect/Engineer." The latter certificate shall be issued at such time or times as the Loan Administrator shall require. A separate certificate will be required for machinery, equipment and furnishings on EDA Form "Inspection Report and Certification—Machinery and Equipment" to be signed by such individual as the Loan Administrator designates. Requests for disbursement shall be supported by such documents as the Loan Administrator may require; for example, but not limited to, copies of unpaid invoices to be paid from disbursement; copies of fully paid invoices together with lien waivers, where appropriate; and copies of cancelled checks. The Loan Administrator may withhold 10 percent of all requested disbursements on all project costs except land costs. When the Loan Administrator determines that the status of the project is such as would place EDA's interest in jeopardy the Administrator may withhold a greater percentage after stating in writing to the borrower the basis for such decision. The borrower shall, on EDA Form "Certification and Receipt" acknowledge receipt of each disbursement made by EDA.

§ 306.32 Loan servicing.

EDA personnel will make periodic visits to projects until such time as the loan has been fully repaid. Such personnel will consult with employees and officers of the borrower and obtain such information as is necessary to determine the employment levels as well as the soundness of the financial condition and management of the borrower. Requests by the borrower for modification of the Loan Agreement shall be submitted to the Regional Director, supported by such documentation and facts as would justify the request.

§ 306.33 Liquidation and administration of loans and evidences of indebtedness.

In the event that the Assistant Secretary determines it is necessary or desirable to take actions to protect or further the interests of EDA in connection with loans or guarantees made or evidences of indebtedness purchased under the Act, the Assistant Secretary may

(a) Assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions as he shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property, or security assigned to or held by him in connection with loans made or evidences of indebtedness purchased under the Act,

(b) Collect or compromise all obligations assigned to or held by him in connection with such loans or evidences of indebtedness until such time as such obligations may be referred to the Attorney General for suit or collection, and

(c) Take any and all other actions determined by him to be necessary or desirable in purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans made or evidences of indebtedness purchased under the Act.

Subpart C—Working Capital Guarantees

§ 306.41 Requirements.

The Assistant Secretary may guarantee loans for working capital provided the following requirements have been met:

(a) The working capital loan must be made in connection with a business development loan approved under section 202(a) of the Act. Eligible working capital loan recipients include but are not limited to, lessees of the project facilities.

(b) Such loans must be made by a private lending institution. Private lending institutions include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, and venture capital investment companies.

(c) The business development loan project must be located in a currently designated redevelopment area or economic development center.

(d) Guarantee of a working capital loan shall not be extended unless there is reasonable assurance that such loan can be repaid.

§ 306.42 Maximum amount.

No working capital guarantee shall at any time exceed 90 percent of the amount of the outstanding unpaid balance of the working capital loan.

(a) No working capital loan guarantee will be extended where the working capital loan is otherwise available from private lenders or other Federal agencies on terms, which in the opinion of the Assistant Secretary, will permit accomplishment of the project.

(b) No working capital loan will be guaranteed which is secured by a prior lien on the same assets which secure a business development loan extended under the Act.

§ 306.43 Conditions.

A working capital guarantee will generally contain the following conditions:

(a) The term of the working capital loan generally should not exceed five (5) years and the loan should be amortized in full during its term.

(b) The lending institution ordinarily will be required to maintain a collateral position, to which EDA is subrogated, in the assets of the borrower and/or principals of the borrower, such as by takjng personal guarantees and liens on inventories, receivables, and/or fixed assets. However, such liens, if taken on fixed assets, will not be placed by EDA subordination into a prior position to liens securing loans previously made under the ARA or EDA programs.

(c) An application for an EDA guaranteed working capital loan will not ordinarily be approved until the borrower is operating the project facilities, financed by an EDA business loan. Further, all project financing including applicant's equity must ordinarily be disbursed before the guaranteed working capital loan may be disbursed by the lender. The working capital loan will be restricted to working capital needs and cannot be diverted into fixed or other noncurrent assets.

(d) EDA will not ordinarily guarantee revolving type or open-end working capital loans.

(e) If the bank is secured by a third party with respect to its exposure remaining above the EDA guaranteed portion, the guarantee agreement shall be modified to provide that any interest which the bank would receive in the collateral taken for the loan (and assigned to EDA upon redemption) shall not be subrogated to the third party's interest if the third party is a principal or equity shareholder in the company financed by the EDA loan(s), until all of the company's indebtedness to EDA is paid in full. The purpose of this provision is to ensure that those persons responsible through ownership for the operation of a project do not share in the proceeds of collateral until EDA recovers fully against all its exposure.

(f) EDA may impose on the private lender a guarantee service charge of one-half of 1 percent (½ percent) per annum on the unpaid balance of the working capital loan.

§ 306.44 Modifications.

Requests by a borrower for a modification of its working capital loan guaranteed by EDA shall be submitted to the Regional Director, supported by such documentation and facts as would justify the request.

§ 306.45 General requirements.

The provisions of Part 309 of this chapter are pertinent to working capital guarantees.

PART 307—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

Subpart A—Technical Assistance

Subpart B—Planning Grants and Economic Growth Study Grants

Subpart C—Study, Training, and Research Program

AUTHORITY: Sec. 701, Pub. L. 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (April 1, 1970).

Subpart A—Technical Assistance

§ 307.1 Purpose.

The purpose of this subpart is to set forth the requirements and procedures pursuant to which eligible applicants may receive technical assistance under sections 301(a), 301(b), 301(d), and 301(f) of the Act.

§ 307.2 Authority.

The Assistant Secretary may provide technical assistance, pursuant to title III of the Act, which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment, to designated redevelopment areas and to other areas which he finds have substantial need for such assistance, including projects of regional or national scope.

§ 307.3 Projects.

(a) Technical assistance should serve the purpose of solving problems of economic growth, and may include:

(1) Pursuant to section 301(a) of the Act.

(i) Feasibility studies,

(ii) Identifying, planning, and programing of economic development projects,

(iii) Management and operational assistance, and

(iv) Preliminary design planning and feasibility studies of development facilities.

(2) Pursuant to section 301(b) of the Act, grants to defray administrative expenses of organizations qualified to receive grants under section 301(a) of the Act. (See also Subpart B of this part.)

(3) Pursuant to section 301(d) of the Act, assistance, technical information, market research, or other forms of assistance or advice.

(4) Pursuant to section 301(f) of the Act, demonstration programs of special economic development.

(b) Technical assistance may be provided by the Assistant Secretary through:

(1) Members of this staff,

(2) Payment of funds to other departments or agencies of the Federal Government,

(3) Grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations, or

(4) Contracts with private individuals, partnerships, firms, corporations, or suitable institutions.

§ 307.4 Location.

(a) Technical assistance will be provided in areas designated as redevelopment areas, however, a nondesignated

area may also receive technical assistance, except for demonstration grants under section 301(f) of the Act, as an area of substantial need, if at least one of the following conditions is found to exist:

(1) The closing or the imminent shutdown of a major source of jobs is shown to have a highly adverse effect on the area.

(2) The area is so closely linked geographically or economically with a designated area as to substantially affect its economy.

(3) The economy problems of the area are so severe that they are leading toward substantial unemployment in the near future.

(4) The project is directed toward solving problems in a "hard-hit" part of a noneligible area, and that part appears to have persistent and substantial unemployment on the basis of readily available facts.

(5) Where an economic development district is formed under title IV of the Act, technical assistance may be rendered to that district or its economic development center.

(6) The project is one of national scope.

(b) Demonstration grants under section 301(f) of the Act may be provided only in redevelopment areas.

§ 307.5 Applicants.

(a) Applicants eligible for technical assistance, except as provided in paragraph (b) of this section, include:

(1) Local and area development organizations, for profit or nonprofit;
(2) State agencies;
(3) Federal agencies;
(4) Municipal bodies;
(5) Individuals;
(6) Partnerships;
(7) Firms;
(8) Corporations;
(9) Indian tribes;
(10) Other appropriate applicants.

(b) Only qualified nonprofit State, area, district, or local development organizations are eligible for technical assistance through grants. (See also Subpart B of this part.)

§ 307.6 Priority consideration.

Projects warranting priority consideration by EDA are those which:

(a) Can be expected to have a specific effect on employment or family income in a relatively short time.

(b) Offer assurances of effective follow-up.

(c) Benefit population groups with the greatest evidence of unemployment, underemployment, or low-family income.

(d) Are in designated areas.

(e) Would benefit additional areas.

(f) Contribute substantially to the overall objectives of the Act.

§ 307.7 Technical assistance through Federal personnel and contracts.

The Federal share of technical assistance provided by Federal personnel, or through contracts, may be 100 percent, but a maximum non-Federal contribution in cash or in kind is preferred. The EDA contribution for technical assistance through payment of funds to other departments or agencies of the Federal Government may be 100 percent of the project cost.

§ 307.8 Procedures for assistance by EDA direct contracting.

(a) Applicants for technical assistance for which EDA will directly contract for a service, may recommend potential contractors.

(b) EDA does not limit its choice to contractors suggested by the applicant and may invite contract proposals from competent, qualified individuals and organizations.

(c) Final selection of a contractor is made by the U.S. Department of Commerce according to Federal Procurement Regulations.

(d) The Government is not obligated in any way by any negotiations between the applicant (or others) and the suggested contractor.

§ 307.9 Contracting procedure.

(a) The Contracting Officer in the Department of Commerce is the sole legal party representing the Government in technical assistance contracts, including negotiation of financial terms and conditions, and award, administration, and termination of contracts.

(b) For technical assistance projects being carried out under contract, the Contracting Officer designates a Contracting Officer's Technical Representative (COTR), who is responsible for the preliminary acceptance of all the work required under the contract, including the preliminary approval of any and all reports, and such other specific responsibilities as are stipulated in various articles of the contract. The COTR is not authorized to make any commitments or otherwise obligate the Government, or authorize any changes which affect the contract price, terms, or conditions. Such changes are referred to the Contracting Officer through the COTR.

(c) Contracting is governed by Department of Commerce regulations and the Federal Procurement Regulations.

§ 307.10 Technical assistance through grants.

(a) The Federal share of technical assistance provided in the form of a grant must not exceed 75 percent of the total amount of the funds required.

(1) In determining the non-Federal share, EDA will give consideration to all contributions, both in cash and in-kind, fairly evaluated including but not limited to space, equipment, and services.

(2) No Federal funds may be included in the 25-percent non-Federal share.

(b) The Assistant Secretary may waive all or part of the 25-percent non-Federal share of technical assistance grants, except for administrative expense grants under section 301(b), if he determines that the non-Federal share is not reasonably available because of the critical nature of the situation requiring technical assistance, or for other good cause.

(1) In determining whether a critical situation exists, the Assistant Secretary will consider one or more of the following criteria:

(i) The extent of the critical situation, as measured by unemployment, underemployment, and family income levels;

(ii) The nature and extent of the funds reasonably currently available to comprise the non-Federal share, as made known by the applicant and verified by the Economic Development Administration; or

(iii) The extent of local support for the project, as manifested by previous bona fide local efforts to assist it financially.

(2) In determining whether "other good cause" exists, the Assistant Secretary will consider one or more of the following factors in addition to those listed in paragraph (b)(1) of this section:

(i) Where the technical assistance is requested to replace, rehabilitate, or expand an activity already existing in the community, and the applicant can show a need to conserve funds in order to encourage the establishment of new activities that will strengthen the economic base of the community; or

(ii) Where the Assistant Secretary determines that a bona fide local fundraising drive either has been made or, if made, would be unsuccessful in raising the necessary funds for the project.

§ 307.11 Grant procedures.

Grant funds are disbursed directly to the applicant, who is responsible for employing personnel, hiring consultants, and planning and administering the program. EDA, however, reserves the right to approve plans for spending such funds, as well as the right to approve the qualifications of personnel, consultants, or contractors. Grant offers are made on the terms specified by the Assistant Secretary. Each grant will designate a Grant Administrator (GRA) who is responsible for the administration of the grant and liaison with the Grantee. The GRA is also responsible for evaluating the operation of the grant as executed by the Grantee, and for the preliminary approval of any and all reports and such other specific responsibilities as are stipulated in various articles of the grant.

§ 307.12 Procedural grant requirements.

(a) Grant agreements provide that the Government shall pay quarterly, or in certain circumstances more frequently, an amount to cover Federal-share funds estimated to be expended by the Grantee during the period following the payment.

(b) Contributions by the Grantee, whether in cash or in kind, are expected to be paid out at the same general rate as "Federal share" expenditure. In any event, one-half of the Grantee's share of project cost will be available, incurred, or expended by the time one-half of the Federal share has been disbursed. Exceptions to this midpoint, pro rata requirement are approved in writing by the GRA.

(c) Technical assistance grants require that any interest earned on funds paid to the Grantee under the grant

be reported and returned to the Government within 10 days after receipt of such interest, according to directions specified by the GRA. This requirement does not apply to States or State agencies, but it may apply to political subdivisions of States.

(d) Technical assistance grants require the Grantee to maintain separate records for the grant in a manner consistent with generally accepted accounting practices to safeguard the assets, insure internal control, and provide accurate and reliable accounting data and, unless otherwise authorized by the GRA, to establish a separate bank account for the funds provided under the grant. The requirement for a separate bank account does not apply to States or State agencies, however, such States or State agencies must establish a separate fund account which identifies the application of funds provided through the grant.

(e) Any amendment to a grant must be approved in writing by EDA.

(f) Evidence is required that all persons authorized to handle funds under the grant, except elected officials, are bonded or secured for an appropriate amount.

§ 307.13 Limitations.

Technical assistance shall be provided on terms and conditions set by the Assistant Secretary, subject to the following restrictions and limitations, among others:

(a) Technical assistance funds may not be used to cover the costs of work already performed or of services already provided;

(b) No technical assistance project will be approved without satisfactory assurance to the Assistant Secretary that it is not being simultaneously considered for financial support by another organization or Federal agency;

(c) All applications not of national scope will be coordinated with appropriate Federal agencies, with interest in the project.

(d) Technical assistance for tourism development must be shown to be essential to a coordinated program of economic development in the area.

(e) The Overall Economic Development Program (OEDP) for designated areas and, whenever available, for economic development districts, will be considered in the evaluation of technical assistance applications.

(f) It is preferable that applications except those for projects of national scope be reviewed by the appropriate State, district, or area economic development organization before being submitted to EDA.

(g) To assure adequate and effective planning and economical use of funds where practicable, grants for administrative expenses under section 301(b) of the Act shall be used in conjunction with other available planning grants, such as urban planning grants authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized under the Federal-Aid Highway Act of 1962.

(h) The requirements of Part 309 of this chapter pertain to technical assistance.

§ 307.14 Repayment.

The Assistant Secretary may, in his discretion, require the repayment of technical assistance under section 301(a) of the Act and prescribe the terms and conditions of such repayment.

(a) Federal costs of technical assistance projects of substantial proprietary benefit to a private individual, corporation, or other business organization are expected to be repaid to the Federal Government through arrangements agreed upon between the Government and the recipient.

(b) Repayment shall be made on one-half the first $10,000 of project cost and 100 percent of the remaining project cost.

(c) Repayment shall be interest-free and unsecured.

(d) In the case of Federal agency business loan borrowers, repayment shall be made in monthly or quarterly payments in an amount approximating, but not in excess of, payments required on the loan. They will commence subsequent to the last payment of the loan.

(e) For all other applicants or beneficiaries, the terms of repayment shall not be inconsistent with the purpose and the use of the technical assistance.

(f) When the technical assistance beneficiary is a subsidiary, repayment shall, wherever possible, be required of the parent or controlling organization in addition to its subsidiary.

§ 307.15 Repayment not required.

Repayment will be waived under the following circumstances:

(a) Whenever repayment is likely to result in a loss of economic development benefits.

(b) Whenever any of the following conditions are intrinsic to the technical assistance:

(1) It has indirect benefit to the whole community;

(2) It benefits the general business community or interest;

(3) It is already being funded, in substantial proportion, by the recipient; and

(4) It is for an applicant or beneficiary located in one of the most economically depressed areas in the country.

§ 307.16 Records and audit—grantees.

(a) All recipients of grants-in-aid under title III of the Act, other than a Department or agency of the Federal Government shall keep and preserve full written financial records accurately disclosing the amount and the disposition of any funds, whether in cash or in-kind, applied to the project, as shall adequately establish compliance with the Act (or the Area Redevelopment Act, where applicable) and the terms and conditions upon which such grants-in-aid were made.

(b) Where applicable, the grantee shall also keep project control records reflecting work progress and indicating its relationship to estimated costs and schedules.

(c) Such records shall be preserved until completion of the purpose or undertaking for which such funds were used, or until final disbursement has been made by EDA, whichever is later, and thereafter for a period of at least 3 years.

§ 307.17 Records and audit—contractors.

(a) The contractor or subcontractor in connection with technical assistance or research contracted for under title III of the Act or under the Area Redevelopment Act, shall keep and preserve detailed project control records in connection with the contract, reflecting acquisitions, work progress, expenditures and commitments and indicating their relationship to established costs and schedules.

(b) The contractor or subcontractor shall also keep such full written financial records as shall adequately establish compliance with the requirements of the Act (and the Area Redevelopment Act, where applicable) and the terms and conditions of the contract or subcontract.

(c) Such records shall be preserved for at least 3 years after final payment under the contract or subcontract.

Subpart B—Planning Grants and Economic Growth Study Grants

§ 307.21 Purpose.

The purpose of this subpart is to set forth requirements and procedures by which eligible applicants in redevelopment areas or other areas of substantial need may apply for administrative expense grants for planning under section 301(b) of the Act, and for economic growth study under section 301(a) of the Act.

§ 307.22 Planning grant objectives.

Planning grants for administrative expenses are given to enable local areas, economic development districts, Indian organizations, and other eligible organizations to establish and carry out effective economic development programs at local and multijurisdictional levels, and to provide a basis for improved coordination, and continuity of Federal, State, and local economic development activities. Planning grants should contribute to the establishment of a permanent economic development process, capable of meeting the planning, coordinating, and implementation requirements of the area, district, or reservation.

§ 307.23 Economic growth study grant objectives.

Grants for economic growth studies under section 301(a) of the Act are given to evaluate the needs of and potentials for economic growth.

§ 307.24 Applicants.

Eligible applicants for planning grants and economic growth study grants include economic development districts, Indian organizations, local-area OEDP Committees or other development organizations, whose responsibilities for carrying out overall economic development programs are clearly established, and

which are legally empowered to receive Federal funds for the above purposes. State and Federal agencies, business enterprises, individuals, and other applicants, where the purposes are to assist in the establishment of economic development program.

§ 307.25 Terms and conditions.

(a) Planning grants and economic growth study grants will be made on terms and conditions established by the Assistant Secretary, subject to the following limitations:

(1) The grants will not be made to cover the costs of work already performed or of services already provided.

(2) No grant will be extended without satisfactory assurances that no other organization or Federal agency is considering the same request for financial support to the project. However, planning grants may be used in conjunction with other planning grant programs to assure adequate, effective, coordinated, and economical use of funds.

(b) Planning grants are also subject to the following limitations:

(1) A planning grant shall not exceed 75 percent of the total amount of funds required for the project.

(i) No Federal funds may be included in the 25 percent non-Federal share.

(ii) In determining the amount of the non-Federal share, the Assistant Secretary will give consideration to contributions both in cash and in-kind, fairly evaluated, including but not limited to space, equipment, and services.

(2) No planning grants to economic development district organizations will be extended unless at least three-fourths of the counties within the district boundaries indicate by resolution or other appropriate document, their commitment to support the activities of the district.

(3) Planning grants will be made to district and area planning organizations after compliance with organizational requirements in §§ 303.4 and 304.3 of this chapter.

§ 307.26 Financial requirements.

Recipients of planning grants and economic growth grants must comply with terms and conditions of the grants relating to financial requirements, including those relating to financial reports, accounting systems, internal controls, allowable project costs, retention of records, and audits, as EDA requires.

§ 307.27 Work program.

Recipients of planning grants and economic growth grants must comply with terms and conditions of the grants relating to specific work program requirements, including those relating to the preparation of initial OEDP's and annual OEDP progress reports.

§ 307.28 Continuation planning grants.

(a) Planning grants shall be provided annually to district and area grantees provided satisfactory performances by the grantees warrant continued EDA assistance.

(b) The Assistant Secretary will make annual determinations of satisfactory performance, and periodically conduct on-site performance appraisals.

(c) The appraisals will consider the following:

(1) Capabilities and quality of the economic development program.

(2) Ability of the grantee as an institution to advance economic development.

(3) Grantee compliance with terms and conditions of the grant offer.

(4) Grantee management practices.

(5) Grantee board participation and representation.

(6) Implementation by grantee of recommendations of the preceding appraisal.

§ 307.29 Other requirements.

Provisions of Part 309 of this chapter are pertinent to planning grants and economic growth study grants.

Subpart C—Study, Training and Research Program

§ 307.41 General.

The purpose of this subpart is to explain assistance available under section 301(c) of the Act.

§ 307.42 Purpose.

To assist in the long-range accomplishment of the purposes of the Act, EDA, in cooperation with other agencies having similar functions, under section 301(c) of the Act, conducts a continuing program of study, training, and research to:

(a) Assist in determining the causes of unemployment, underemployment, under development, and chronic depression in various areas and regions of the Nation.

(b) Assist in the formulation and implementation of national, State, and local programs which will raise income levels and otherwise produce solutions to the problems resulting from these conditions, and

(c) Assist in providing the personnel needed to conduct such programs.

§ 307.43 Program.

The program of study, training, and research is conducted:

(a) By EDA staff members

(b) Through payment of funds to other departments or agencies of the Federal Government, or

(c) Through the employment of private individuals, partnerships, firms, corporations, or suitable institutions

(1) Under contracts entered into for such purposes, or

(2) Through grants to such individuals, organizations, or institutions, or

(3) Through conferences and similar meetings organized for such purposes.

§ 307.44 Requirements.

The requirements set forth in Part 309 of this chapter and such other requirements as the Assistant Secretary shall determine necessary are pertinent to assistance under section 301(c) of the Act.

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Sec.

AUTHORITY: Sec. 701, Public Law 89-136 (Aug. 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (Apr. 1, 1970).

§ 309.0 Purpose.

This part sets forth the requirements relating to financial assistance rendered under the Act, as imposed by the terms of the Act and the requirements of other statutes, Executive orders, and regulations which have relevance to the activities authorized under the Act. The requirements are in addition to other requirements set forth in the Act and this chapter.

§ 309.1 Certification as to waste treatment.

No financial assistance, through grants, loans, guarantees, or otherwise, will be made under the Act to be used directly or indirectly for sewer or other waste disposal facilities unless the Environmental Protection Agency certifies to EDA that any waste material carried by such facilities will be adequately treated before it is discharged into any public waterway so as to meet applicable Federal, State, interstate, or local water quality standards.

§ 309.2 Unfair competition.

No financial assistance under the Act shall be extended to any project which will directly increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services,

or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, as required by section 702 of the Act.

(a) *Definitions.* As used in this section:

"Demand" means the amount of the product or service which can reasonably be expected to be purchased for use in the market area to be served by the project or its intended principal industrial or commercial beneficiary.

"Capacity" means that quantity of production or supply of services which could reasonably be expected to be produced or supplied over a sustained period of time by existing competitive enterprises for use within the market area under working schedules historically customary for the industry.

"Efficient Capacity" means that part of the capacity which is produced or supplied by existing competitive enterprises employing well-designed structures, equipment, machinery, and designs and techniques that are comparable to current practices.

"Existing Competitive Enterprise" means an established facility which either produces the same product or supplies the same service to the market area or a significant part thereof.

"Financial Assistance" means any grant, loan, guarantee, or purchase of evidence of indebtedness by EDA pursuant to the authority of the Act, and any contract, purchase order, task order or work order in an amount in excess of $10,000.00, which is directed toward an increase in the productive capacity for goods or services by a specific enterprise either existing or prospective.

(b) *Determinations.* Determinations of whether approval of a project will violate this section shall in all cases (except those described in paragraph (e) of this section) be based on a "702 Study."

(c) *Procedures for preparing a "702 Study" for business loan and public works projects.* Where financial assistance under the Act is requested for a Public Works or Business Loan project the following procedures shall be followed to the extent necessary to provide the Agency with sufficient information to prepare a "702 Study."

(1) The applicant shall submit, in connection with the project for which financial assistance is being sought, all of the information reasonably available concerning the following:

(i) Proposed product(s) or service(s).

(ii) Project capacity.

(iii) Market area where product or service is to be sold.

(iv) Supply of product or service currently available in market area and sources thereof.

(v) Percent of market expected to be taken by project.

(2) EDA shall verify to the extent possible and evaluate the information submitted by the applicant.

(d) *Technical assistance.* Whenever a Technical Assistance grant, contract, or task order in excess of $10,000 is requested for a project which is directed toward an increase in the productive capacity for goods or services by a specific enterprise, either existing or prospective, a "702 Study" will be required. The procedures for preparing such "702 Study" set forth in paragraph (c) of this section shall be followed to the extent necessary to provide the Agency with sufficient information.

(e) *Projects not requiring a "702 Study".* Financial assistance under the Act may be provided to a project without a "702 Study" where EDA determines such project meets one of the following criteria:

(1) The project to be assisted is not designed to provide public works facilities in order primarily or essentially to benefit a particular firm or industry, but is designed primarily for the benefit of the community or area as a whole or for general industrial or commercial purposes, or

(2) The extension of financial assistance will not result in a significant increase in production or services that have heretofore been available in the area, because its purpose is to:

(i) Replace or restore capacity recently destroyed by flood, fire, wind, or other disaster; or

(ii) Assure the retention of existing capacity and employment; or

(iii) Replace, rebuild or modernize, within the same labor market area, facilities displaced by an official action, including but not limited to actions resulting from public construction projects, land use condemnation procedures, and/or requirements under environmental control ordinances or laws. The original owners of the affected facilities will be given first opportunity for EDA assistance. If, after a reasonable period of time the original owners fail to take advantage of these opportunities, other producers within the area may qualify for assistance to replace the affected facilities; or

(iv) Assure the completion of a project previously assisted by EDA or the Area Redevelopment Administration, where the additional assistance is required solely because of revised project cost estimates and not because of added productive capacity; or

(v) Make working capital funds available by guaranteeing a working capital loan.

(f) *Amendments.* In the case of amendments to the terms or conditions of an existing loan or grant, commitments will not require a "702 Study" unless such amendments will result in an increase in the capacity of the project or a change in the product or service to be produced.

§ 309.3 Nonrelocation.

EDA will not extend financial assistance which will assist establishments relocating from one area to another.

(a) *Definitions.* As used in this section:

"Financial assistance" under this section means assistance of any kind permitted under the Act, including grants, loans, guarantees, technical assistance, and training.

"Relocation" means the transferring of jobs from one area to another with EDA assistance.

"From one area to another" means from one labor area of the country to another labor area of the country. However, projects relocating within a labor area and resulting in the loss of existing jobs are not eligible to receive EDA financial assistance.

(b) Establishments relocating shall include:

(1) Grantees,

(2) Borrowers,

(3) Beneficiaries of contracts,

(4) Direct beneficiaries of grantees,

(5) Lessees of borrowers, or

(6) Affiliates, subsidiaries, or other entities under direct, indirect, or common control of the foregoing.

(c) Jobs may be transferred by

(1) Closing an establishment in one area and opening a new establishment in another area, or

(2) Expanding an existing establishment in a new area and reducing the number of jobs in the original location or in any area where the expanded establishment conducts operations.

(d) EDA will not extend financial assistance which will assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts customarily performed by them. For the purpose of this section, "contractors or subcontractors" includes:

(1) An applicant who is performing work for other manufacturers who supply the materials or parts for such work and to whom the finished product is returned by contractors, and

(2) A business which purchases and processes materials on behalf of another firm and is later reimbursed, its sole function having been to supply labor.

(e) EDA financial assistance is not prohibited for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary which will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations. However, EDA will not extend financial assistance if the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(f) EDA will not extend financial assistance for programs, projects, facilities, or purchases to be used by or for highly mobile, intensely competitive industries, such as the apparel or garment trades within the textile industry.

(g) EDA financial assistance is not available to any establishment or applicant:

(1) Which has relocated within 24 months of applying for EDA assistance, or

(2) Which is relocating or will relocate in the future with EDA assistance.

(h) The Assistant Secretary may require detailed information concerning the background, plans, and activities of the applicant, or of any related business enterprise with which the applicant or its principals has any contract or arrangement or proposes to make any contract or arrangement based on benefits expected from the proposed project, or of any business enterprise which is known and intended by the applicant to be a major beneficiary of the project.

§ 309.4 Gas and electric facilities.

(a) No financial assistance authorized under the Act will be used to finance the cost of facilities for the generation, transmission, or distribution of electrical energy, regardless of whether such activities constitute the primary or secondary functions of the facility which is to receive financial assistance under the Act, and regardless of whether such activities are solely for onsite consumption.

(1) Definitions: As used in this section.

"Generation of electricity" means the conversion of energy by any method into electrical energy.

"Transmission of electricity" means the transfer of electrical energy for wholesale purposes, by circuit or circuits, regardless of voltage.

"Distribution of electricity" means the transfer of electrical energy by circuit or circuits, regardless of voltage, from the transmission system to metering stations for use by consumers.

(2) The following electrical energy facilities are not barred from receiving financial assistance under the Act:

(i) Facilities specifically authorized by Congress

(ii) An internal electrical system consisting of the electrical installation on the consumer's side of the distribution system metering station, providing it meets the requirements set forth below. The internal electric system may include conductors, conduits, structures, switchgear, transformers, and other appurtenances. In order for an internal electrical system to qualify as an exception, it must meet the following requirements:

(a) Ownership of the system must lie with the owners of the facility, or portion thereof, served by the internal electrical system, and

(b) Electricity carried by the internal electrical system may not be resold.

(iii) Standby electrical generating equipment, provided:

(a) Such equipment is neither of sufficient capacity to, nor intended to, provide electricity for the regular sustained operation of the facility which is to receive financial assistance under the Act, and

(b) Significant damage or harm could result from an electric power failure in the absence of such standby agreement.

(b) No financial assistance authorized under the Act will be used to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed), regardless of whether such activities constitute the primary or secondary function of the facility which is to receive financial assistance under the Act, and regardless of whether such activities are solely for on-site consumption.

(1) Definitions: As used in this section: "Production of gas" means the procuring, gathering, and treating of gaseous raw material by the necessary operation and plant, in such a way as to prepare it for transmission.

"Transmission of gas" means the moving of gas by the necessary operation and plant to metering station from which it is distributed to consumers.

"Distribution of gas" means the moving of gas by the necesary operation and plant from the metering station of the transmission system to consumers within a particular locality and also may include the facilities for local storage, regulation and consumer metering.

(2) The following gas facilities are not barred from receiving financial assistance under the Act:

(i) Facilities specifically authorized by Congress

(ii) Facilities for the distribution of gas as described in paragraph (b)(1) of this section.

§ 309.5 Administration, operation, and maintenance of projects.

No financial assistance under the Act will be approved unless EDA is satisfied that the project for which financial assistance is granted will be properly and efficiently administered, operated, and maintained.

§ 309.6 Labor standards—construction of projects.

The construction of facilities financed in whole or in part by loans or grants made under the Act (hereinafter in this section called "projects") are subject to the following statutes and regulations:

(a) Applicants for assistance must assure EDA that all laborers and mechanics employed by contractors or subcontractors in the construction of projects shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The construction work on projects will be subject to the regulations issued by the Secretary of Labor pursuant to the Davis-Bacon Act (29 CFR Part 5).

(b) Contractors and subcontractors engaged in construction of projects are subject to the provisions of the Copeland Act, as amended (40 U.S.C. 276c), and the regulations issued thereunder by the Secretary of Labor (29 CFR Parts 3 and 5).

(c) Contractors and subcontractors engaged in construction of projects are subject to the provisions of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327–333) and the regulations issued thereunder by the Secretary of Labor (29 CFR Part 5).

(d) The contractors and subcontractors engaged in construction of projects will agree to comply with Executive Order 11588, issued March 29, 1971, and any other Executive Order, statute, or regulation regarding the stabilization of wages and prices in the construction industry.

(e) The contractors and subcontractors engaged in construction of projects are required to comply with Executive Order 11246, issued September 24, 1965 (3 CFR 1964–65 Comp., p. 339), as amended, relating to equal employment opportunity, and the regulations issued thereunder by the Secretary of Labor.

§ 309.7 Employment of expediters or administrative employees; compensation of persons engaged by or on behalf of applicants.

(a) Pursuant to section 711 of the Act no financial assistance may be extended by EDA under section 101, 201, 202, or 403 thereof to any business enterprise unless the owners, partners, or officers of such business enterprise:

(1) Certify to EDA the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the EDA for assistance of any sort, under this Act, and the fees paid or to be paid to any such person, and

(2) Execute an agreement to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within 1 year prior thereto, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which EDA shall have determined involves discretion with respect to the granting of assistance under this Act. Such agreement will be binding on the business enterprise for a period of 2 years after EDA financial assistance is rendered.

(b) Definitions: As used in this section:

"Business enterprise" means all private applicants, both profit and nonprofit.

"Positions involving discretion" means the Assistant Secretary, Deputy Assistant Secretaries for Economic Development, Policy Coordination, Economic Development Planning, and Economic Development Operations; Office Directors, Deputy Office Directors, and Division Chiefs in the Office of Public Works, Business Development, and Technical Assistance; and Director and Deputy Director of the Offices of Economic Research, Planning and Program Support, and Development Organizations. This term also includes Regional Office Directors with respect to projects located in their regions. Clerical employees do not occupy positions involving discretion with respect to the granting of assistance under the Act. The discretionary nature of the positons and activities of other employees shall be determined by the Assistant Secretary at such time as the employee terminates his employment.

(c) EDA will participate in such costs of facilities receiving financial assistance under the Act as are deemed to be

reasonable as fees or compensation for services actually rendered by persons engaged by or on behalf of the EDA applicant for the purpose of rendering professional or other services necessary, as determined by EDA, in connection with such facilities or with the extension of financial assistance by EDA. No fee or compensation will be allowed if it appears that the person charging such fee or compensation has:

(1) Induced or attempted to induce by gifts, or offer thereof, promises, bribes or otherwise, any officer or employee of EDA to take action with respect to any matter before EDA.

(2) Made representations that imply that the service for which the fee is charged, or any portion thereof, is or will be of a political, influential, or similar nature.

(3) Charged or proposed to charge any fee contingent upon the granting of any assistance to the applicant.

(4) Shown a course of conduct which indicates that the person might submit false information or evidence to EDA or engage in corrupt practices before EDA in connection with matters on which he is employed.

(d) The requirements of this section will apply to applications filed with EDA after April 30, 1971. The requirements of paragraphs (a) and (b) of this section, will also apply to applications filed with EDA prior to April 30, 1971, except that for the purpose of such applications "positions involving discretion" means the Assistant Secretary, Deputy Assistant Secretaries for Economic Development, Policy Coordination, Economic Development Planning and Economic Development Operations; Office Directors, Deputy Directors, and Division Chiefs in the Office of Public Works, Business Development, and Technical Assistance; and Director and Deputy Director of the Offices of Economic Research, Regional Development Planning, and District and Area Planning. They also include Area Office Directors with respect to projects located in their areas. Clerical employees do not occupy positions involving discretion with respect to the granting of assistance under the Act. The discretionary nature of the positions and activities of other employees shall be determined by the Assistant Secretary at such time as the employee terminates his employment.

§ 309.8 Penalties.

(a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under the Act or any extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of EDA or members of its staff, or for the purpose of obtaining money, property, or anything of value, under the Act, shall be punishable by a fine of not more than $10,000 or by imprisonment for not more than 5 years, or both.

(b) Whoever, being connected in any capacity with EDA in the administration of this Act:

(1) Embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to him or pledged or otherwise entrusted to him, or

(2) With intent to defraud EDA or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner, makes any false entry in any book, report, or statement of or to EDA, or without being duly authorized draws any order or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or

(3) With intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of EDA, or

(4) Willfully gives any unauthorized information concerning any future action or plan of EDA which might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Assistant Secretary,

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than 5 years, or both.

§ 309.9 Records and audit.

(a) Each recipient of assistance under the Act shall keep such records as EDA shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Assistant Secretary, the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under the Act.

§ 309.10 Assurance of job opportunities for the unemployed.

(a) Applicants for business development loans under section 202 of the Act and direct and substantial beneficiaries of EDA assisted public works projects must submit to EDA assurances of compliance with the EDA policy of assuring job opportunities for the unemployed and underemployed. Such assurances shall indicate the intention of the applicant to give preferential consideration for employment, wherever possible, to the long-term unemployed and underemployed residing in the project area, in connection with the project assisted by EDA.

(b) For the purpose of this section, substantial beneficiaries of public works assistance are those industrial commercial enterprises which:

(1) Are cited in the application and;

(i) Provide all or part of the justification of the project or,

(ii) Will, as a direct result of EDA's assistance, create or save 10 or more jobs, or

(2) Although not cited in the application, in the opinion of the Assistant Secretary, provide all or part of the justification of the project.

§ 309.11 Special-purpose units of local government.

(a) When both special-purpose units of local government and units of general local government are eligible to receive financial assistance under the Act, in absence of substantial reasons to the contrary, such assistance shall be made to units of general local government rather than to special-purpose units of local government, as required by section 4232 of the "Intergovernmental Cooperation Act of 1968" (40 U.S.C. 531–535; 42 U.S.C. 4201, 4211, 4214, 4221–4225, 4231–4233, 4241, 4244).

(b) Definitions. As used in this section:

"Unit of general local government" means any city, county, town, parish, village or other general purpose political subdivision of a State.

"Special-purpose unit of local government" means any special district, public purpose corporation, or other strictly limited purpose political subdivision of a State, but does not include a school district.

§ 309.12 Preapproval construction.

It is the policy of EDA to discourage the undertaking of any construction prior to the submission of an application for financial assistance. Commencement of a project prior to approval of the application for assistance is not prohibited but may jeopardize the favorable consideration of such application since, among other things, it raises a rebuttable presumption that funds necessary for the accomplishment of the project are otherwise available and that proper contracting procedures and labor standards have not been followed.

§ 309.13 EDA assistance additional to other Federal assistance.

All financial assistance under the Act shall be in addition to any other Federal assistance previously authorized. No assistance under the Act will be used to reduce or diminish the proportional amount of any such other Federal assistance to which any eligible applicant for EDA assistance would otherwise be entitled under the provisions of any other act.

§ 309.14 Design, construction, and alteration of buildings to accommodate the physically handicapped.

(a) Any building or facility financed in whole or in part with assistance under the Act must be designed, constructed, or altered, so as to insure ready access to, and use of, such building or facility

by the physically handicapped, as required by Public Law 90-480 (42 U.S.C. 4151-4156) and the regulations promulgated thereunder (41 CFR 101-17.7).

(b) Except as otherwise provided in paragraph (c) of this section, every such building, except a residential structure or a facility designed, constructed, or altered after September 2, 1969, shall be designed, constructed, or altered in accordance with the minimum standards contained in the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A 117.1 (1971) approved by and available from the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

(c) The standards established in paragraph (b) of this section shall not apply to:

(1) The design, construction, or alteration of any portion of a building or facility which need not, because of its intended use, be made accessible to, or usable by, the public or by physically handicapped persons;

(2) The alteration of an existing building if the alteration does not involve the installation of, or work on, existing stairs, doors, elevators, toilets, entrances, drinking fountains, floors, telephone locations, curbs, parking areas, or any other facilities susceptible of installations or improvements to accommodate the physically handicapped.

(3) The alteration of an existing building or facility, or of such portions thereof, to which application of the standards is not structurally possible.

(4) The construction or alteration of a building or facility, for which bids have already been solicited, or plans and specification have been completed, or substantially completed on or before September 2, 1969.

(d) The standards established in paragraph (b) of this section may be modified or waived on a case-by-case basis: *Provided*, That upon application of EDA the Administrator of the General Services Administration determines that such waiver or modification is clearly necessary.

§ 309.15 Flood hazard.

No assistance under the Act will be provided for projects which involve undue risk of flood damage, as required by Executive Order 11296, issued August 10, 1966. All applications for financial assistance will be reviewed by EDA with the purpose of minimizing exposure of the proposed project to potential flood damage and subsequent need for future Federal expenditures for flood protection and flood disaster relief.

§ 309.16 EDA construction site signs.

Applicants for financial assistance involving construction will agree to post at the site of the construction one or more signs which state "EDA New Jobs for your community in partnership with the U.S. Department of Commerce, Economic Development Administration." EDA will provide such signs, which will be mounted at the commencement of construction and removed only after the completion thereof.

§ 309.17 Project review by clearinghouses.

This section sets forth procedures for review of certain applications and possible comment by State, regional, or metropolitan clearinghouses. Such procedures have been established in order to achieve the fullest cooperation and coordination among all levels of government and to otherwise improve the administration of Federal assistance to communities.

(a) Prospective applicants for grant and loan assistance must submit notification of their intent to apply for EDA assistance to appropriate State, regional, or metropolitan clearinghouses for review and possible comment, except applicants for assistance under:

(1) Section 202 of the Act for loans and guarantees,

(2) Sections 201(a) and 301(b) of the Act for technical assistance projects under $2,500,

(3) Sections 301(a) and 301(b) of the Act for technical assistance:

(i) In support of projects of national scope and impact or in support of demonstration projects, or

(ii) In support of projects which support the Office of Minority Business Enterprise program,

(4) Section 301(b) of the Act for administrative expenses of planning organizations serving Federal trust territories, other than those formed in accordance with Part B of title IV of the Act,

(5) Sections 301(c), 301(d), and 301(e) of the Act for research, training, and information, and

(6) Sections 505 and 509 of the Act.

(b) Certain amendments to pending or approved projects, which amendments represent a significant change to such projects, must be submitted to the clearinghouses, as required by EDA.

(c) EDA may not accept applications, except for Public Works Impact program projects, during the period for review by clearinghouses, however, EDA encourages prospective applicants to submit to EDA information copies of project notifications to clearinghouses.

(d) Applicants for Public Works Impact program projects may submit applications to EDA at any time, although such applicants must also submit project notification to clearinghouses.

(e) In the event of the existence of overlapping metropolitan and regional clearinghouses, applicants must directly notify both clearinghouses unless one clearinghouse agrees to accept notifications directly from the other clearinghouse.

(f) EDA will assist potential applicants in carrying out their responsibilities under this section.

§ 309.18 Environmental requirements.

The purpose of the environmental procedures in this section is to provide for the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) and the Council on Environmental Quality Guidelines (36 FR 79, April 23, 1971) to EDA actions.

(a) *Definitions.* The following terms are defined for the purpose of this section:

"Action(s)" means project(s) and continuing activity(ies) supported through EDA grants, loans, or other forms of funding assistance.

"Impact statement" means a detailed environmental statement required under section 102(2)(c) of the National Environmental Policy Act of 1969 for actions significantly affecting the quality of the human environment. The statement shall include, but not be limited to, a discussion of the following:

(1) The environmental impact of the proposed action.

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented.

(3) Alternatives to the proposed action.

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Significant impact" means that part of an action which has the potential to significantly affect the quality of the human environment. The impact may be beneficial as well as adverse. Consideration of an action's direct and cumulative effects is also made. An action may have a significant impact based upon one or more of the following criteria, and other factors as appropriate.

(1) If a project will result in an extensive change in land use or commitment of land.

(2) If the land use change(s) is incompatible with the existing or planned land use of the surrounding area.

(3) If many people are affected.

(4) If the environmental impact of the project is controversial.

(5) If a project will affect in large measure wildlife habitats, streams, fish, and other natural elements.

(6) If the industrial borrower or public works beneficiary is a member of a class of industries categorized as major polluters.

(7) If the impact is the result of the utilization of a single resource.

(b) *Environmental review of actions.* (1) EDA will review every application for an EDA action to determine the environmental impact thereof.

(2) If the environmental impact of the action will be significant, EDA will prepare a detailed environmental impact statement.

(c) *Environmental review. Business loan and public work projects.* (1) EDA will review and evaluate the environmental impact of each project. An environmental file will be prepared and shall contain:

(i) An Economic Development Representative's assessment of the probable

environmental impact of the project, which shall examine the following:

(a) Description of the project.

(b) Description of area (land use map, photo if available).

(c) Description as to how the project will affect air quality.

(d) Description as to the effect on water.

(e) Indication as to the effect on solid waste disposal.

(f) Indication if there are wildlife refuges wooded/forested areas, scenic areas, historical sites, recreational areas, beaches, wetlands, and the effect the project will have on these features.

(g) Indication as to the effect of the project on noise levels, glare, vibrations, visual appearance.

(h) Description of the effect of the project on radiation levels.

(i) Discussion of changes contemplated in traffic patterns.

(j) Description of effect on the environment other than discussed above.

(ii) A Regional Office environmental assessment of the project and a determination whether or not the project will have a significant impact on the environment.

(iii) A concurrence in the Regional Office assessment by the Special Assistant for the Environment.

(iv) A certification by the Special Assistant that EDA's environmental procedures have been fulfilled.

(v) A recommendation by the Special Assistant for the continued processing of the project to the Assistant Secretary.

(vi) Other environmental information which is related to the project under review.

(2) Applicants for EDA funding assistance may be asked by the Economic Development Representative and the Regional Office to provide environmentally related project data which would not otherwise be available through EDA or other governmental sources. The data may relate to engineering and architectural design, internal plant processes, available pollution abatement equipment and more. Data requested from the applicant shall be limited to specific questions and problems and should not cover the subjective evaluation of environmental impact.

(3) The Economic Development Representative shall advise the potential applicants of the nature of the environmental review within EDA.

(d) *Environmental review: Technical assistance projects.* Each technical assistance contract or grant to determine the feasibility of establishing a particular type of industrial activity or enterprise will contain a condition that due consideration will be given by the contractor to environmental impact.

(e) *Environmental review: Planning activities.* Ecological and other environmental considerations will be incorporated into the local planning process. District and area OEDP and other planning documents shall reflect the environmental impact of the district or area's economic goals and activities.

(f) *Environmental impact statements.* (1) When EDA determines that a proposed action may significantly affect the quality of the human environment, the agency will prepare a detailed environmental impact statement in accordance with the Council on Environmental Quality Guidelines.

(2) Applicants may be requested by EDA to provide certain project information which will be incorporated into the impact statement. However, the preparation of the statement will remain the ultimate responsibility of EDA.

(3) EDA administrative action on a proposed project will not be taken until the impact statement review periods set forth in section 10 of the Council of Environmental Quality Guidelines have been exercised.

(g) *Environmental balancing.* EDA will balance the anticipated adverse environmental impacts against the anticipated economic benefits of a proposed action. As a result of the balancing process EDA may recommend the following:

(1) Modification of a project application in order to minimize adverse environmental effects, or,

(2) Denial of an EDA project approval if the adverse environmental effects cannot be balanced and reconciled.

§ 309.19 Relocation assistance and land acquisition policies.

Provisions relating to relocation assistance and land acquisition policies are contained in Part 310 of this chapter.

§ 309.20 Nondiscrimination.

Provisions relating to nondiscrimination are contained in Part 311 of this chapter.

§ 309.21 Additional information.

The Assistant Secretary may require such additional information, evidence, or assurances from applicants and recipients of EDA financial assistance as he deems appropriate.

§ 309.22 Forms.

Requests or applications for assistance under this chapter shall be made on appropriate forms which may be obtained from EDA Regional Offices: *Provided,* That a timely application in writing other than on a form may be accepted as a valid application where

(a) It contains substantially the same information requested on the pertinent form, and

(b) It evidences an intention on the part of the applicant that it be considered as an application and is not merely indicative of an intent to apply.

§ 309.23 Where to file; timeliness of filing.

(a) All requests or applications for assistance under this chapter may be filed with or forwarded to the appropriate offices listed in §§ 301.30 and 301.31 of this chapter. Filing with or forwarding to the Washington office is appropriate in only limited instances.

(b) In the event the eligibility of a redevelopment area or economic development district is suspended or terminated by EDA, applications for assistance for which designation is a prerequisite (including economic development centers and eligibility for bonus grants), which applications are filed with or forwarded to the appropriate office before suspension or termination of eligibility, will be processed by EDA in the usual manner. The filing or delivery of such applications will be considered if

(1) The application is mailed by the applicant to the appropriate Regional Office and it bears a postmark not later than midnight of the date of suspension or termination of eligibility, although it may be received thereafter, or

(2) The application is delivered to the appropriate office not later than midnight of the date of suspension or termination of eligibility.

§ 309.24 Requests to reopen declined applications.

EDA may consider a request to reopen a declined application if

(a) The request to reopen is timely filed in accordance with § 309.23 and is accompanied by substantial new information of a material nature, and sufficient additional documentation, to warrant the reconsideration of the project; or

(b) The request to reopen is made and received after the date of suspension or termination of eligibility, but the declination of the application was based on a material error or mistake by EDA; the request to reopen was received within a reasonable period of time after the error or mistake was discovered or should have been discovered; and the application would not have been declined but for the error or mistake.

PART 310—RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES

Subpart A—Introduction

Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

Subpart C—Moving and Related Expenses

Subpart D—Payments in Lieu of Moving and Related Expenses

Subpart E—Replacement Housing Payments for Homeowners

AUTHORITY: Sec. 213 (b) and (c), Public Law 91-646, 84 Stat. 1901; 42 U.S.C. 4633.

Subpart A—Introduction

§ 310.1 Purpose.

The purpose of the regulations in this part and procedures is to provide for the application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to undertakings by State agencies with financial assistance by EDA.

§ 310.2 Definitions.

(a) "State agency" means any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(b) "Act", as used in this part, means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(c) "Person" means any individual, partnership, corporation, or association.

(d) "Displaced person" means any person who, on or after the effective date of the Act moves from real property or moves his personal property from real property as a result of the acquisition of such real property in whole or in part, or as a result of the written order of the acquiring State agency to vacate real property for a program or project undertaken with EDA financial assistance; and solely for the purposes of sections 202(a) and (b), and 205 of the Act, as a result of the acquisition of or as a result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation for such program or project.

(e) "Regional Directors" means those officials of EDA appointed by the Assistant Secretary for Economic Development pursuant to the authority delegated to him by the Secretary of Commerce as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 89-136, to further the aims and objectives of said Act.

(f) "Business" means any lawful activity, excepting a farm operation, conducted primarily—

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purpose of implementing section 202(a) of the Act, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(g) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

§ 310.10 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing sections 205(c)(3) and 206(b) of the Act.

§ 310.11 Determination.

(a) *Availability.* No State agency shall proceed with the phase of any project which phase will cause the displacement of any person until it has provided satisfactory assurance to the EDA Regional Director that within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of title VIII of the Civil Rights Act of 1968 (Public Law 90-284), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financal means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in paragraph (d) of this section, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

(b) *Support.* This determination or assurance should be based on a current survey and analysis of available replacement housing by the displacing State agency. Such survey and analysis must take into account the competing demands on available housing.

(c) *Waiver.* The Regional Director may in unusual situations waive the determination required by paragraph (a) of this section. These should be limited only to emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by section 214 of the Act.

(d) *Decent, safe, and sanitary housing.* A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weathertight condition, and which meets local housing codes. The displacing State agency and the Regional Director shall consider the following criteria in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may only be made in the cases of unusual circumstances or in unique geographic areas.

(1) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the head of the State agency causing the displacement, with the concurrence of the Regional Director.

(3) *Occupancy standards.* Occupancy standards for replacement housing shall comply with State agency approved occupancy requirements, with the concurrence of the Regional Director, or comply with local codes.

(e) *Absence or inadequacy of local standards.* In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the head of the State agency, with the concurrence of the Regional Director, may establish the standards.

Subpart C—Moving and Related Expenses

§ 310.20 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing section 202(a) of the Act.

§ 310.21 Actual reasonable expenses in moving.

(a) *To be allowed.* (1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the displacing agency determines that relocation beyond this 50-mile area is justified,

(2) Packing and unpacking, crating and uncrating of personal property.

(3) Advertising for packing, crating, and transportation when the displacing agency determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the displacing agency determines that it is necessary.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, reestablishment, including such modification as deemed necessary by the displacing agency of, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the displacing State agency is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent, or employees), in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses determined to be eligible under regulations issued by the head of the State agency with the concurrence of the Regional Director.

(b) *Limitations.* (1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the head of the displacing State agency, with the concurrence of the regional director, determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved, but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated costs of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the head of the State agency responsible for the program or project causing the displacement and with the concurrence of the regional director, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving junkyards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 310.22 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures or other improvements in which the displaced person reserved ownership, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Such other items as the head of the State agency with the concurrence of the regional director determines should be excluded.

§ 310.23 Expenses in searching for replacement business or farm.

(a) *To be allowed.* (1) Actual travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(4) In the discretion of the head of the displacing State agency with the concurrence of the regional director, necessary broker, real estate or other professional fees to locate a replacement business or farm operation under circumstances prescribed in Federal agency regulations.

(b) *Limitation.* The total amount a displaced person may be paid for searching expenses may not exceed $500 unless the head of the displacing State agency with the concurrence of the regional director determines that a greater amount is justified based on the circumstances involved.

§ 310.24 Actual direct losses by business or farm operations.

When the displaced person does not move personal property, he should be required to make a bona fide effort to sell it, and should be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated costs of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

Subpart D—Payments in Lieu of Moving and Related Expenses

§ 310.30 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and regional directors in implementing section 202 (b) and (c) of the Act.

§ 310.31 Dwellings—schedules.

(a) Subsection 202(b) provides that at the option of the displaced person he may receive a moving expense allowance not to exceed $300, based on schedules established by each agency head, and a dislocation allowance of $200. State agencies with the concurrence of the regional director may pay a moving expense allowance based on moving allowance schedules maintained by the respective State highway departments. These schedules should provide for adequacy of reimbursement in every locality. The Federal Highway Administration will approve all such schedules on a current basis, and will make them available to displacing agencies upon request.

(b) Where there are no highway department schedules, the heads of the Federal agencies undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which displacement occurs regardless of where he relocates.

§ 310.32 Businesses.

(a) Eligibility: A person displaced from his business, as defined in subsection 101(7) (A), (B), and (C) of the Act, is eligible under subsection 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised, in each instance, however, to assure that such payments are made only in connection with a bona fide business. The head of the State agency responsible for the program or project causing displacement shall, by regulation, with the concurrence of the Regional Director, prescribe appropriate criteria for a determination that a given activity does, in fact, constitute a bona fide business.

(b) Those businesses described in subsection 101(7)(D) of the Act are not eligible under subsection 202(c) for a payment in lieu of moving and related expenses.

(c) Where a displaced person is displaced from his place of business, no payment shall be made under subsection 202(c) of the Act until the head of the displacing State agency, with the concurrence of the Regional Director, de-

termines (1) that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and (2) that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing State agency only after consideration of all pertinent circumstances, including but not limited to, the following factors:

(i) The type of business conducted by the displaced concern.

(ii) The nature of the clientele of the displaced concern.

(iii) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 310.33 Farms—partial taking.

Where a displaced person is displaced from only a part of his farm operation, the fixed payment provided by subsection 202(c) of the Act shall be made only if the displacing State agency determines, with the concurrence of the Regional Director, that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

§ 310.34 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under subsection 202(c) of the Act until the head of the displacing State agency determines, with the concurrence of the Regional Director:

(1) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(2) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 310.35 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) of the Act means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or firm operation moves from the real property acquired for a project, or during such other period as the head of the displacing State agency with the concurrence of the Regional Director, determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment authorized by subsection 202(c).

§ 310.36 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than $2,500 nor more than $10,000.

Subpart E—Replacement Housing Payments for Homeowners

§ 310.40 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing section 203(a) of the Act.

§ 310.41 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment, authorized by section 203(a) of the Act, not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property covered or qualified under section 217 of the Act for not less than 180 days prior to displacement. The term "initiation of negotiations" means the day on which the acquiring State agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property.

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing State agency the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this paragraph may be eligible for a replacement housing payment under Subpart F of this part.

§ 310.42 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary and:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirements of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968.

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located, with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors,

(2) Public utilities, and

(3) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within the financial means of the displaced family or individual.

(g) Available on the market to the displaced person.

(h) If housing meeting the requirements of this paragraph is not available on the market, the head of a displacing State agency may, upon a proper finding of the need therefor, and with the concurrence of the Regional Director, consider available housing exceeding these basic criteria.

§ 310.43 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The head of the displacing State agency with the concurrence of the Regional Director may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing agency, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* The State agency may establish, with the concurrence of the Regional Director, a schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one State agency is causing displacement in a community or an area, the respective heads of the State agencies concerned shall coordinate the establishment of the schedule for replacement housing payments.

(2) *Comparative method.* The State agency may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings most representative of the dwelling unit acquired, available to the displaced person, and which meets the definition of a comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(3) *Alternative to subparagraphs (1) and (2) of this paragraph.* When neither above-described method is feasible, the head of the State agency with the concurrence of the Regional Director may develop criteria for computing the payment.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced persons voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The head of the State agency, with the concurrence of the Regional Director, shall determine the amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage, i.e., one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. The following shall be considered in computing the interest payment:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by the commercial banks in the general area in which the replacement dwelling is located.

(3) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed, not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(c) *Incidental expenses.* (1) The head of the State agency with the concurrence of the Regional Director shall determine the amount, if any, necessary to reimburse a displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparation of conveyance instruments, notary fees, surveys, preparation of plats, and charges incident to recordation.

(ii) Lenders', FHA, or VA appraisal fees.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA, or VA.

(v) Credit report.

(vi) Title policies or abstracts of titles.

(vii) Escrow agent's fee.

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title 1, Public Law 90-321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

Subpart F—Replacement Housing Payments for Tenants and Certain Others

§ 310.50 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing section 204 of the Act.

§ 310.51 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204, if he meets both of the following requirements:

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. Tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203 of the Act.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204, when he rents a decent, safe, and sanitary replacement dwelling instead of purchasing and occupying a replacement dwelling, which is decent, safe, and sanitary not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 310.52 Computation of replacement housing payment for displaced tenants.

A displaced tenant is eligible for a rental replacement housing payment; or, if he purchases replacement housing within 1 year from displacement, he is eligible for a downpayment including expenses incidental to closing not to exceed $4,000.

(a) *Rental replacement housing payment.* The head of the State agency with the concurrence of the regional director may determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* A rental schedule may be established for renting comparable replacement dwellings as described in § 310.42 and which are available on the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent was reasonable. The State agency with the concurrence of the regional director may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant. For purposes of the regulations in this part, "economic rent" is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one State agency is causing the displacement in a community or an area, the respective heads of the agencies shall cooperate in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 310.42. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. The State agency with the concurrence of the Regional Director may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.* The head of the State agency with the concurrence of the Regional Director may establish the average months' rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the

amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to subparagraphs (1) and (2) of this paragraph.* When neither method is feasible, the head of the State agency with the concurrence of the Regional Director shall develop criteria for computing the payment.

(5) *Disbursement of rental replacement housing payments.* All rental replacement housing payments in excess of $500 will be made in four equal annual installments.

(b) *Purchases—replacement housing payment.* If the tenant elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a downpayment and to cover incidental expenses in the purchase of replacement housing, as follows:

(1) The downpayment shall be the amount necessary to make a downpayment on a comparable replacement dwelling. Determination of the amount necessary for such downpayment shall be based on the amount of downpayment that would be required for purchase of the dwelling using a conventional loan.

(2) Incidental expenses of closing the transaction are those as described in § 310.43(c).

(3) The maximum payment may not exceed $4,000, except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount, in making the downpayment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 310.53 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E of this part because of the 180-day occupancy requirement and elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment will be computed in the same manner as shown in § 310.52(a) except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E of this part because of the 180-day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing costs not to exceed $4,000. The payment will be computed in the same manner as shown in § 310.52(b).

Subpart G—Relocation Assistance Advisory Services

§ 310.60 Relocation assistance advisory program.

The head of the State agency shall provide a relocation assistance advisory program including such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act and acceptable to the regional director, for persons displaced as a result of EDA assisted programs or projects. In the implementation of this section, when more than one State agency is causing displacement in a community or area, the heads of the agencies shall take positive action to assure the maximum coordination of relocation activities. To assure simplification and coordination in administering relocation activities, State agencies shall consider contracting with a single agency to assume full responsibility for providing relocation services and assistance in a given community or area. The head of the State agency with the concurrence of the regional director shall issue regulations and procedures requiring officials responsible for programs displacing persons, businesses, and farm operations to contact State and local agencies in the community to determine the availability of housing resources and to assure coordination of all relocation activities in the community.

Subpart H—Federally Assisted Programs

§ 310.70 Assurances.

(a) *Information.* The State agency shall provide EDA with a statement assuring EDA that the affected persons will be adequately informed of the benefits, policies, and procedures described in this part.

(b) *Inability to provide assurances.* The State agency shall provide an assurance to EDA that will comply with the provisions of this part as required by sections 210 and 305 of the Act. In the event a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement should be supported by an opinion of the chief legal officer of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to provide any part of the required assurances. Except that after July 1, 1972, the assurances shall be completely applicable to all States.

(c) *Compliance.* The State agency shall provide an assurance that it will comply with the provisions of sections 301 and 302 of the Act, as required by section 305 of the Act. If unable to comply with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency. Such opinion shall contain a full discussion of the issues involved and shall cite legal authority in support of any conclusion of legal inability to comply with any of the provisions set forth in sections 301 and 302 of the Act.

(d) *Monitoring assurances.* The Regional Directors shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

§ 310.71 Administration—relocation assistance programs.

If a State agency elects to contract for services pursuant to section 212 of the Act, it shall enter into a written contract consistent with EDA regulations and subject to the concurrence of the Regional Director.

§ 310.72 Notification procedures.

To the greatest extent practicable, at least 90 days' written notice of displacement must be given by the head of the State agency to each individual, family, business, or farm to be displaced. Such notice shall be served personally or by certified or registered first-class mail.

§ 310.73 Application for benefits.

(a) A displaced person who makes proper application to the State agency for a payment authorized by title II of the Act shall be paid promptly after a move, or, in hardship cases, be paid in advance.

(b) Applications for benefits under the Act must be made to the State agency within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired, or the date on which the State agency makes final payment of all costs of that real property, whichever is the later date. The head of the State agency, with the concurrence of the Regional Director, may extend this period upon a proper showing of good cause.

Subpart I—Uniform Real Property Acquisition Policy

§ 310.80 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing title III of the Act.

§ 310.81 Acquisition policies.

Before initiation of negotiations for the acquisition of real property, the head of the State agency, with the concurrence of the Regional Director, shall establish an amount which he believes to be just compensation therefor. In no event shall such amount be less than the State agency's approved appraisal of the fair market value of the property. When negotiations are initiated the owner of such real property shall be provided with a written statement of, and summary of the basis for, the amount estimated as the just compensation. The summary statement of the basis for the agency's determination of just compensation should include, as a minimum, the following:

(a) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land, as well as the fixtures considered to be a part of the real property, and

(b) The amount of the estimated just compensation for the property to be acquired, as determined by the acquiring agency, and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(c) For the purpose of promoting uniformity under section 301(3) of the Act, the head of each State agency acquiring

real property shall, with the concurrence of the Regional Director, establish standards for appraisals used in real property acquisition criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers consistent to the maximum extent possible under State law with the Uniform Appraisal Standards for Federal Land Acquisition published in 1972 (or at such later date as may become relevant if such Uniform Standards are revised) by the Interagency Land Acquisition Conference.

§ 310.82 Payment or reimbursement for necessary expenses.

The State agency shall provide EDA with a statement that, as required by section 305 of the Act, property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of the Act.

Subpart J—Administrative Review

§ 310.90 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies in providing administrative review of decisions made with respect to duties and responsibilities established under the Act.

§ 310.91 Right to review.

Any person aggrieved by a determination as to:

(a) Eligibility for a payment authorized by the Act, or

(b) The amount of such payment, shall have the right to have his application reviewed by the head of the State agency acquiring real property. The head of the State agency shall establish procedures which at the minimum guarantee claimants under the Act (1) prompt consideration of all requests for administrative review, (2) prompt written notice to the claimant of any determination made in connection with his application, including a full explanation concerning any amount claimed which has been disallowed, and (3) prompt payment of any amounts which are determined to be due the claimant.

PART 311—NONDISCRIMINATION

Subpart A—General

Subpart B—Affirmative Action Program Requirements

Subpart C—Procedures for EDA Assisted Water and Sewer Facilities

Subpart D—Nondiscrimination on the Ground of Sex

Subpart E—Minority Representation and Employment on Public Planning Organizations

AUTHORITY: Sec. 701, Public Law 89-136 (Aug. 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4 (Apr. 1, 1970).

Subpart A—General

§ 311.1 Purpose.

The purpose of this part is to reflect to the fullest extent possible the nondiscrimination policies of the Federal Government as expressed in the several statutes, Executive orders, and messages of the President dealing with civil rights and equality of opportunity. Discrimination based on race, color, national origin, or sex shall be prohibited to all recipients of assistance from EDA.

§ 311.2 Definitions.

For the purpose of this part, the following terms whenever used herein shall be limited to the following meanings:

"Applicant" means one who submits an application, request, or plan required to be approved by an EDA official, as a condition to eligibility for assistance, and "application" means such an application, request, or plan.

"Assistance" means:

(1) Grants, loans, or agreements for participation in loans of EDA funds,

(2) Waiver of charges which would normally be made for the furnishing of Government services,

(3) The detail of EDA personnel,

(4) Technical assistance furnished by EDA,

(5) Any EDA agreement, arrangement, contract, or other instrument which has as one of its purposes the provision of assistance. This includes assistance for the purpose of planning.

"Board of Directors" means the governing body of the district or the county or multicounty planning organization.

"Compliance agency" means a Federal agency assigned responsibility for effecting compliance with Executive Orders 11246 and 11375 of one or more industry classifications. The Department of Labor's Office of Federal Contract Compliance is responsible for coordinating the activities of compliance agencies.

"Compliance review" means a comprehensive analysis and evaluation of a company's personnel practices and policies as they relate to nondiscrimination in employment.

"Employment practices" means all terms and conditions of employment including but not limited to all practices relating to the screening, recruitment, selection, appointment, promotion, demotion and assignment of personnel, and includes advertising, hiring, assignments, classification, discipline, layoff and termination, upgrading, transfer, leave practices, rates of pay, fringe benefits, or other forms of pay or credit for services rendered and use of facilities.

"Executive Committee" means the group of individuals on the Board of Directors which is delegated authority to act in behalf of the Board of Directors.

"Minority" means Negroes, Orientals, American Indians, Eskimos, Aleuts, and Spanish-surnamed Americans.

"Program" means any project or activity for the provision of services, financial aid, property, or other benefits to persons, or for the provision of facilities for furnishing services, financial aid, property, or other benefits to persons, whether provided by the recipient of assistance or by others through contracts or other arrangements with the recipient, or whether provided with the aid of assistance or with the aid of any non-Federal funds, property, facilities or other resources provided to meet the conditions under which assistance will be received.

"Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision; or any public or private business or other entity, or any individual, in any State, who applies for EDA assistance, or to whom EDA assistance is extended directly or indirectly but does not include any ultimate beneficiary under any program. Recipient does not include lenders or lessors whose loans or lease payments are guaranteed by EDA unless the purpose of such guarantees is to assist such lender or lessor. Recipient includes the term substantial beneficiary.

"Substantial beneficiary" means an industry or commercial enterprise which as a direct result of an EDA project will construct a new facility which will employ 10 or more persons or which is intended to expand the work force at the present facility by adding 10 or more persons.

§ 311.3 General.

(a) EDA shall enforce title VI of the Civil Rights Act of 1964 as implemented by 15 CFR, Subtitle A, Part 8, which is hereby incorporated in this part.

(b) EDA shall enforce section 112 of Public Law 92-65 of the Public Works

and Economic Development Act of 1971, to the end that no person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program receiving assistance from the Economic Development Administration; and

(c) EDA shall enforce Part III of Executive Order 11246, as amended, requiring nondiscrimination in federally assisted construction contracts.

Subpart B—Affirmative Action Program Requirements

§ 311.10 General.

(a) Each applicant for assistance for public works facilities is required to obtain, and submit as part of the application for such assistance, a written affirmative action program from each entity which will use the proposed facilities.

(1) To construct a new facility employing 50 or more persons, or

(2) To expand the work force at an existing facility by adding 50 or more employees.

(b) Each applicant for business loan assistance that employs or intends to employ 50 or more persons at the proposed EDA-assisted facility shall submit a written affirmative action program.

(c) Each affirmative action program must be approved prior to the approval of the project application.

§ 311.11 Affirmative action program.

The affirmative action program is:

(a) A company conducted evaluation or analytical review of its current employment practices with respect to existing labor conditions, specifically, minority and female population labor conditions. It offers the business entity an exercise in "company self-evaluation."

(b) An action plan whereby goals to be reached are established, procedures to be utilized are defined, and timetables to be met are specified.

(c) A monitoring aid with respect to data feedback, internal auditing and reporting as a means of measuring the company's progress in equal opportunity activities.

(d) An essential checklist for pinpointing areas of minority and female group underutilization. Special consideration is given to the following categories:

(1) Officials and managers (policymaking);
(2) Professionals;
(3) Technicians;
(4) Salesworkers;
(5) Office and clerical;
(6) Skilled craftsmen.

§ 311.12 Contents of an affirmative action program.

An affirmative action program shall be developed in accordance with the criteria established in 41 CFR 60–2.10 through 60–2.31 and shall contain:

(a) A brief history of the company.

(b) A job skill manning table (Form ED–612).

(c) A company policy, stating or reaffirming its intention to practice equal opportunity in all personnel activities.

(d) A procedural plan for policy dissemination for in-house personnel as well as for the general public.

(e) A narrative definition of roles of authority and responsibility which clearly defines specific officers and/or officers charged with specific assignments for affirmative action program implementation.

(f) An analysis of company personnel practices and deficient areas with reference made to the corresponding job categories and responsible organizational units.

(g) A goal-timetable schedule projected to satisfy equal opportunity compliance requirements. This schedule shall make reference to the appropriate job categories and units, accompanied by projected dates for accomplishment of goals.

(h) A narrative reference to additional contributing programs the company projects as being of significant value to the equal opportunity program.

(i) A narrative explanation of the company's active support for local and national community development programs.

Subpart C—Civil Rights Requirements for EDA-Assisted Water and Sewer Facilities

§ 311.30 General requirement.

All proposals for EDA assistance for water, sewer, waste disposal, or like facilities shall be examined at preapplication conferences and throughout the project application processing stage to assure that the benefits of EDA financial assistance will be made available on a nondiscriminatory basis and if the project will provide residential service, it will serve as many as possible of the minority and low income members of the community.

§ 311.31 Project application procedures.

All project applications shall be accompanied by the following which shall become part of the project file.

(a) A map with supplementary drawings of the entire town, community, or areas in which the proposed facilities will be located which depicts the following in reasonable detail:

(1) The location of the proposed facilities.

(2) The location of existing facilities of similar nature or purpose.

(3) The location and definable minority group makeup of all institutions, residential, industrial, commercial, and low-income areas served or benefited by these similar existing facilities.

(4) The location and definable minority group makeup of all institutions, residential, industrial, commercial, and low-income areas which will be benefited or served by the proposed facilities and

(5) The location and definable minority group makeup of any institutions, residential, industrial, commercial, and low-income areas which are not being served by existing facilities of similar nature or purpose and which will not be benefited or served by the proposed facilities.

(b) An explanation of why those minority groups and low-income areas not being served by existing facilities and not benefited or served by the proposed facilities cannot or should not be benefited or served.

(c) A statement setting forth any future plans to utilize the proposed EDA-assisted facilities, and existing facilities, to provide similar services or benefits to specific areas.

§ 311.32 Evaluation.

Where it is determined after evaluation of the material described in § 311.31 that discrimination is indicated the Assistant Secretary shall determine whether the application shall be returned to the applicant with an explanation of the problems. Where the applicant is returned the Civil Rights Specialist shall assist the applicant to modify, if feasible, the application in order to correct the discriminatory aspects.

§ 311.33 Modifications of applications.

Prior to the approval of modifications in plans and specifications or of change in orders which would substantially modify the application as approved, the project file and such modifications shall be processed in accordance with the steps required in this subpart.

Subpart D—Nondiscrimination on the Ground of Sex

§ 311.40 Purpose.

The purpose of this subpart is to implement the provisions of section 112 of Public Law 92–65 of the Public Works and Economic Development Act of 1971, to provide that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program receiving assistance from the Economic Development Administration on the grounds of sex.

§ 311.41 Application.

This subpart applied to any program which assistance is authorized under title(s) I, II, III, and IV of the Public Works and Economic Development Act of 1965, as amended. It applies to assistance extended under any such program after January 19, 1973 pursuant to an application approved prior to January 19, 1973.

§ 311.42 General prohibition.

No person in the United States shall, on the ground of sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

§ 311.43 Special discriminatory acts prohibited.

(a) A recipient of assistance shall not participate, directly or through contractual or other arrangements, in any act or course of conduct which on the ground of sex.

(1) Denies to members of one sex any service, financial aid, property or other benefit provided with EDA assistance.

(2) Provides any service, financial aid, property or other benefit to members of one sex which is different, or is provided in a manner different from that provided to the opposite sex under the program.

(3) Subjects members of one sex to segregation or separate or other discriminatory treatment in any matter related to the receipt or non-receipt of any such service, financial aid, property or other benefit under the program.

(4) Restricts members of one sex in any way in the enjoyment of such services, facilities, or any other benefit, privilege, or property, provided to the opposite sex under the program.

(5) Denies members of one sex the opportunity to participate in any program supported by EDA assistance or affords them such an opportunity in a manner different from that afforded members of the opposite sex under the program.

(6) Denies members of one sex the same opportunity or consideration given members of the opposite sex to be selected or retained or otherwise to participate as a contractor, subcontractor or subgrantee in any program supported by EDA assistance.

(7) Denies members of one sex the opportunity or consideration to participate as a member of any planning, advisory or similar group or body which assists a recipient.

(8) Treats a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement, or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program.

(b) No recipient shall, in determining the kinds of services, financial aid, facilities, or other benefit which will be provided with EDA assistance, or the class of persons to be afforded an opportunity to participate in any such program supported by EDA assistance shall directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination on the basis of their sex.

(c) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 311.42.

§ 311.44 Employment practices.

(a) A recipient shall not discriminate against a person in its employment practices on the ground of sex and shall take affirmative action to ensure against such discrimination.

(b) Recipients shall develop the following standards in their employment practices:

(1) *Recruitment and advertisement.* (i) Recipients shall recruit employees of both sexes for all jobs unless sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(ii) Advertisements in newspapers and other media for employment shall not express a preference for members of one sex unless sex is a bona fide occupational qualification reasonably necessary for the job advertised. Placement of ads under separate "male" and "female" headings is regarded as an expression of a preference, limitation, specification, or discrimination based on sex.

(2) *Job policies and practices.* (i) A recipient's written personnel policies shall indicate that there shall be no discrimination against employees on the basis of sex unless sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(ii) Individuals of both sexes shall have an equal opportunity to any available job that they are qualified for, unless sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(iii) The following situations do not warrant the application of the bona fide occupational qualification exception:

(*a*) The refusal to hire a woman because of her sex based on assumptions of the comparative employment characteristics of woman in general. For example, the assumption that the turnover rate among women is higher than men.

(*b*) The refusal to hire an individual based on stereotyped characterizations of the sexes. Such stereotypes include, for example, that men are less capable of assembling intricate equipment, that women are less capable of aggressive salesmanship.

(*c*) The refusal to hire an individual because of the preferences of coworkers, the employer, clients or customers except where it is necessary for the purpose of authenticity or genuiness, e.g., an actor or actress.

(iv) The policies and practices of the recipient shall assure appropriate physical facilities for members of both sexes unless the expense is clearly unreasonable. The recipient shall not refuse to hire persons, or deny any person a particular job because there are no restrooms or associated facilities unless the recipient is able to show that the construction of the facilities would result in unreasonable expense or use of space that would not have been so incurred or used.

(v) Recipients shall not make distinction between married and unmarried members of one sex that is not made between married and unmarried members of the opposite sex.

(vi) (*a*) Any employment policy or practice shall indicate that there will be no discrimination against applicants or employees because of pregnancy.

(*b*) Women shall not be penalized because they require time away from work on account of childbearing. When under the recipients' leave policy, a woman would qualify for leave, then childbearing must be considered by the employer to be a justifiable use of such leave. Following childbirth, and upon signifying during the leave period her intent to return, a woman must be reinstated to her original job or to an equivalent job without loss of service credits.

(vii) Recipients shall not deny employment to anyone because that person has young children.

(viii) The recipient shall not specify on the basis of sex any difference for male and female employees with respect to mandatory or optional retirement age.

(3) *Separate job lines.* In the absence of a bona fide occupational qualification an employer may not classify a job as "male" or "female" or maintain separate lines of progression or separate seniority lists. A seniority system or line of progress which distinguishes between "light" and "heavy" jobs is similarly unlawful if it is merely a disguised form of classification by sex or creates unreasonable obstacles to job advancement by members of one sex.

(4) *Wages.* The recipient shall not discriminate on the basis of sex in terms of wages paid.

(5) *Protective legislation.* State protective laws and administrative regulations will not be recognized by EDA where such laws and regulations are in conflict with the spirit of this subpart.

§ 311.45 Affirmative action program.

(a) EDA recognizes that women are likely to be underutilized in departments and jobs within departments as follows: Officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), craftsmen (skilled and semi-skilled).

(b) (1) Each applicant for EDA assistance for public works facilities shall obtain and submit as part of the application for such assistance a written affirmative action from each entity which will use the proposed facilities

(i) To construct a new facility employing 50 or more employees

(ii) To expand the work force at an existing facility by adding 50 or more employees

(2) The affirmative action program shall contain an analysis of the jobs, enumerated in paragraph (a) of this section, as filled by women and specific goals and timetables for the employment of women in those positions determined to be underrepresented with women. See Subpart B of this Part.

(c) Each applicant for EDA business loan assistance that employs or intends to employ 50 or more persons at the proposed EDA assisted facility shall submit a written affirmative action program which shall contain an analysis of the jobs, enumerated in paragraph (a) of this section, as filled by women and specific goals and timetables for the employment of women in those positions determined to be underrepresented with women. See Subpart B of this part.

§ 311.46 Nondiscrimination clause.

Every application for, and every grant, loan or contract authorizing approval of, EDA assistance and every modification

or amendment thereof, as a condition to its approval, shall contain or be accompanied by an assurance that the program will be conducted in compliance with the requirements imposed by this subpart.

§ 311.47 Cooperation, compliance reports and reviews and access to records.

(a) Each responsible EDA official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this subpart and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

(b) Each recipient shall keep such records and submit to the responsible EDA official timely, complete, and accurate compliance reports at such times and in such form and containing such information as the responsible EDA official may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this subpart. In the case of any program under which a primary recipient extends assistance to any other recipient, or under which a recipient is obligated to obtain or to cooperate in obtaining the compliance of other parties subject to this subpart, such other recipients or other parties shall also submit such compliance reports to the primary recipient or recipient as may be necessary to enable them to carry out their obligations under this subpart.

(c) Each recipient shall permit access by the responsible EDA official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this subpart. Where any information required of a recipient is in the exclusive possession of another who fails or refuses to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this subpart and its applicability to the program under which the recipient receives assistance, and make such information available to them in such manner, as the responsible EDA official finds necessary to apprise such persons of the protections against discrimination assured them by this subpart.

(e) The responsible EDA official shall from time to time review the practices of recipients to determine whether they are complying with this subpart.

§ 311.48 Complaints.

(a) Any person who believes members of one sex to be subjected to discrimination prohibited by this subpart may file with the responsible EDA official a written complaint.

(b) Any person who believes members of one sex to be subjected to discrimination prohibited by this subpart may have a representative file with the responsible EDA official a written complaint.

(c) A complaint shall be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible EDA official.

§ 311.49 Intimidatory or retaliatory acts prohibited.

(a) No recipient or other party shall intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by this subpart, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart.

(b) The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this subpart, including the conduct of any investigation, hearing, or judicial or other proceeding thereunder.

§ 311.50 Investigations.

(a) The responsible EDA official will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this subpart.

(b) The investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient or other party subject to this subpart, the circumstances under which the possible noncompliance with this subpart occurred, and other factors relevant to a determination as to whether there has been a failure to comply with this subpart.

(c) (1) If an investigation pursuant to paragraph (a) of this section indicates a failure to comply with this subpart, the responsible EDA official will so inform the recipient and the matter will be resolved by informal means.

(2) If an investigation does not warrant action pursuant to paragraph (c) (1) of this section, the responsible EDA official will so inform the recipient and the complainant, if any, in writing.

§ 311.51 Sanctions.

If there is a failure to comply with this subpart, the Secretary is authorized to:

(a) Suspend or terminate assistance.

(b) Refuse to grant or to continue assistance.

(c) Take such other action as may be authorized by law.

Subpart E—Minority Representation and Employment on Public Planning Organizations.

§ 311.60 Purpose.

This subpart sets forth EDA requirements for the participation of minority persons on district organizations, on county and multicounty planning organizations, and on OEDP committees. This subpart establishes minimum minority representation requirements and implementation procedures for the selection and approval of minority representatives on such organizations and committees and also establishes affirmative action program requirements for the employment of minority persons on the staffs of such organizations. Where State laws or regulations preclude the degree of minority representation required by this subpart, EDA will consult with the individual planning and development organizations and OEDP committees and determine the means to effect meaningful involvement of minorities.

§ 311.61 Minority representation requirements.

(a) The percentage of the minority representation within the total membership of a governing board of planning and development organizations or an OEDP committee shall equal or exceed the percentage of the minority population within the entire area served by the organization or committee with the following exceptions:

(1) Where the minority population equals or exceeds 5 percent but, because of the size of the governing board or OEDP committee, it is not sufficiently large to establish representation in accordance with paragraph (a) of this section, there shall be at least one minority representative.

(2) Where the minority population exceeds 25 percent of the total population, the minority representation on the governing board or OEDP committee is not required to be greater than one-fourth.

(b) The membership of the Executive Committee shall reflect the ratio of the minority representation on the Board of Directors. In all cases where there is minority representation on the Board by virtue of the requirements of paragraph (a) of this section, there shall be at least one minority representative on the Executive Committee.

§ 311.62 Selection of minority representatives.

All planning and development organizations and OEDP committees are required to provide minorities with the opportunity to select their own representatives.

§ 311.63 Implementation procedures.

(a) New planning and development organizations.

(1) The following guidelines are established as a model procedure to assure that, after June 1, 1971, new planning and development organizations seeking final EDA approval of an application for initial funding or a request for district designation shall provide minorities the opportunity to select their own representatives.

(i) The organization shall prepare a written inventory of all political, civic, religious, professional, social, and fraternal organizations and groups substantially representative of the minority groups in the areas. Such inventory shall include the following information:

(*a*) The names and mailing addresses of the local organizations.

(*b*) Descriptions of their activities (if not self-evident from the organizations' names).

(c) Minority group(s) represented by the organization.

(d) Approximate numerical membership for each organization.

(ii) The organization shall notify in writing the minority organizations and groups listed in the inventory of the efforts being undertaken to organize a planning and development organization, and of EDA's minority representation requirements. It shall also request representatives of the minority organizations and groups to assemble at a designated time and place for the purpose of selecting the minority representatives who will participate in the formation and activities of the organization and become members of the Board of Directors. The role of the organization at such a meeting should be limited to coordinating the meeting and assisting the minority organizations and groups in selecting their representatives.

(2) A new planning and development organization may develop an alternate procedure if it believes that such procedure will better achieve the minority representation requirements than the model. However, such an alternate procedure must be approved by the Director, Office of Civil Rights, in coordination with the Regional Director, after an initial review by the Civil Rights Specialist.

(b) In all cases, whether the new planning and development organization follows the model procedure established in paragraph (a)(1) of this section or develops an approved alternate procedure, paragraph (a)(2) of this section, the following minimum information shall be required as part of the application for initial funding, or where funds are not requested, as part of the District OEDP:

(1) A listing of all political, civic, religious, fraternal, professional, and social organizations substantially representative of minority groups in the area served.

(2) The names of the organizations listed in paragraph (b)(1) of this section which were actually given the opportunity to participate in the selection of minority representatives. If any of the organizations were not given such an opportunity, an explanation should be given.

(3) A description of the method or methods by which minority groups were notified.

(4) A description of the method or procedures through which minority representation was achieved.

(5) The names of the minority persons selected by the minority organizations and groups to serve as minority representatives.

(c) EDA shall review the information submitted pursuant to (b) of this section and shall certify whether the new planning and development organization has complied with the requirements of § 311.61. Such certification shall be made part of the application file.

§ 311.64 Existing planning and development organizations.

Each planning and development organization which as of June 1, 1971 was funded by EDA or which represents a district organization designated before June 1, 1971 shall

(a) Certify that it has already met the requirements of § 311.61, by submitting an acceptable report as required in § 311.65 or

(b) Implement the requirements of § 311.66.

§ 311.65 Written report.

Within 6 months from the date it receives notice from EDA of the minority representation requirements, § 311.61, the organization shall submit a written report certifying that the minority representation requirements have been met. The report shall include:

(a) The total population and the minority population of the area served by the organization.

(b) A list of all the members of the governing board and of the Executive Committee indicating the minority representatives.

(c) A description of the methods through which this minority representation was established.

§ 311.66 Written plan.

(a) Within 6 months from the date it receives notice from EDA of the minority representation requirements, § 311.61, the organization shall develop a written plan describing the means through which EDA's minority representation requirements will be met. The plan shall include the following information:

(1) The total population and the minority population of the area served by the organization.

(2) A listing of all political, civic, religious, fraternal, professional, and social organizations substantially representative of the minority groups in the area served.

(3) Numerical goals for minority representation and projected size of the governing board and Executive Committee.

(4) A description of the method and steps by which the minority representation requirements will be achieved.

(5) A timetable scheduling the dates by which such steps will be taken.

(6) Revisions of bylaws.

(7) The efforts already undertaken to achieve minority representation.

(b) The plan should be based on the model procedure outlined in § 311.63(a) or an alternate procedure which the organization deems appropriate.

(c) The plan shall be implemented by the organization as soon as practicable, but no later than 1 year from the date of approval. At that time the organization shall submit an implementation report outlining how the plan has been implemented and describing the makeup of the governing board and the Executive Committee.

§ 311.67 New area OEDP committees.

(a) After June 1, 1971 an area OEDP committee must certify that it has met the minority representation requirements established in § 311.61 prior to the approval by EDA of an initial OEDP. The committee should use the procedures found in § 311.63(a)(1) or an alternative procedure which it has developed.

(b) The initial OEDP shall include a list of the members of the OEDP committee with an indication of race and description of the methods through which the minority representation requirement was met.

§ 311.68 Area OEDP committees established before June 1, 1971.

Each area OEDP committee established before June 1, 1971 shall be required to meet the minority representation requirements established in § 311.61. The first annual OEDP report required by EDA after June 1, 1972 shall include a list of the members of the OEDP committee with an indication of race and a description of the methods through which the minority representation requirement was met.

§ 311.69 Reporting procedures.

(a) After EDA's requirements for minority representation have been met, each planning and development organization and area OEDP committee will be required to report annually to EDA its minority membership and/or the membership of all governing bodies and functional committees.

(b) The report shall include the following:

(1) Names of members.

(2) County of residence.

(3) Racial or ethnic origins of each member.

(4) Composition of each organization, governing body, and committees.

(5) Total population of the area served by the organization or OEDP committee, based on the most recent available data.

(6) Minority population of the area served by the organization or OEDP committee, based on the most recent available data.

(c) Each organization subject to the requirements of § 311.70 shall also include a report on the progress made under its affirmative action program.

§ 311.70 Affirmative action programs.

Under the Department of Commerce title VI regulations, recipients of EDA financial assistance are required to take affirmative action to insure that job applicants are employed, and treated during employment, without regard to their race, color, or national origin. As part of the implementation of this requirement, EDA requires that each planning and development organization shall submit a written affirmative action program describing its commitment to em-

ploy minorities on its professional and support staff.

The affirmative action program shall include the following:

(a) An analysis of staffing to determine whether minority group members are being underutilized in either professional or clerical job categories. The analysis shall include:

(1) The total population and the minority population in the area served.

(2) The availability of promotable minority employees on the current staff.

(3) The anticipated expansion, contraction, and turnover in the staff.

(4) The existence of training institutions capable of training minority group members in the requisite skills.

(5) The degree of training which the organization is reasonably able to undertake as a means of making staff positions available to minority group members.

(b) Goals and timetables.

(1) The planning and development organizations in existence before June 1, 1971 shall establish goals and, where appropriate, timetables for the employment of minorities on its professional and support staff.

(i) The goals and timetables are to correct minority underutilization.

(ii) Timetables should reflect such factors as natural turnover and attrition.

(iii) Timetables should not be based on terminations of staff in order to establish minority representation.

(2) Planning and development organizations established after June 1, 1971 must establish goals on the basis of paragraph (a) of this section.

(3) The minority members on the staff of each organization should in general reflect the ratio of minority representation required for the board of directors.

(c) A statement of the organization's equal employment opportunity policy.

(d) A list of sources for minority recruitment.

(e) The name of the person designated by the organization as the director or manager of the affirmative action program. The person designated should have the authority and responsibility for effectively implementing the affirmative action program.

(f) Evidence that the organization has validated job requirements to insure that the requirements are reasonable and do not include experience factors which would automatically exclude otherwise qualified minority candidates.

§ 311.71 Submission of affirmative action program.

(a) Each organization established after June 1, 1971 shall submit its affirmative action program with the application for funding, or in case funds are not requested, as part of the OEDP.

(b) Each organization established before June 1, 1971, shall submit its affirmative action program with the report required by § 301.65(a) of this chapter or with the implementation report required by § 301.66(b) of this chapter.

§ 311.72 Determination of satisfactory affirmative action program.

(a) The Civil Rights Specialist shall:

(1) Evaluate each affirmative action program and where necessary, negotiate with the planning and development organizations to correct any deficiencies.

(2) Prepare a written evaluation of each affirmative action program.

(b) The Director, Office of Civil Rights, shall determine whether each affirmative action program is satisfactory. In those instances where the Director determines that the affirmative action program is unacceptable, EDA shall so inform the organization submitting the program and shall negotiate with the organization to correct any deficiencies.

§ 311.73 Compliance review procedures.

(a) In order to determine whether planning and development organizations and area OEDP committees are complying with the provisions of this subpart, EDA shall conduct periodic compliance reviews which shall include evaluation of:

(1) The performance of the organization in meeting its quantitative goals and timetables for minority participation.

(2) The performance of the organization in assuring that minority representatives actually participate in the business of the organization.

(3) The performance of the organization with regard to employment of minorities on its staff.

(b) In evaluating these elements of compliance, the Civil Rights Specialist shall utilize standards set forth in the planning and development organization's or area OEDP committee's initial OEDP, or latest affirmative action program, these standards having been approved by EDA during their formulation.

§ 311.74 Noncompliance procedures.

(a) Where compliance reviews, or reviews of required reports indicate a failure to comply with this subpart, the Director, Office of Civil Rights, shall in coordination with the Regional Director, notify the planning and development organizations or area OEDP committee and the matter will be resolved by informal means whenever possible.

(b) If the Director, Office of Civil Rights, in coordination with the Regional Director, determines that the matter cannot be resolved by informal means, they shall, through the Deputy Assistant Secretary for Economic Development Planning, recommend to the Assistant Secretary that compliance be effected by the suspension or termination of assistance or the refusal to grant or to continue assistance, or by any other means authorized by law.

(c) Any procedures taken to effect compliance must be consistent with the Department of Commerce Civil Rights regulations (15 CFR Part 8, Subpart B).

NOTE: Incorporation by reference approved by Director of the Federal Register, January 15, 1973.

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PART III

OFFICE OF MANAGEMENT AND BUDGET

■

ADVISORY COMMITTEE MANAGEMENT

Administrative Guidelines and Management Controls

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE MANAGEMENT

Administrative Guidelines and Management Controls

The Federal Advisory Committee Act, Public Law 92-463, assigns to the Director of the Office of Management and Budget responsibility for prescribing "administrative guidelines and management controls applicable to advisory committees." Pursuant to that authority and to Executive Order 11686 (1972), the Director has proposed issuance of a revised OMB Circular A-63 entitled "Committee Management." In addition, the Office of Management and Budget in conjunction with the Department of Justice has prepared a draft memorandum regarding implementation of the Federal Advisory Committee Act.

To assist the Federal agencies in preparing their initial regulations implementing the Act, the draft memorandum was distributed to the agencies on an informal basis in November 1972. The text of the memorandum printed here is virtually identical to that of the November issuance.

After comments on the memorandum have been received and analyzed, its provisions will be revised as appropriate, and the memorandum will be issued in modified form. The new form will be a narrative section-by-section discussion of the Act and will include references to the legislative history.

Interested persons are invited to submit legal and other comments on the proposed circular and memorandum, on or before March 26, 1973. Such comments should be sent, in duplicate, to the Director, Office of Management and Budget, Attention: Committee Management Secretariat, Room 9026, New Executive Office Building, Washington, D.C. 20503, with a copy to the Office of Legal Counsel, Department of Justice, Washington, D.C. 20530.

VELMA N. BALDWIN,
Assistant to the Director for Administration, Office of Management and Budget.

ROGER C. CRAMTON,
Assistant Attorney General, Office of Legal Counsel.

[Circular No. A-63]

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: ADVISORY COMMITTEE MANAGEMENT

1. *Purpose.* This circular provides guidance for the implementation of the Federal Advisory Committee Act, Public Law 92-463, hereinafter referred to as the "Act," and Executive Order No. 11686, October 7, 1972, entitled "Committee Management." The circular should be used in conjunction with the joint OMB-Department of Justice memorandum which is to be issued separately, regarding implementation of the Act. This circular establishes requirements for annual reports on advisory committees. These reports will provide the basis for the President's annual report to the Congress.

2. *Rescission.* This circular rescinds and supersedes Circular A-63, "Management of Interagency Committees," dated March 22, 1964, and becomes effective January 5, 1973.

3. *Definition.* For the purpose of this circular the terms "advisory committee" and "Presidential advisory committee" shall have the same meaning as when used in the Act.

4. *Responsibilities.* a. The OMB Committee Management Secretariat is responsible for general oversight of all advisory committees and for the performance of the functions vested in the Director of OMB by the Act and Executive Order No. 11686. In the performance of those functions, the Secretariat may assign responsibility to agencies for support of presidential advisory committees, for the evaluation of their reports, and for subsequent reporting to the Congress.

b. Department and agency heads are responsible for the performance of the functions vested in them by the Act and for the management and submission of reports to OMB concerning agency advisory committees.

c. Each agency shall publish implementing regulations containing guidelines and management controls for advisory committees.

d. Each agency shall maintain systematic information on the nature, functions, and operation of each advisory committee within its jurisdiction.

5. *Annual report.* The annual report is based on the calendar year. The information provided will be included in the President's report to the Congress. Agency reports shall include only those advisory committees established by that agency, or, if created by Executive order or statute, for which the agency has responsibility. The report should be structured in this way:

a. An individual sheet (attached) filled out for each committee;

b. A summary which provides four separate alphabetical lists:

(1) New advisory committees created by the agency whose creation was specifically directed by statute;

(2) New advisory committees created by the agency during the reporting year other than those specifically directed by statute;

(3) All other advisory committees for which the agency is responsible that were in existence at the end of the calendar year except those listed in (1) and (2) above;

(4) All advisory committees terminated during the reporting calendar year.

c. An estimated aggregate cost to operate such committees, including man-years of staff support:

(1) For the total listing of advisory committees reported;

(2) For each separate list reported under paragraph b. above.

Copies of reports shall be submitted in quadruplicate to the Director, Office of Management and Budget, Attention: Committee Management Secretariat, no later than February 1.

ANNUAL REPORT OF AGENCY ADVISORY COMMITTEES REPORT PERIOD: CY ——— [1]

1. Exact name of advisory committee.
2. Is the committee ad hoc or continuing? [2]
3. Establishment date or date of continuation.[3]
4. Specific establishment authority.
5. Is establishment authority:[4]
a. Specifically directed by law.
b. Authorized by law.
c. Established by agency authority.
d. Established by presidential directive.
6. Termination or report date.[5]
7. Brief statement of function.
8. Title(s) and date(s) of report(s) submitted, if any.
9. Actual dates of all meetings (with a summary total as to the number of times met).
10. Names, occupations, and addresses of current members (may be attached separately).
11. Estimated total aggregate annual cost to the United States to fund, service, supply, and maintain the committee.
12. Estimated annual man-years of staff support for the committee.
13. Name, address, and telephone number of the agency representative to provide additional information.
14. If any information is excluded from this report for reasons of national security, a statement to that effect should be included.

[1] Indicate appropriate calendar year of report.

[2] Generally an ad hoc committee is one which is established for a particular purpose, and has a short duration. (A short duration is usually less than 12 months.)

[3] The establishment date is the original creation date of the committee. The continuation date is the latest date that a review has taken place and the determination to continue the committee has been made. Indicate the most recent date.

[4] Indicate the appropriate letter of the establishing authority for the committee.

[5] This is to indicate when the committee will cease functioning. It may be the final terminating date or the date a new continuance is due.

DRAFT OFFICE OF MANAGEMENT AND BUDGET/DEPARTMENT OF JUSTICE MEMORANDUM
ADVISORY COMMITTEE MANAGEMENT

Contents

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: IMPLEMENTATION OF THE FEDERAL ADVISORY COMMITTEE ACT

1. *Basis; applicability.* This Memorandum is based upon the Federal Advisory Commit-

tee Act, Public Law 92-463, and Executive Order No. 11686 (Oct. 7, 1972) entitled "Committee Management." Subsection 7(c) of the Act states that the Director of the Office of Management and Budget "shall prescribe administrative guidelines and management controls applicable to advisory committees * * *"

The particular sections of the Act upon which the provisions of this Memorandum are based are indicated in parentheses following the various provisions. Section 4(a) of the Act states "The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise." Where the statute establishing an advisory committee is vague or silent, the provisions of the Act are controlling. However, where the establishing statute deals specifically with the subject, that statute is controlling.

This Memorandum applies to all "advisory committees" within the meaning of the Act.[1]

The effective date of the Act, except as provided in section 7(b), is January 5, 1973, except to the extent that full implementation of the Act requires that certain steps be taken prior to that date.

2. *Policy.* In interpreting this Memorandum the purposes of Congress in adopting the Act should be followed. (Section 2.) These purposes include—

a. Limiting the number of advisory committees to those that are essential and terminating any advisory committees which are not fulfilling their purposes;

b. Insuring effective use of advisory committees and their recommendations, while assuring that decisional authority is retained by the responsible Federal officers.

c. Providing standards and uniform procedures with respect to the creation, operation, and duration of advisory committees; and

d. Insuring that adequate information is provided to the Congress and the public regarding advisory committees and insuring adequate opportunities for access by the public to advisory committee meetings.

3. *Definitions.* For purposes of this Memorandum—

a. "Act" means the Federal Advisory Committee Act.

b. "Advisory committee" has the meaning set forth in paragraph 4 of this Memorandum.

c. "Agency" has the meaning set forth in 5 U.S.C. 551(1). (Section 3(c).) That definition is as follows:

* * * each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) The Congress;

(B) The Courts of the United States;

(C) The Governments of the territories or possessions of the United States;

(D) The government of the District of Columbia; * * *

d. "Agency head" means the head of an agency which uses an advisory committee (or the delegate of such agency head).

e. "Committee Management Secretariat" has the meaning explained in paragraph 6 of this Memorandum.

f. "Director" means the Director of the Office of Management and Budget or his delegate (Section 3(1).)

g. "Presidential advisory committee" means an advisory committee which advises the President. (Section 3(4).)

[1] The term "advisory committee" is explained in paragraph 4 of this Memorandum.

4. *Committees covered by the Act.* a. Basic meaning of "advisory committee."

(1) Subject to the exclusion of committees composed wholly of full-time Federal employees and the other exclusions described in paragraph 4b, below, the term "advisory committee" means:

Any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof * * *, which is—

(A) Established by statute or reorganization plan, or

(B) Established or utilized by the President, or

(C) Established or utilized by one or more agencies,

In the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government * * * (Section 3(2).)

The terms of the Act and its legislative history, including numerous indications of reliance upon concepts used in Executive Order No. 11007 (1962) and No. 11671 (1972), show that, while broad coverage was intended, the statute is aimed at "advisory committees or similar groups" in the ordinary sense. In general, such bodies would have all or most of the following characteristics:

(a) Fixed membership, usually selected by a Federal official or determined on the basis of Federal law;

(b) Established by a Federal official or on the basis of Federal law; or, if not federally established, the initiative for its use as an advisory body for the Federal Government came from a Federal official rather than from a private group;

(c) A defined purpose of providing advice regarding a particular subject or particular subjects;

(d) An organizational structure (e.g., officers) and a staff;

(e) Regular or periodic meetings.

Thus, for example, the Act would not apply where a group of persons seeks and obtains a meeting (or even a series of meetings) with a Federal official in order to present him with their views on certain subjects.

(2) Committees "utilized" to advise a Federal official or agency, though not established for that purpose, are covered by the Act. With respect to such a group, the Act applies to the extent that the group is engaged in the function of advising the Federal official or agency.

For example, the Act would apply to an already existing organization of scholars enlisted by an agency to provide advice on a continuing basis. Meetings and records of the organization pertaining to its function of advising Federal officials would be subject to the Act. However, with regard to the organization's other functions, the Act would not apply.

(3) A group satisfying the other criteria outlined in (1) above may be an "advisory committee" even though its duration is short. For example, a task force created to complete, within a period of months, a study of a particular situation might be covered. Another example of an ad hoc (or noncontinuing) group which might be subject to the Act is a committee whose function is to conduct a single conference.

(4) The Act's definition of "advisory committee" includes "subcommittee(s)" and "other subgroup(s)" of the listed types of groups. The manner in which the various provisions of the Act apply to subgroups is indicated in the pertinent portions of this Memorandum (e.g., paragraph 8d regarding committee charters and paragraph 10 regarding meetings). With regard to certain requirements, a distinction is made between formal and informal subgroups. A formal subgroup might be one which independently possesses most of the requisites of an advisory committee (fixed membership, separate staff, regular meetings, etc.). An informal subgroup is one possessing few of those requisites (e.g., during a particular meeting, an advisory committee might devide itself into several topics). Another example might be several committee members who confer informally with regard to a matter relating to the committee.

(5) In general, the functions of an advisory committee are to be "solely * * * advisory."[2] "Operational" groups are not covered by the Act.

Where a group provides some advice to an agency, but the group's advisory function is incidental to and inseparable from other (e.g., operational) functions, the Act does not apply. If the advisory function is separable, the group(whether or not Federally established) should be made subject to the Act to the extent that it operates as an advisory committee.

b. Groups excluded from the Act's coverage.

(1) The Act does not apply to any committee "which is composed wholly of full-time officers or employees of the Federal Government." (Section 3(2).)

(2) The Advisory Commission on Intergovernmental Relations and the Commission on Government Procurement are excluded from the Act's coverage. (Section 3(2).)

(3) The Act is inapplicable to "any advisory committee established or utilized by" the Central Intelligence Agency or the Federal Reserve System. (Section 4(b).)

(4) The Act is inapplicable to "any local civic group whose primary function is that of rendering a public service with respect to a Federal program." (Section 4(c).)

(5) The Act is inapplicable to "any State or local committee * * * or similar group established to advise * * * State or local officials or agencies." (Section 4(c).)

(6) The term "advisory committee" is not intended to include persons or organizations which have contractual relationships with agencies. For example, a consulting firm hired by an agency to provide advice regarding a matter would not be subject to the Act.[3] However, in determining whether the Act is applicable in a specific situation, the substance of the relationship between (i) the agency and (ii) the other persons or organization is controlling. If the criteria described in paragraph 4a(1) above are present, the existence of a contractual relationship with one (or more) of the committee's members would not affect coverage by the Act.

5. *Responsibilities of the President; Delegation to OMB.* a. Pursuant to Executive Order No. 11686 (1972), the Director is to perform or to designate, from time to time, other Federal officers to perform the functions vested in the President by the Act, except the functions (described in section 6(c) of the Act) of making annual reports to Congress.

b. The annual reports of the President shall be prepared by the Director for the consideration of the President.

c. The Director shall be responsible for submitting or causing another agency to submit to Congress a report on the recommendations contained in any public report submitted to the President by a Presidential advisory committee. (Section 6(a).) Any such report to Congress shall contain proposals for action or reasons for inaction with respect

[2] Exceptions to this rule are explained in paragraph 4a above and in paragraph 8c(1) of this Memorandum.
ered by the Act.

[3] But see paragraphs 11b and 11d of this Memorandum.

to such public recommendations. (Section 6 (b).)

Any such report to Congress shall be submitted within 1 year of the date the committee's report is submitted to the President.

6. *Other responsibilities of OMB.* In general, the functions of the Director under the Act and under Executive Order No. 11686 (1972) shall be carried out by the Committee Management Secretariat of the Office of Management and Budget. (Section 7(a).)

In addition to the matters listed in paragraph 5 of this Memorandum, specific functions of the Secretariat include the following:

a. The Secretariat shall provide guidance and assistance to advisory committees and to the agencies toward the ends of improving advisory committee performance and assuring compliance with the Act. (Section 7(c).) In performing this function, the Secretariat shall consider recommendations submitted by agency heads.

The administrative guidelines and management controls contained in this Memorandum may be supplemented by additions to this Memorandum or by separate directives or orders. (Section 7(c).)

Regarding interpretation of the Act, the Secretariat or an agency may consult the Office of Legal Counsel of the Department of Justice.

To insure consistency with the Memorandum the Secretariat shall review agency regulations, administrative guidelines and management controls implementing the Act and any amendments to such documents.

b. The Secretariat shall conduct an annual review of the activities and responsibilities of each advisory committee. (Section 7(b).) The types of information to be provided with regard to each advisory committee are set forth in paragraph 12a of this Memorandum.

c. The Secretariat shall have access to the records of any advisory committee and, as indicated in paragraph 12b of this Memorandum, may require periodic reports concerning advisory committee operation.

d. The Secretariat shall exercise the function of the Director concerning establishment by an agency of an advisory committee. (Section 9(a)(2).)

e. On the basis of its annual review of advisory committees, the Secretariat shall make recommendations to the President, the Director, and to either the agency head (in the case of an advisory committee created by the agency) or Congress (in the case of an advisory committee established by statute) regarding the effectiveness of (particular) advisory committees, revision of advisory committee functions and abolition or merger of advisory committees. (Section 7(b).)

7. *Responsibilities of Agencies.* a. The head of each agency shall insure compliance with the Act and this Memorandum and shall issue appropriate implementing regulations. Such regulations (and any amendments to them) shall be submitted to the Office of Management and Budget Secretariat and to the Office of Legal Counsel, Department of Justice prior to taking effect. Such regulations shall apply to all advisory committees established or used by the agency and shall be consistent with the agency's regulations implementing the Freedom of Information Act.

Each agency may establish (as part of its regulations or otherwise) additional administrative guidelines and management controls for advisory committees established by the agency. (Section 8(a).)

b. The head of each agency shall designate an Advisory Committee Management Officer who, with respect to advisory committees established by the agency, shall carry out the functions specified in section 8(b) of the Act and the corresponding portions of this Memorandum (paragraphs 8–11). Such Officer may also be assigned such functions with respect to advisory committees used by, but not established by, the agency.

The name of each Advisory Committee Management Officer shall be provided to the OMB Secretariat.

c. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee which it uses. (Section 8(a).) This shall include, in a single location, a complete set of the charters of the advisory committees used by the agency.

d. Each agency shall cooperate with the OMB Secretariat in implementing the Act and this Memorandum.

(1) When appropriate, an agency head shall submit to the OMB Secretariat recommendations for improving advisory committee performance. (Section 7(c).)

(2) Upon the request of OMB, an agency shall evaluate and report to the Congress on public recommendations of a Presidential advisory committee. (Section 6(b).) (See para. 5(c).)

(3) Each agency shall cooperate with OMB with regard to the annual review of advisory committees (see paragraph 12) and furnishing periodic reports or other information concerning advisory committees.

8. *Creation of Advisory Committees.* a. Subsection 9(a)(2) of the Act deals with the establishment of advisory committees by agencies where such establishment is not specifically authorized by statute or by the President.

In such a case, prior to establishment of the advisory committee, the agency head must consult with the OMB Secretariat. Such "consultation" may be in the form of a letter or memorandum from the agency head describing the nature and purpose of the proposed advisory committee and the reasons why it is needed, including an explanation of why the functions of the proposed committee could not be performed by an agency or by an existing committee. (Section 5(b).)

If the OMB Secretariat is satisfied that establishment of the advisory committee would be in accord with the Act, the agency head shall prepare a written certification to the effect that creation of the advisory committee is in the public interest and shall publish in the FEDERAL REGISTER the certification and a description of the nature and purpose of the committee.

Such notice must be published at least 30 days prior to the filing of the committee's charter (in accord with sec. 9(c) of the Act): provided that in particular cases the OMB Secretariat may, for good cause, authorize a shorter period of time between publication of the notice and the filing of the charter.

If not satisfied that establishment of the advisory committee would be in accord with the Act, the OMB Secretariat shall inform the agency head in writing within 30 days.

b. The guidelines set forth in section 5(b) of the Act (regarding legislation establishing or authorizing establishment of an advisory committee) are, to the extent they are applicable, to be followed by the President, agency heads, or other federal officials in creating advisory committees. (Section 5(c).) With respect to the creation or renewal of any such advisory committee, the following guidelines shall be observed:

(1) No advisory committee is to be created if its functions are being or could be performed by an agency or by an existing committee.

(2) The agency or official creating an advisory committee shall clearly define the purpose of the committee.

(3) The membership of an advisory committee shall be fairly balanced in terms of the points of view represented and the committee's functions.

The membership of a committee necessarily depends on its functions. For example, the membership of a committee whose sole function is to consider scientific questions may be limited to scientists. However, an effort should be made to include scientists representing different points of view and different types of employment (university, industry, etc.).

If a committee is concerned with matters involving questions of social policy, representatives of the public interest should be included and representation of a variety of economic and social groups and geographic areas is desirable.

No strict rule of proportional representation of the various types of groups is applicable. However, in regard to the selection of committee members, there is to be no discrimination on the basis of race, color, national origin, religion, or sex.

(4) There shall be appropriate safeguards to assure that an advisory committee's advice and recommendations will not be inappropriately influenced by any special interest.

(5) Each advisory committee shall prepare at least once each year a report describing its membership, functions, and actions.

c. (1) Unless specifically provided otherwise by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. (Section 9(b).) For purposes of this provision, "Presidential directive" refers to an executive order, executive memorandum, or an OMB directive based upon authority delegated by Executive Order No. 11686 (1972).

When a federally established advisory committee has both advisory and operating functions and the two types of functions are separable, the Act and this Memorandum shall apply only to the advisory functions.

As indicated in paragraph 4a(2) above, a committee "utilized" by a Federal official as an "advisory committee," but not established for that purpose, is subject to the Act only to the extent that the group performs the function of advising a Federal official.

(2) Each agency head shall take appropriate steps to assure that decisions regarding actions or policies relating to matters dealt with by an advisory committee shall be made solely by Federal officers (Section 9(b)).

d. (1) Each advisory committee shall file a charter complying with Section 9(c) of the Act. This requirement applies to committees "utilized" as advisory committees, though not established for that purpose.

The applicability of this requirement to subgroups depends upon the nature of the subgroup. With regard to formal subgroups, the requisite information should be set forth either in the charter of the parent committee or in a separate charter. Informal subgroups, particularly those temporary in nature, need not be reflected in a charter.

(2) The charter of a Presidential advisory committee shall be filed with the OMB Secretariat and with the committees of the Senate and the House of Representatives having jurisdiction over the subject matter of the advisory committee.

The charter of an advisory committee which reports to an agency shall be filed with the head of the agency and with the standing committees of the Senate and the House of Representatives having legislative jurisdiction over the agency.

(3) Until a charter has been filed in accord with (2) above, no advisory committee shall meet or take any action.

(4) Each charter shall contain the information described in section 9(c) of the Act.

(5) A copy of each charter shall be furnished to the Library of Congress at the time of filing. Copies should be sent to: Library of Congress, Exchange and Gift Division, Federal Advisory Committee Desk, Washington, D.C. 20540.

9. *Termination and renewal of Advisory Committees.* a. Nonstatutory committees—For purposes of this paragraph (9a), a "nonstatutory advisory committee" is one established by the President or a Federal officer, including a committee which was authorized but not established, by a Federal statute.

(1) Each nonstatutory advisory committee which is in existence on January 5, 1973, shall terminate by January 5, 1975, unless it is renewed by the President or the establishing officer prior to the latter date. (Section 14(a)(1).)

Before such a committee can be renewed by an agency, the agency head must determine that such renewal is necessary and must inform the OMB Secretariat of his determination and the reasons for it. Such determination shall be made not more than 60 days before the scheduled date of termination.

If the Secretariat concurs, the agency head shall publish notice of the renewal in the FEDERAL REGISTER and shall file a new charter in compliance with section 9(c) of the Act. (Section 14(b)(1).)

Any such advisory committee which is renewed shall continue for no more than a 2-year period unless, prior to the expiration of that period, it is renewed for another 2-year period, in accord with the above provisions. (Section 14(c).)

(2) Each advisory committee established by the President or a Federal officer after January 5, 1973, shall terminate not later than 2 years after its establishment unless prior to that time it is renewed by appropriate action (Section 14(a)(2)).

The procedures for renewal (including rechartering) of such advisory committees are the same as those described in (1) above.

(3) Unless provided otherwise by the establishing authority, the duration of a subgroup shall be the same as that of the parent committee.

b. Statutory advisory committees—For purposes of this paragraph, a "statutory advisory committee" is one established by an Act of Congress.

(1) Each statutory advisory committee which is in existence on January 5, 1973, shall terminate by January 5, 1975, unless its duration is otherwise provided for by law. (Section 14(1)(1).)

(2) Each statutory advisory committee which is established after January 5, 1973, shall terminate not later than 2 years after its establishment unless its duration is otherwise provided for by law. (Section 14(a)(2).)

(3) Any statutory advisory committee shall file a new charter (complying with section 9(c) of the Act) upon the expiration of each successive 2-year period following the date of enactment of the statute establishing the committee. (Section 14(b)(2).)

c. No advisory committee required by section 14(b) of the Act to file a new charter shall take any action, other than preparation and filing of such charter, between (i) the date the new charter is required, and (ii) the date it is filed. (Section 14(b)(3).)

10. *Operation of Advisory Committees.* a. Meetings. The provisions of this paragraph (10a) apply to all meetings of all advisory committees unless there is a specific statement to the contrary in this paragraph. The provisions of this paragraph apply to all meetings of all formal subgroups. Application of this paragraph to informal subgroups is to be determined by the parent committee, subject to review by the agency head or the OMB Secretariat to insure that there is no use of informal subgroups to evade the requirements of the Act.

(1) *Calling of meetings.* (a) No advisory committee shall hold any meetings except at the call of or with the advance approval of a designated Federal employee (see par. 10a(5) below). (Section 10(f).)

(b) Except with respect to Presidential advisory committees, each meeting of an advisory committee shall be conducted in accord with an agenda approved by the Federal employee. (Section 10(f).) The agenda shall list the matters to be considered at the meeting and shall indicate whether any part of the meeting is concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b). Ordinarily, copies of the agenda shall be distributed to the members of the committee prior to the date of the meeting.

The procedure to be followed in the event of unwarranted departure from a meeting's agenda is set forth in paragraph 10a(5) below.

(2) *Notice of meetings.* (a) Except when the Director determines otherwise for reasons of national security, timely notice of each advisory committee meeting shall be published in the FEDERAL REGISTER. (Section 10(a)(2).) The fact that a meeting is closed to the public pursuant to section 10(d) of the Act does not, in general, affect the foregoing requirement.

Responsibility for providing such notice shall be assigned by the head of the agency to which the advisory committee reports or, in the case of a Presidential advisory committee, by the chairman of the committee. In addition to the notice in the FEDERAL REGISTER, other forms of notice should be used to the extent practicable. Such other forms include press releases and notice by mail.

(b) Such notice should state the name of the advisory committee, the time of the meeting and the purpose of the meeting (including where appropriate, a summary of the agenda). The notice should state whether (or the extent to which) the public will be permitted to attend or participate in the meeting. If the meeting will be open to the public the place of the meeting should also be included in the notice.

(c) Such notice should be published or provided at least 7 days before the date of the meeting except that (i) a different provision may be made in emergency situations and (ii) shorter advance notice may be used when 7-days notice is impracticable.

(d) As indicated above, public notice is not required when the Director has determined that such notice would be inconsistent with national security. Any agency or advisory committee which seeks such a determination, with respect to a particular meeting or a series of meetings, shall submit its request and a statement of reasons to the Director. Ordinarily, such a request should be made at least 30 days prior to the meeting.

(3) *Public participation.* (a) Subject to the exceptions described in (c) below, each advisory committee meeting shall be open to the public. Subject to limits consistent with (b) below, interested persons shall be permitted to attend, appear before or file statements with any advisory committee. (Section 10(a)(1), (3); Section 10(d).)

(b) The agency head or, in the case of a Presidential advisory committee, the chairman of the committee shall, with respect to any advisory committee meeting, all or part of which is open to the public, assure compliance with the following rules:

(i) Such meeting shall be held at a reasonable time and at a place that is reasonably accessible to members of the public.

(ii) The size of the meeting room shall be reasonable, considering such factors as the size of the advisory committee, the number of members of the public who could be expected to seek to attend the particular meeting, the number of persons who attended or sought to attend similar meetings in the past and the resources and facilities available to the committee or agency.

(iii) Any member of the public who wishes to do so shall be permitted to file a written statement with the committee, before or after the meeting.

(iv) To the extent that the time available for the meeting permits, interested persons may be permitted by the committee or its chairman to present oral statements at the meeting. A committee may establish procedures requiring such persons to obtain advance approval for such participation.

(v) Participation by members of the public in committee meetings (except in accord with (iv)) or questioning of committee members or other participants shall not be permitted except in accordance with procedures established by the committee.

(c) Subsection 10(d) of the Act states that the provisions concerning open meetings and public participation (Section 10(a)(1), (3)) "shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines is concerned with matters listed in * * * (5 U.S.C. 552(b), subsection of the Freedom of Information Act)."

See also paragraph 10a(2)(d) above (regarding national security).

(i) Whenever the Director determines in accord with paragraph 10a(2)(d) above, that public notice of a meeting would be inconsistent with national security, such meetings shall be closed to the public.

(ii) The exemptions set forth in the Freedom of Information Act (5 U.S.C. 552(b)) are as follows:

* * * matters that are—

(1) Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than any agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

While the Freedom of Information Act deals with access to existing documents, the present Act encompasses oral discussions which will occur in the future and which may have no direct relation to a document.

Accordingly, in applying the provision of 5 U.S.C. 552(b) to advisory committee meetings, some modification of concepts developed solely with regard to preexisting documents is appropriate. Moreover, in order to accomplish the intent of Congress with respect to openness of advisory committees, available exemptions should be waived whenever practicable.

(iii) In applying the Freedom of Information Act exemptions to advisory committee meetings, the following rules shall be followed:

(A) If a meeting (or portion of a meeting) will have the express purpose of discussing an existing document which is within one of the exemptions set forth in 5 U.S.C. 552(b), the meeting (or portion) may be closed to the public: *Provided*, That a meeting (or portion) involving consideration of a document prepared by or for the advisory committee and exempt only under exemption (5) (concerning intra- and interagency memorandums and letters * * *) may be closed only if the agency head, or the Director (in the case of a Presidential advisory committee) determines that it is essential to close such meeting (or portion) to protect the free exchange of internal views and to avoid undue interference with agency or committee operation.

(B) If a meeting (or a portion of a meeting) will have the express purpose of discussing a matter which is within one of the exemptions set forth in 5 U.S.C. 552(b), other than exemption (5), the meeting (or portion) may be closed to the public, even though no specific exempt document is to be discussed.

(C) If a meeting will be such that neither (A) nor (B) above furnishes a basis for closing it, the meeting shall be open to the public (unless paragraph 10a(3)(c)(i) relating to national security applies): *Provided*, That such a meeting (or portion of a meeting) may be closed if the agency head, or the Director (in the case of a Presidential advisory committee) determines that the meeting (or portion) will consist of an exchange of opinions, that the discussion if written would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close such meeting (or portion) to protect the free exchange of internal views and to avoid undue interference with agency or committee operation.

(iv) An advisory committee which has planned a meeting and which seeks to have all or part of the meeting closed on the basis of 5 U.S.C. 552(b) shall notify the agency head or, in the case of a Presidential advisory committee, the Director. Such notification shall be in writing, shall set forth the reasons why the meeting (or portion) should be closed and shall be submitted at least 30 days before the scheduled date of the meeting.

If the agency head or the Director finds the request to be warranted and in accord with the policy of the Act, the request shall be granted. The determination of the agency head or the Director shall be in writing and shall contain a brief statement of the reasons for closing the meeting (or portion).

The agency head or the Director may delegate responsibility for making the above determinations. However, in any case where a determination to close a meeting (or portion) is made by a delegate of the agency head or the Director, the determination must be reviewed and approved by the agency general counsel.

Such a determination may be made with respect to a single meeting or, where appropriate, a series of meetings. (A determination to close a series of meetings does not affect the requirement that public notice be given regarding each meeting. See par. 10a(2) above.)

(v) If a meeting is to consider several separable matters, not all of which are within the exemptions of 5 U.S.C. 552(b), only the portion of the meeting dealing with exempt matters (as explained in (A) through (C) above) may be closed.

(vi) When all or part of a meeting is to be closed, such fact shall be indicated in the public notice of the meeting and in the agenda. When only part of a meeting is to be closed, the agenda shall be arranged whenever practicable, to facilitate attendance by the public at the open portion of the meeting.

(vii) When a meeting (or portion) is closed, members of the advisory committee shall not disclose the matters discussed except to other members of the advisory committee, the staff of the advisory committee, or agency employees.

(viii) Regarding a meeting (or portion) which was closed, the agency head or the Director (in the case of a presidential advisory committee) may review after the meeting the appropriateness of the determination to close the meeting (or portion). Such review might, for example, consist of an analysis of the minutes of the meeting or a comparison of the agenda and the minutes. The agency head, the Director, or the chairman may require that corrective action be taken with respect to the particular advisory committee or the general procedures concerning the closing of meetings.

(ix) When a meeting (or portion) is closed, the advisory committee shall issue a report at least annually setting forth a summary of its activities and related matters which are informative to the public consistent with the policy of 5 U.S.C. 552(b). (Section 10(d).)

(4) Minutes. Detailed minutes shall be kept of each meeting of each advisory committee, including, to the extent practicable, meetings of formal and informal subgroups. (Section 10(c).) The chairman of each advisory committee shall designate a member or other person to keep the minutes.

The minutes shall include at least the following items: The time and place of the meeting; a list of advisory committee members and staff and agency employees present at the meeting; a complete summary of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the advisory committee; an explanation of the extent to which the meeting was open to the public; an explanation of the extent of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of members of the public who attended the meeting.

The chairman of the advisory committee shall certify to the accuracy of the minutes.

(5) *Designated Federal employee.* (a) Subsection 10(e) of the Act requires that each advisory committee meeting be chaired or attended by a designated "officer or employee of the Federal Government." With regard to an advisory committee used by an agency, the agency head shall designate the Federal employee and determine whether he is to chair or attend the meetings. With regard to presidential advisory committees such employee may be designated and his role determined by the Director.

Advisory committees whose membership is fixed by statute are subject to section 10(e), unless the statute establishing the advisory committee contains a specific provision to the contrary. (Section 4(a).)

Ordinarily, the Federal employee so designated should serve the advisory committee on a continuing basis.

(b) No advisory committee shall conduct a meeting in the absence of the designated Federal employee. (Section 10(d).) If simultaneous subgroup meetings are to be held, each subgroup should have a designated Federal employee. These provisions apply to formal subgroups.

(c) The designated Federal employee shall be authorized to adjourn any advisory committee meeting, whenever he determines adjournment to be in the public interest. (Section 10(e).) For example, adjournment might be in order in the event of unwarranted departure from a meeting's agenda.

(d) Paragraph 10a(1) above describes other functions of the designated Federal employees.

b. *Access to records.* (1) Subsection 10(b) of the Act provides that subject to 5 U.S.C. 552 records, reports, and other documents of each advisory committee shall be available for public inspection and copying. A basic purpose of the Act is to permit wide access by the public to the records and papers of advisory committees.

(2) The documents referred to in section 10(b) are as follows:

* * * the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee * * *

The meaning of the quoted language shall be broadly construed.

(3) (a) Access to advisory committee documents is subject to the exemptions contained in 5 U.S.C. 552(b). When the only basis for denying access to a document is exemption (5), access may not be denied unless the agency head or, the Secretariat (in the case of a presidential advisory committee) determines that such denial is essential to protect the free exchange of internal views and to avoid undue interference with agency (or advisory committee) operation.

Agencies and advisory committees shall waive available exemptions whenever, in their discretion, such waiver is appropriate.

(b) Access to advisory committee records may be refused when such records relate directly to a meeting which was closed for reasons of national security. (See paragraph 10a(3)(c)(i) above.)

(c) With respect to any meeting, part of which was closed to the public, access shall be permitted to records relating to the open portion of the meeting. For example, the portion of the minutes which relates to the open segment of the meeting shall be made available upon a proper request.

(d) Regarding a group which is "utilized" as an advisory committee but was not established for that purpose, the requirements of public access apply only to records relating directly to "advisory committee" functions.

(4) The advisory committee records described in section 10(b) are to be available for public inspection and copying "at a single location in the offices of the advisory committee or the agency to which the advisory committee reports * * *"

(5) Under section 10(b) of the Act, advisory committee records are to be available "until the advisory committee ceases to exist." Disposition of advisory committee records after the termination of the committee shall be determined by the agency head, by the Secretariat, or the General Services Administration (in the case of a Presidential advisory committee).

(6) The Act does not require that transcripts be kept of advisory committee meetings. However, section 11(a) of the Act provides as follows:

Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies

of transcripts of agency proceedings or advisory committee meetings.

The requirement of availability of transcripts is subject to the exceptions discussed above in paragraph 10b(3).

For the meaning of "agency proceeding" as used in section 11(a) of the Act, see 5 U.S.C. 551(12).

11. *Administration of Advisory Committees.* a. Support services:

(1) With regard to any advisory committee established by or reporting to an agency, the agency shall provide services unless the establishing authority provides otherwise. (Section 12(b).)

Where an advisory committee reports to more than one agency, only one agency shall be responsible for support services. The agencies to which the advisory committee reports may determine which such agency will provide such services.

(2) With regard to a Presidential advisory committee, support services shall be provided by GSA, or, if the Director so determines, another agency.

(3) The term "support services" refers to such matters as staff, quarters, supplies, and funds (including, where appropriate, funds for the publication of reports).

b. Uniform pay guidelines. Guidelines implementing section 7(d) of the Act will be published separately.

c. *Agency records.* (1) The head of each agency shall insure that the agency maintains records, as required by section 12(a) of the Act, which disclose the disposition of funds made available to the agency's advisory committees and the nature and extent of the activities of the agency's advisory committees.

Regarding a Presidential advisory committee, GSA, or another agency designated by the Director shall maintain financial records.

Ths Comptroller General or his representatives shall have access to the above records, for the purpose of audit and examination.

(2) In accord with procedures established by the Director, each agency shall provide budget information regarding its advisory committees. (Section 7(e).)

d. Submission of reports to Library of Congress. Subject to the exemptions contained in the Freedom of Information Act and the "national security" exception (explained in par. 10b(3) above), each advisory committee shall file eight copies of each of its reports with the Library of Congress. (Section 13.) Such filing shall occur at the time of issuance of the report.

When an agency head or the Secretariat determines that it would be appropriate, background papers prepared by consultants for an advisory committee and other advisory committee documents may be filed with the Library of Congress. All documents filed with the Library should be sent to: Library of Congress, Exchange and Gift Division, Federal Advisory Committee Desk, Washington, D.C. 20540.

12. *OMB annual review; periodic reports.* a. The annual review of all advisory committees shall be conducted by the OMB Secretariat and shall be based upon the activities of advisory committees during a calendar year. (Section 7(b).)

By February 1 of each year, the head of each agency and the chairman of each Presidential advisory committee shall, for each respective advisory committee, provide the Secretariat the information described in section 6(c) of the Act (including recommendations for exclusion, for national security reasons, of information from the President's report to Congress). Each such agency head shall also provide his views regarding whether its responsibilities should be revised and whether it should be merged with another advisory committee or should be abolished (including the reasons for any recommendation to abolish a statutory advisory committee).

Such information shall be provided on a form prescribed by the Secretariat. Four copies of the form shall be submitted.

b. The Secretariat may require each agency and each Presidential advisory committee to submit periodic reports regarding advisory committee operations, including such matters as public access to committee meetings and records and the handling of administrative complaints.

13. *Administrative remedies.* a. Each agency and the Director (with regard to Presidential advisory committees), shall establish appropriate procedures and administrative remedies concerning alleged noncompliance with the Act, this circular, or regulations implementing the Act.

b. Such procedures shall provide that any person whose request for access to an advisory committee document is denied may seek administrative review in accord with the pertinent Freedom of Information Act regulation. (If the pertinent regulation contains no such provision, the agency head or Director shall establish an appropriate procedure for review of access to advisory committee documents.)

c. Regarding alleged noncompliance not involving access to a document, such procedures shall provide for the filing of written complaints by an advisory committee member or by an aggrieved individual or organization.

Such complaints are to be filed with an appropriate agency official or (in the case of Presidential advisory committees) with the Secretariat. Such procedures shall provide a time limit for the filing of complaints by an impartial official. Such complaints shall be acted upon promptly and written notice of the disposition of the complaint shall be provided to the complainant.

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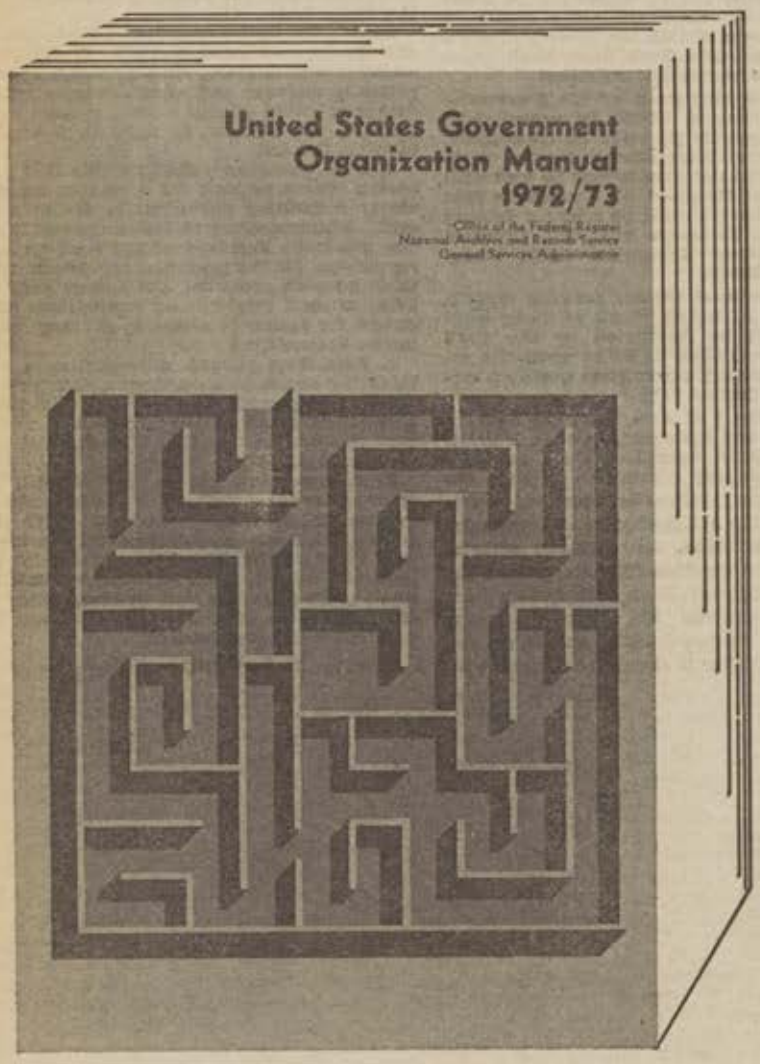

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