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Title 3—The President

PROCLAMATION 4213

Proclamation Amending Part 3 of the Appendix to the Tariff Schedules of the United States With Respect to the Importation of Agricultural Commodities

By the President of the United States of America

A Proclamation

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), limitations have been imposed by Presidential proclamations on the quantities of certain dairy products which may be imported into the United States in any quota year; and

WHEREAS, the import restrictions proclaimed pursuant to said section 22 are set forth in part 3 of the Appendix to the Tariff Schedules of the United States; and

WHEREAS, at my request, the United States Tariff Commission has made an investigation under the authority of subsection (d) of section 22 of the Agricultural Adjustment Act, to determine whether additional quantities of the articles provided for in items 950.07 through 950.10E of the Tariff Schedules of the United States (hereinafter referred to as "cheese") may be entered for a temporary period without rendering or tending to render ineffective, or materially interfering with, the price support program now conducted by the Department of Agriculture for milk or reducing substantially the amount of products processed in the United States from domestic milk; and

WHEREAS, the said Commission has submitted to me a report of its investigation; and

WHEREAS, on the basis of such investigation and report, I find and declare that changed circumstances require the modification for a temporary period, as hereinafter proclaimed, of the quotas on cheese provided for in items 950.07 through 950.10E of the Tariff Schedules of the United States, in order to carry out the purposes of the said section 22; and

WHEREAS, I find and declare that the allocation of shares of the import quotas proclaimed herein among the countries of origin shall be based upon the proportion of such articles supplied by such countries during the applicable representative periods, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned; and

WHEREAS, I find and declare that the entry during the period ending July 31, 1973, of the additional quantities of cheese specified below will not render or tend to render ineffective, or materially interfere with, the price support program which is being undertaken by the Department of Agriculture for milk and will not reduce substantially the amount of products processed in the United States from domestic milk;

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962, do hereby proclaim that headnote 3(a) of part 3 of the Appendix to the Tariff Schedules of the United States is temporarily amended by adding a new subdivision as follows:

(vii) Notwithstanding any other provision of this part, quantities of the articles described in items 950.07 through 950.10E, equivalent to 50 percentum of the total of the annual quota quantities for such articles may be entered during the period beginning April 25, 1973, and ending July 31, 1973, in addition to the total of the annual quota quantities specified for such articles. Such additional quantities may be entered only by or for the account of a person or firm to which a license has been issued under authority of the Secretary of Agriculture and in accordance with the terms of such license. Licenses shall be issued to the same persons or firms as licenses for the entry during calendar year 1973 of the quota quantities specified in items 950.07 through 950.10E. Licenses shall be issued on such basis that (*a*) each of the annual quota quantities provided for the articles described in items 950.07, 950.08B, 950.09A, 950.09B, 950.10, 950.10A, and for each of the supplying countries, wherever applicable, are increased by 50 percentum for calendar year 1973, and (*b*) each of the annual quota quantities provided for the articles described in the items set forth in the following table and for each of the supplying countries, wherever applicable, are increased for calendar year 1973 by the amounts set forth in such table:

Item No.	*Supplying Country*	*Quantity in pounds*
950.08A	Australia	910,000
	Canada	306,000
	Ireland	659,000
	New Zealand	6,529,000
	Sweden	65,000
	Other Countries as follows: Austria, Belgium, Bulgaria, Denmark, Israel, Italy, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany (aggregate)	154,000
950.10B	Austria	6,281,000
	Denmark	2,584,000
	Finland	None
	Norway	836,000
	Switzerland	134,000
	West Germany	146,000
	Netherlands	105,000
	Israel	30,000
	Other Countries	94,000
950.10C	Austria	864,000
	Denmark	2,102,000
	Finland	None
	Switzerland	1,374,000
	West Germany	None
	Ireland	105,000
	Norway	41,000
	Portugal	138,000
	Other Countries	88,000

Item No.	*Supplying County*	*Quantity in pounds*
950.10D	Belgium	235,000
	Denmark	8,806,000
	Finland	None
	France	1,509,000
	Iceland	321,000
	Ireland	81,000
	Netherlands	211,000
	Norway	178,000
	Poland	1,032,000
	Sweden	897,000
	Switzerland	108,000
	United Kingdom	248,000
	West Germany	2,033,000
	New Zealand	None
	Canada	1,397,000
	Portugal	114,000
	Austria	100,000
	Italy	9,000
	Israel	73,000
	Other Countries	144,000
950.10E	Denmark	3,340,000
	Iceland	32,000
	Ireland	None
	Poland	193,000
	United Kingdom	395,000
	West Germany	50,000
	Australia	None
	Other Countries	None

In addition to the foregoing and to the annual quota quantity specified for such article, up to 612,500 pounds of the article described in item 950.08A, consisting of natural cheddar cheese, the product of Canada, made from unpasteurized milk and aged not less than 9 months, which prior to the exportation has been certified to meet such requirements by an official of the Canadian Government, may be entered without license during the period beginning April 25, 1973, and ending July 31, 1973.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of April in the year of our Lord nineteen hundred and seventy-three, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.73-8335 Filed 4-25-73;12:06 pm]

Presidential Documents

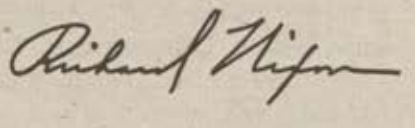
Title 3—The President

EXECUTIVE ORDER 11714

Amending Executive Order No. 11652 on Classification and Declassification of National Security Information and Material

By virtue of the authority vested in me by the Constitution and statutes of the United States, the second sentence of section 7(A) of Executive Order No. 11652 of March 8, 1972, is amended to read as follows:

"To assist the National Security Council, an Interagency Classification Review Committee shall be established, composed of a Chairman designated by the President, the Archivist of the United States, and representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council Staff."



THE WHITE HOUSE,
April 24, 1973.

[FR Doc.73-8242 Filed 4-24-73;2:37 pm]

EXECUTIVE ORDER 11715

Amending Executive Order No. 11708, Placing Certain Positions In Levels IV and V of the Executive Schedule

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, as amended, Executive Order No. 11708, dated March 23, 1973, is amended as follows:

1. Section 1 of that order, placing certain positions in level IV of the Executive Schedule, is amended—

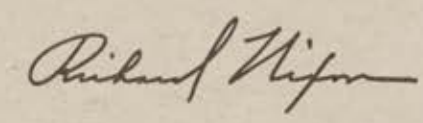
(a) by deleting "(8) Associate Director, Office of Management and Budget, Executive Office of the President." and inserting in lieu thereof "(8) Associate Directors, Office of Management and Budget, Executive Office of the President (4).",

(b) by deleting "(9) Assistant Director, Office of Management and Budget, Executive Office of the President." and inserting in lieu thereof "(9) Deputy Under Secretary for Legislative Affairs, Department of Labor.",

(c) by deleting "(10) Assistant to the Secretary of Defense, Legislative Affairs, Department of Defense." and inserting in lieu thereof "(10) Director of Program Analysis and Evaluation, Department of Defense.", and

(d) by adding at the end thereof "(15) Deputy Under Secretary for Legislative Affairs, Department of Commerce.".

2. Section 2 of that order, placing certain positions in level V of the Executive Schedule, is amended by deleting "(8) Deputy Assistant Secretary for Model Cities, Department of Housing and Urban Development."



THE WHITE HOUSE,
April 24, 1973.

[FR Doc.73-8243 Filed 4-24-73;2:37 pm]

Rules and Regulations

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

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 771—EMPLOYEE GRIEVANCES AND ADMINISTRATIVE APPEALS

PART 772—APPEALS TO THE COMMISSION

Conduct of Hearings

Parts 771 and 772 are amended to provide that upon the request of the appellant the examiner shall hold a public hearing. When the agency objects to holding a public hearing the examiner may deny the appellant's request when the examiner determines this to be in the best public interest.

Effective April 23, 1973 § 771.210(a) is amended, (i) is added; and in § 772.305 paragraphs (c)(3), (4), and (5) are amended and (6) is added as set forth below.

§ 771.210 Conduct of hearing.

(a) Except as provided in paragraphs (h) and (i) of this section, attendance at a hearing is limited to persons determined by the examiner to have a direct connection with the appeal.

* * * * *

(i) When requested by the appellant and the agency does not object, the appeals examiner shall hold a public hearing. When the agency objects, the examiner may deny the appellant's request only when he determines this action to be in the best public interest. The examiner, in his discretion, may close one or more sessions of a public hearing, when he determines that this action is in the best interest of the appellant, a witness, or the Government. The reasons for the examiner's decisions to deny a request for a public hearing or to close one or more sessions of a public hearing shall be made a part of the record.

(5 U.S.C. secs. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; E.O. 10987, 3 CFR 1959–63 Comp., p. 519.)

§ 772.305 Hearings.

* * * * *

(c) *Hearing procedures.*—* * *

(3) A representative of the Commission (hereinafter called the examiner) shall conduct the hearing and shall afford the parties opportunity to introduce evidence (including testimony and statements by the appellant, his representative, representatives of the agency, and witnesses), and to cross-examine witnesses. Testimony is under oath or affirmation. Rules of evidence are not applied strictly, but the examiner shall exclude irrelevant or unduly repetitious testimony. The examiner may exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing.

(4) Except as provided in subparagraph (5) of this section, attendance at the hearing will be limited to persons determined by the examiner to have a direct connection with the appeal.

(5) When requested by the appellant and the agency does not object, the examiner shall hold a public hearing. When the agency objects, the examiner may deny the appellant's request only when he determines this action to be in the best public interest. The examiner, in his discretion, may close one or more sessions of a public hearing, when he determines that this action is in the best interest of the appellant, a witness, or the Government. The reasons for the examiner's decision to deny a request for a public hearing or to close one or more sessions of a public hearing shall be made a part of the record.

(6) The office of the Commission having initial jurisdiction of the appeal shall determine how the hearing will be reported. When the hearing is reported verbatim, that office shall make the transcript a part of the record of the proceedings and shall furnish a copy of the transcript to each party. When the hearing is not reported verbatim, the examiner who conducts the hearing shall make a suitable summary of pertinent portions of the testimony. When agreed to in writing by the parties, the summary constitutes the report of the hearing and is made a part of the record of the proceedings. Each party is entitled to be furnished a copy of the report of the hearing. If the examiner and the parties fail to agree on the summary, the parties are entitled to submit written exceptions to any part of the summary which are made a part of the record of the proceedings for consideration in deciding the appeal.

(5 U.S.C. secs. 1302, 3301, 3302, 5115, 5338, 7512, 7701, 8347; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; E.O. 11491, 3 CFR 1966–70 Comp., p. 861.)

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

[FR Doc.73-8131 Filed 4-25-73;8:45 am]

Title 7—Agriculture

CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

SUBCHAPTER I—DETERMINATION OF PRICES

PART 877—SUGARCANE; PUERTO RICO

Fair and Reasonable Prices for 1972–73 Crop

The Sugar Act of 1948, as amended, requires producers who also process sugarcane grown by other producers to pay prices determined by the Secretary of Agriculture to be fair and reasonable as one of the conditions for receiving Sugar Act payments on their own production.

Such determination may not be made until after investigation and opportunity for interested persons to testify on the fair and reasonable prices to be paid under either purchase or toll agreements. A public hearing was held in San Juan, P.R., on November 16, 1972.

The determination, which is applicable to the 1972–73 crop of Puerto Rican sugarcane, continues the provisions of the 1971–72 crop determination except that the provision relating to the use of a core sampler for determining trash is deleted. The core sampler has not proven satisfactory for making trash determinations. The determination also deletes several reporting requirements for processors which are no longer necessary.

The changes in the determination do not alter the rate at which producers and processors share in the returns from sugar and molasses.

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as act), after investigation, and due consideration of evidence presented at the public hearing held in San Juan, Puerto Rico, on November 16, 1972, the following determination is hereby issued.

The regulations previously appearing in these sections under Determination of Prices; Sugarcane; Puerto Rico remain in full force and effect as to the crops to which they were applicable.

Sec.

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AUTHORITY: Secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 877.21 General requirements.

A producer of sugarcane in Puerto Rico who is also a processor of sugarcane, to which this part applies as provided in § 877.28 (herein referred to as processor), shall have paid, or contracted to pay, for sugarcane of the 1972-73 crop grown by other producers and processed by him, prices not less than those determined in accordance with the following requirements.

§ 877.22 Definitions.

For the purpose of this part, the term:

(a) "Price of raw sugar" means the simple average of the daily spot price quotations for sugar deliverable under the New York Coffee and Sugar Exchange No. 10 domestic contract (bulk sugar) for the period January 1, 1973, through December 31, 1973, except that if the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, determines that any such price quotation does not reflect the true market value of raw sugar because of inadequate volume or other factors, he may designate the price to be effective under this determination which he determines will reflect the true market value of raw sugar.

(b) "Sugar yield period" means any period not exceeding one calendar month as may be elected by the processor to determine the yield of raw sugar. The period adopted by the processor shall be used uniformly throughout the grinding season. In instances where odd days occur because a processor begins or ends grinding on a day which does not correspond with the beginning or ending of the sugar yield period, or grinding is interrupted because of holidays or for other reasons, such odd days shall be included either in the prior or subsequent sugar yield period, or treated as a separate sugar yield period.

(c) "Raw sugar" means raw sugar, 96° basis.

(d) "Yield of raw sugar" means the yield of raw sugar per 100 pounds of net sugarcane determined for the sugar yield period in accordance with the formulae set forth in schedule A attached hereto and made a part hereof.

(e) "Inferior varieties of sugarcane" means sugarcane of saccharum spontaneum or saccharum sinense variety (including sugarcane of the Japanese, Uba, Kavangerie, Zuinga, Caledonia, Coimbatore 213, and Coimbatore 281 varieties).

(f) "Net sugarcane" means (1) the gross weight of the sugarcane delivered to the mill determined to contain a quantity of trash not in excess of 5 percent of the gross weight, or (2) the gross weight of the sugarcane delivered to the mill less the quantity of trash determined to be in excess of 5 percent of such gross weight.

(g) "Trash" means green or dried leaves, sugarcane tops above the last formed joint, soil, stones, and all other extraneous material.

(h) "Area office" means Caribbean Area Agricultural Stabilization and Conservation Service Office, P.O. Box 11188, Santurce, Puerto Rico 00910.

§ 877.23 Payment for sugarcane.

(a) The payment for net sugarcane delivered by the producer to the processor shall be made either by the delivery to the producer of his share of raw sugar or by the payment to the producer of the money value of his share of raw sugar, whichever method is agreed upon by the producer and the processor.

(b) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of 9 pounds or more, the producer's share of raw sugar shall be not less than the quantity of raw sugar determined by applying the following applicable percentage to the yield of raw sugar of the producer's net sugarcane:

Pounds of raw sugar per 100 pounds of net sugarcane:	*Percentage*
9.0	63.0
9.5	63.5
10.0	64.0
10.5	64.5
11.0	65.0
11.5	65.5
12.0	66.0
12.5	66.5
13.0	67.0
13.5 and over	67.5

Intermediate points within the above scale are to be interpolated to the nearest one-tenth point.

(c) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of less than 9 pounds, the producer's share of raw sugar shall be not less than the quantity determined by subtracting 3⅓ pounds of raw sugar from the yield of raw sugar of the producer's net sugarcane.

(d) If settlement with the producer is made in sugar, delivery shall be made, loaded in the producer's vehicle, at the mill where the sugar is produced, unless the producer and processor agree in writing to delivery at another mill: *Provided*, That the processor shall bear any increase in marketing costs resulting from such agreement.

(e) If settlement with the producer is made in cash, the processor shall pay to the producer the money value of his share of raw sugar determined on the basis of the price of raw sugar converted to an f.o.b. mill price by subtracting therefrom the admissible deductions for selling and delivery expenses on raw sugar in accordance with schedule B, attached hereto and made a part hereof.

§ 877.24 Payment for molasses.

For each ton of net sugarcane delivered the processor shall either deliver to the producer 66 percent of the average production of blackstrap molasses per ton of net sugarcane of the 1972-73 crop processed at each mill or shall pay to the producer the money value of such quantity of molasses, whichever method is agreed upon between the producer and the processor. If settlement with the producer is made in cash, such settlement shall be based upon the average gross proceeds from the sales of molasses less the admissible deductions for selling and delivery expenses in accordance with schedule C, attached hereto and made a part hereof. A processor operating more than one mill shall compute the average gross proceeds per gallon from the sales of molasses produced at all mills operated by such processor and shall compute the net proceeds per gallon separately for each mill operated by such processor. If a processor has not sold 1972-73 crop molasses by the time he is required to submit to the area office a statement as required by § 877.27(b), he shall have made a provisional molasses payment to producers based upon not less than 85 percent of the average of the net proceeds per gallon realized by all other processors in Puerto Rico who made cash settlements for 1972-73 crop molasses, as determined by the Director of the area office. Final settlement with producers shall be made promptly after the 1972-73 crop molasses has been sold, based upon the average net proceeds therefrom and the processor shall promptly submit to the area office a statement as required by § 877.27(b). In the event a processor has transferred all or part of its 1972-73 production of molasses to an affiliate, molasses payments to growers shall be based on the price of the molasses transferred to the affiliate, but such price shall not be less than the average net proceeds per gallon as determined by the Director of the area office for all processors who sold 1972-73 crop molasses. Where payment is based on the average net proceeds of all processors who sold molasses, the processor is required to make a provisional molasses payment not later than June 1, 1974, based upon not less than 85 percent of the estimated average of net proceeds per gallon realized by all other processors in Puerto Rico, as determined by the Director of the area office from reports submitted under provisions of § 877.27(b). Processor is further required to make a final molasses payment in the amount necessary to base the total molasses payment upon a price not less than the average net proceeds per gallon for all processors who sold the 1972-73 crop of molasses after the area office has determined such net proceeds and notified the processor.

§ 877.25 Determination of net sugarcane.

(a) The net sugarcane of each producer (including the processor) which is delivered to the mill each day shall be determined as follows: The processor jointly with a representative designated by the producers or the producer organization in any mill area, shall examine the sugarcane deliveries and estimate whether the deliveries contain a quantity of trash (1) not in excess of 5 percent of the gross weight, or (2) in excess of 5 percent of the gross weight. In the absence of a producer representative the processor shall have full responsibility for examining such sugarcane deliveries and for making such estimates. As to the deliveries of sugarcane of any producer

which are estimated to contain trash not in excess of 5 percent, the gross weight of the sugarcane delivered shall also be the net weight. As to the deliveries of sugarcane of any producer estimated by both the processor and the representative of producers or by either of such parties to contain trash in excess of 5 percent, the net weight shall be determined by taking a representative sample of not less than 100 pounds of sugarcane from one or more of the deliveries deemed to be representative and separate therefrom all trash. The weight of trash which is removed from the sample of sugarcane shall be expressed as a percentage of the gross weight of the sample. The net weight of such sugarcane, a percentage which the sample was taken shall be determined by deducting from the gross weight of such sugarcane, a perecntage thereof which represents the excess, if any, of the trash over 5 percent, and the same adjustments as determined above shall be applied to the gross weight of all other deliveries delivered by that producer during the same day or in the case of sugarcane handled in bulk during the same sugar yield period, which are estimated to contain trash content reasonably similar to the delivery from which the sample was taken.

(b) With respect to the sample taken as provided in paragraph (a) of this section, the processor shall make a separate determination of the weight of soil and stones contained in such sample and may charge the producer 5 cents per ton of net sugarcane delivered which is represented by the sample for each 1 percent, fractions in proportion, by which the weight of soil and stones is in excess of 1 percent of the gross weight of the sample.

(c) The processor may charge the producer 66 percent of the actual cost, but not to exceed $2.64, for each sample taken for trash including soil and stones to cover the cost of sampling and measuring the actual quantity of trash.

(d) Notwithstanding the foregoing paragraphs of this section, in cases where the direct cane analysis method is used, gross weight will also be net weight.

§ 877.26 Services and allowances to producers.

(a) When payment is made to the producer by the delivery of raw sugar, the processor shall store and insure all such sugar through December 31, 1973, and shall bear the cost thereof.

(b) The costs of services which were borne by the processor for the 1971–72 crop shall be borne for the 1972–73 crop.

(c) Allowances made to producers by the processor for the 1971–72 crop shall be made for the 1972–73 crop at the rates which were effective under comparable conditions in 1971–72; except that the processor is given the option of paying hauling allowances to producers on either: (1) The gross weight of sugarcane, or (2) in cases where a bulk trash determination, as provided in section 877.25(a) is made, the net weight of sugarcane as determined by deducting from the gross weight the amount of trash that is in excess of 5 percent: *Provided*, That if the processor elects to pay allowances on the net weight, the allowance shall be computed at not less than the rates established in rule 12 of the Sugar Board plus 10 percent of such rates. The method of paying hauling allowances elected by the processor shall be used uniformly throughout the grinding season.

(d) Nothing in paragraph (b) or (c) of this section shall be construed as prohibiting negotiations between the processor and producer with respect to the amount of services or allowances to be made to the producer, any change to be approved in writing by the area office upon a determination by the Director of the area office that the change is fair and reasonable.

§ 877.27 Reporting requirements.

(a) The processor shall submit to the area office a statement as to whether settlement with producers is to be made in sugar or in cash, together with a statement as to the sugar yield period which will be used during the grinding season. Such information shall be submitted not later than May 10, 1973, except that if the Director of area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

(b) If the processor makes settlement in cash, he shall submit in duplicate to the area office statements verified by a certified public accountant of the gross proceeds from the sales of molasses and the deductions made in determining the f.o.b. mill price of sugar and the net proceeds from molasses. Such statements shall be submitted not later than June 1, 1974, except that if the Director of the area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

(c) The processor shall submit to the area office a statement as to the option he elects in making hauling allowances to producers during the grinding season. Such information shall be submitted not later than May 10, 1973.

§ 877.28 Applicability.

The requirements of this part are applicable to all sugarcane purchased from other producers and processed by a processor who produces sugarcane (a processor-producer is defined in § 893.1 of this chapter); and to sugarcane purchased by a cooperative processor from nonmembers. The requirements are not applicable to sugarcane processed by a cooperative processor for its members.

§ 877.29 Procedures for checking compliance.

The procedures to be followed by the Caribbean Area ASCS Office in checking compliance with the requirements of this part are set forth under the heading Part 8—"Fair Price Determination" in handbook 5–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbook 5–SU may be inspected at and copies obtained from the Caribbean Area ASCS Office, P.O. Box 11188, Santurce, P.R. 00910.

§ 877.30 Subterfuge.

The processor shall not reduce the returns to the producer below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1972–73 crop grown by other producers.

Requirements of the act.—Section 301 (c)(2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1972–73 price determination.—This determination differs from the 1971–72 crop determination, in that the processor is no longer required to submit written descriptions of the sampling procedures to be used in determining the yield of raw sugar for each producer except where the DCF (dilution compensation factor) method is used; and the provision relating to the use of a core sampler for determining trash is deleted. Other provisions continue unchanged with the exception of minor changes for clarification purposes.

A public hearing was held in San Juan, Puerto Rico, on November 16, 1972, at which interested persons were afforded the opportunity to present testimony and make recommendations with respect to fair and reasonable prices for the 1972–73 crop of sugarcane. A representative of the program for the rehabilitation of the sugar industry in Puerto Rico testified that sugar production in Puerto Rico has beed reduced from a million tons to 295,000 tons in the last 10 years; and that the decline was due to a shortage of labor along with the low productivity of high production costs, drought, and low yields of sugar. He further stated that once uniform standards are established for the island's sugar industry, quality incentives should be established for cane of above-standard quality and inferior cane should be penalized.

A representative of the sugar board of Puerto Rico recommended against the use of core samplers for determining trash. He stated that a proper method of determining trash through the use of core samplers has not been developed. The witness also recommended that the method for determining trash by means other than a core sampler be retained be-

cause the method is still used by three mills. The witness stated that the percentage of sugar that a mill ships to the mainland should remain at 20 percent to compensate for the lower production and delivery to the mainland; and that the selling and delivery expenses incurred on shipments from one or several mills to the mainland would be representative for use in determining an f.o.b. mill price.

A representative of the land administration of Puerto Rico recommended that the farms being operated by the Government of Puerto Rico for rehabilitation purposes continue to be considered as separate farming units for conditional payment purposes. He testified that the treatment of all farms leased to the land administration and land authority as one farm would reduce conditional payments by more than half a million dollars which could be used in rehabilitating the sugar industry in Puerto Rico.

A representative of the Puerto Rico Farm Bureau recommended that consideration be given to using the marketing costs incurred on local deliveries of raw sugar when determining the f.o.b. mill price. He stated that local costs should be determined and adequate provisions made for their use in the price determination, since raw sugar is no longer being shipped to mainland refiners in any appreciable quantities.

Consideration has been given to the recommendations made at the public hearing; to data on the returns, costs, and profits or losses of producing and processing sugarcane obtained by field survey for recent crops and recast in terms of price and production conditions likely to prevail for the 1972–73 crop; and to other relevant factors. Total sugar production continues to decrease each year in Puerto Rico. The 294,800 tons of sugar produced from the 1971–72 crop was the smallest production since the early 1900's. Present indications are that the 1972–73 crop will be little if any larger than the 1971–72 crop. The average yield of raw sugar per ton of cane has declined from 204 pounds in 1960–61 to 135 pounds in 1971–72.

This determination eliminates the provision for use of a core sampler in determining trash in sugarcane. The core sampler, which is expected to be used in all but one mill for the 1972–73 crop, has not proved satisfactory as a tool for determining trash. Rather, its purpose is to obtain samples for the direct cane analysis method of determining sugar in cane. Actual trash deductions were made at only 4 of the 15 mills which ground cane from the 1971–72 crop. Inasmuch as a trash determination by use of the method wherein a sample of 100 pounds is taken to determine trash in excess of 5 percent would result in an inequitably high deduction for trash if followed by the direct cane analysis method (wherein fiber in cane is determined), these two practices should not be used concurrently. When direct cane analysis is used, gross cane is considered as net cane. The older method of bulk trash determinations will remain in effect until such time as all mills have adopted the core sampler and direct cane analysis method. However, the Department continues to stress the importance of minimizing trash in cane, since trash increases processing costs and reduces sugar extraction, a situation which Puerto Rico's waning sugar industry can ill afford.

The requirement that processors submit written descriptions of sampling procedures for raw sugar yield determinations, except where the DCF method is used, has been discontinued. The Department believes that written descriptions are no longer necessary since most procedures have become standardized and manufacturing forms have been made uniform for the Island's industry.

The recommendation that farms being operated by the Government of Puerto Rico for rehabilitation purposes continue to be considered as separate farming units for conditional payment purposes has not been adopted as part of this determination. This matter relates to the determination of a farm in Puerto Rico (7 CFR 827.2) and is being considered by the Department as a separate matter.

On the basis of an examination of all pertinent factors, the provisions of this determination are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

NOTE.—The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective on April 26, 1973, and is applicable to the 1972–73 crop of Puerto Rican sugarcane.

Signed at Washington, D.C., on April 20, 1973.

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

SCHEDULE A

FORMULAE FOR DETERMINING THE "YIELD OF RAW SUGAR" FOR EACH PRODUCER

(A) Where a continuous sample of the first expressed or crusher juice of the deliveries of sugarcane by a producer is used, the formula for determining the yield of raw sugar shall be:

$$R=TI\,(S-0.3B)\,F$$

Where:

R=Yield of raw sugar, 96° basis;

S=Polarization of the first expressed or crusher juice obtained from the sugarcane of each producer;

B=Brix of the first expressed or crusher juice obtained from the sugarcane of each producer;

T=Trash correction factor which varies inversely with the amount of trash contained in the sugarcane of each producer from 1.0 for sugarcane which contains an amount of trash not in excess of 5 percent of the gross weight of sugarcane to 0.76075 for sugarcane which contains an amount of trash in excess of 30 percent: *Provided*, That where sugarcane has been subjected to a washing process prior to milling, the amount of trash that is soil shall be excluded in determining the correction factor.

I=Inferior sugarcane correction factor which is applied to inferior varieties of sugarcane of each producer and is determined as follows:

(a) When the purity, P (where P=100 S÷B), of the first expressed or crusher juice of sugarcane is equal to 75 or more, the factor, I=0.9; or

(b) When the purity, P (where P=100 S÷B), of the first expressed or crusher juice of such sugarcane is less than 75, the factor, I=0.9-0.02 (75−p);

F=Yield factor which is determined as follows:

(a) Determine the "tentative recovery of raw sugar," 96° basis, for each producer delivering sugarcane during the settlement period from the product of the formula (S−0.3B), the number of hundredweights of net sugarcane, the applicable trash correction factor, T; and where applicable the inferior sugarcane correction factor, I; and

(b) Divide the pounds of raw sugar, 96° basis, produced at the mill during the applicable settlement period by the sum of the "tentative recoveries of raw sugar" for all producers to obtain the yield factor, F.

If part of the sugarcane delivered by producers is subjected to a washing process prior to milling, the polarization and brix of the resulting dilute first expressed or crusher juice of such sugarcane shall be converted to an undiluted first expressed or crusher juice basis by application of dilution compensation factors (DCF) computed as follows:

$$\text{Brix DCF}=\frac{\text{Brix of undiluted first expressed or crusher juice sample}}{\text{Brix of diluted first expressed or crusher juice sample}}$$

$$\text{Pol DCF}=\frac{\text{Pol of undiluted first expressed or crusher juice sample}}{\text{Pol of diluted first expressed or crusher juice sample}}$$

A written description of procedures and the frequency of sampling sugarcane to be used in determining DCF factors shall be submitted by the processor to the area office and shall be subject to approval to that office.

(B) Where the "direct cane analysis" method is used the sampling of sugarcane delivered by producers must be by the core sampler method and the formula for determining the yield of raw sugar shall be:

$$R=F[S-0.3\,(B+0.1\,f_c)\,]$$

Where:

R=96° Yield % Cane, or yield of raw sugar, 96° basis
S=Pol % Cane
B=Brix % Cane
f_c=Fiber % Cane

F=Factor calculated using the values obtained during the liquidation period, weighted on the basis of the net weight of cane and substituted at the right side of the following equation:

$$F=\frac{R}{S-0.3\,(B+0.1\,f_c)}$$

Whenever the "direct cane analysis" method is used, no adjustments in the cane weight and yield shall be made for purposes of determining the yield of raw sugar.

(C) Where the sugarcane delivered by producers is sampled by hand or machine and the juice is extracted by a laboratory hand mill, the yield of raw sugar may be determined in accordance with the formula provided under (A) above after the sample mill

juice Brix and sucrose for each producer has been factored to a first expressed or crusher juice basis.

(D) Where sugarcane is handled in bulk, the procedures for sampling the deliveries of sugarcane by a producer shall be representative of all the deliveries of sugarcane of such producer.

(E) All the sugarcane delivered by a producer during the settlement period shall be considered in determining the yield of raw sugar for the period, including that sugarcane for which a negative yield is obtained when applying the formulae set forth in the preceding paragraphs.

SCHEDULE B

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES ON RAW SUGAR

Admissible deductions for selling and delivery expenses in connection with the payment for sugarcane provided in § 877.23 of the 1972–73 price determination are limited to the sum of the following expenses for each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Freight from the mill directly to the bulk raw sugar loading terminal, including the cost of covering cars or trucks where necessary;

(2) The cost of receiving, handling, and loading aboard ship at the bulk terminal at the rates established by the Puerto Rico Public Service Commission and in effect at the time the sugar is delivered to the bulk sugar terminal facility;

(3) Ocean freight;

(4) Unloading at destination;

(5) Freight demurrage resulting from causes beyond the control of the shipper;

(6) Reclaiming, weighing, and loading at mill or where stored;

(7) Shore risk, marine, and war risk insurance;

(8) Brokerage or commission and exchange;

(9) Weighing, testing, and sampling at destination;

When any of the necessary services included in items (1), (3), (4), (5), or (6) above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for the facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pension, bonuses, and vacation expenses properly allocable to such labor;

(4) Direct supplies; and

(5) Depreciation (at rates allowed by the taxing authority), property taxes, and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities properly apportionable to the necessary service shall be allowed.

The director of the area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the costs incurred by the processor in furnishing the necessary service in the event that the costs incurred therefor cannot be accurately determined.

In determining the f.o.b. mill price of raw sugar sold or processed in Puerto Rico, equivalent selling and delivery expenses as approved by the director of the area office shall be computed as follows:

(1) If the processor delivers 20 percent or more of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be the average of the admissible selling and delivery expenses as approved by the Director of the area office for that quantity of raw sugar produced by the mill which was delivered to mainland refiners.

(2) If the processor delivers less than 20 percent of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be an amount equal to the average of the admissible selling and delivery expenses approved by the Director of the area office for all 1972–73 crop raw sugar produced in Puerto Rico which was delivered to mainland refiners; except that such average of all selling and delivery expenses shall be increased (or reduced as appropriate) by an amount representing the difference between the estimated per hundredweight inland transportation costs which would have been incurred by the processor had all such 1972–73 crop raw sugar been delivered to the bulk sugar terminal to which the area office determines the sugar could have been transported at the lowest inland transportation costs, and the average per hundredweight of all admissible inland transportation costs for all 1972–73 crop raw sugar that was delivered to the mainland. The average of the admissible selling and delivery expenses shall, as provided above, be increased when the estimated inland transportation costs are greater than such average, and be reduced when the estimated inland transportation costs are less than such average.

The statement as required by § 877.27 of the determination shall include the following certification:

CERTIFICATION

I hereby certify that as a result of the audit performed on the books of Central ------ as of ----------, the deductions as set forth herein are properly chargeable as selling and delivery expenses for sugar in accordance with the determination of fair and reasonable prices for the 1972–73 crop of Puerto Rican sugarcane.

SCHEDULE C

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES FOR MOLASSES

Admissible deductions for selling and delivery expenses in connection with the molasses payment provided in section 877.24 of the 1972–73 price determination are limited to the sum of the following expenses actually incurred at each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Operation of pumps to deliver molasses from mill tank to shipside or other delivery point;

(2) Freight incurred or which would have been incurred on direct shipment from tanks located at the mill to shipside, or to a waterfront tank facility, or to local buyers when such molasses is sold on a delivered price basis;

(3) Operation of tank barges, tugs, or other marine equipment used in delivering molasses to shipside;

(4) Weighing and testing;

(5) Wharfage, including charges arising from utilization of waterfront facilities such as pipelines (including fees paid for right of way privileges), pumps, and tanks (a) to store molasses in anticipation of shipment; and (b) to deliver such molasses within the hold of the ship;

(6) Shore risk insurance (limited in coverage from mill to shipside);

(7) Freight demurrage resulting from causes beyond the control of the shipper;

(8) Brokerage paid to a bona fide broker.

When any of the necessary services included in items (1) through (8) above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pensions, bonuses and vacation expenses properly allocable to such labor;

(4) Fuel, energy, or direct supplies; and

(5) Depreciation (at rates allowed by the taxing authorities), property taxes and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities, properly apportionable to the necessary service, shall be allowed.

The Director of the area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the cost incurred by the processor in furnishing the necessary service in the event that the costs incurred therefore cannot be accurately determined.

The statement as required by § 877.27 of the determination shall include the following certification:

CERTIFICATION

I, hereby certify that, as the result of the audit performed on the books of Central ---------- as of ----------, the gross proceeds from the sales of molasses as herein stated are true and correct and the deductions set forth herein are properly chargeable as selling and delivery expenses for molasses in accordance with the determination of fair and reasonable prices for the 1972–73 crop of Puerto Rican sugarcane.

[FR Doc.73-8142 Filed 4-25-73; 8:45 am]

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

[Valencia Orange Regulation 428]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This section fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period April 27–May 3, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and marketing order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.728 Valencia Orange Regulation 428.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia 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 Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges is fair.

Prices, f.o.b. for Valencia oranges averaged $3.75 per carton on a sales volume of 564 cars for the week ended April 19, 1973, compared with $3.59 per carton on a sales volume of 387 cars for the previous week.

Track and rolling supplies at 326 cars were up 106 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation for regulation together with its supporting information has been submitted by the committee, however, the Secretary has modified the recommendation to provide for the shipment of a greater quantity of Valencia oranges, retaining the same effective date, and such information is being disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 24, 1973.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period April 27, 1973, through May 3, 1973, are hereby fixed as follows:

(i) District 1: 258,000 cartons;
(ii) District 2: 412,000 cartons;
(iii) District 3: 180,000 cartons.

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

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

Dated April 25, 1973.

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

[FR Doc.73-8350 Filed 4-25-73;3:20 pm]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 73—SCABIES IN CATTLE

Areas Released From Quarantine

This amendment releases Beaver, Cimarron, and Texas Counties in Oklahoma from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR part 73, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 73.1a. Further, the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said part 73 apply to the excluded areas. No area in Oklahoma remains under quarantine.

Pursuant to provisions of the act of May 29, 1884, as amended, the act of February 2, 1903, as amended, the act of March 3, 1905, as amended, and the act of July 2, 1962 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f), part 73, title 9, Code of Federal Regulations, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, paragraph (b) is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477.)

Effective date.—The foregoing amendment shall become effective April 23, 1973.

The amendment relieves restrictions presently imposed but no longer deemed necessary to prevent the spread of cattle scabies, and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of April 1973.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-8143 Filed 4-25-73;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 73-557]

PART 544—CHARTER AND BYLAWS

Optional Age Limitations on Directors and Officers of Federal Savings and Loan Associations

APRIL 18, 1973.

The Federal Home Loan Bank Board, in document No. 72-1211, dated October 12, 1972, proposed to amend part 544 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 544) for the purpose of revising the optional bylaw provisions regarding age limitations for directors and officers of Federal Savings and Loan Associations (12 CFR 544.6). Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on October 27, 1972 (37 FR 22993), with an invitation for interested persons to submit written comments by November 27, 1972.

On the basis of its consideration of all relevant material presented by interested

persons and otherwise available, the Board hereby amends said part 544 by revising paragraphs (h) and (i) of § 544.6 thereof to read as set forth below, effective May 25, 1973.

The amendments remain essentially the same as those proposed except for the addition of a subparagraph (2) to paragraph (h), *"Age limitations on directors."*

The new optional bylaw provisions prohibit the reelection as a director or the appointment as an officer of anyone who has attained the maximum age specified in a particular association's bylaws, but would permit such person to serve out the unexpired portion of the term being served on the date such optional bylaw provision becomes effective as to the particular association. However, the age limitation does not apply to the appointment of former directors of t aehcsoiation as nonvoting advisory directors. Federal associations which have heretofore adopted the prior optional bylaw provision are permitted to retain it or adopt this new provision.

§ 544.6 Amendment to bylaws.

This section constitutes approval by the Board of any one or more of the following amendments to the bylaws of any Federal association, or of an amendment repealing any provision of such association's bylaws providing for a bonus other than a bonus under the provisions of § 545.3 of this chapter, upon the valid adoption of any such amendment by such association's directors or members as provided in its bylaws, effective when so adopted: *Provided,* That the approval given by this section to the bylaw amendment set forth in paragraph (e) of this section shall be applicable only to a Federal association which has a charter in a form which is not inconsistent with the provisions of § 545.3 of this chapter and which, at the time such bylaw amendment becomes effective, does not have in its bylaws any other provision providing for the payment of a bonus on savings accounts of such association:

* * * * *

(h) *Age limitation on directors.*—(1) No person shall be eligible for election, reelection, appointment, or reappointment to the board of directors of the association if such person is then more than (fill in any age from 65 to 70) years of age. No director shall serve beyond the annual meeting of the association immediately following his attainment of (fill in the same age from 65 to 70 as used above) years of age; except that any such director serving on (fill in date of adoption of bylaw) may complete the unexpired portion of his term being served on such date. This age limitation shall not apply to a person serving as an advisory director of the association.

(2) Advisory directors may be appointed and their compensation for services (in an amount not to exceed those fees paid to voting directors) determined by resolution of the board of directors of the association. Only former directors of the association (including former directors of other associations which have merged with, or otherwise been acquired by the association) shall be eligible to serve as advisory directors. Advisory directors shall be available for consultation with and advice to the management of the association. Advisory directors may attend meetings of the board of directors, but shall have no vote on any matter acted upon by such board.

(i) *Age limitation on officers.*—No person shall be eligible for election, reelection, appointment, or reappointment as an officer of the association if such person is then more than (fill in any age from 65 to 70) years of age. No officer shall serve beyond the annual meeting of the association immediately following his attainment of (fill in the same age from 65 to 70 as used above) years of age; except that any such officer serving on (fill in date of adoption of bylaw) may complete the unexpired portion of his term being served on such date.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.73-8124 Filed 4-25-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 72-WE-22-AD; Amdt. 39-1628]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9-10 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Administration Regulations to include an Airworthiness Directive requiring initial and repetitive inspections, and replacement or repair of the fuselage frames on Douglas DC-9-10 series airplanes was published in the FEDERAL REGISTER 38 FR 888 on January 5, 1973.

Interested parties have been afforded an opportunity to participate in the making of the amendment. A number of comments were received in response to this notice. The comments, together with the changes to the proposal resulting therefrom, are discussed below.

One commentator questioned the need for the use of positive inspection aids as proposed in paragraph B.4 in the notice since a crack of the magnitude as initially found on a DC-9 airplane at fuselage station frame 503 would be obviously discernible by visual inspection alone, and that the consequences of an undetected completely cracked frame would result in a crack in the fuselage skin at that frame. Further, it was stated that such a crack would be obviously detectable during daily and routine maintenance inspections, and would be audible to a mechanic during a nonroutine pressurization check. The FAA agrees in part with this comment. The type of crack referred to in the comment would most likely be obvious and a skin crack could be readily detected by visual observation. However, based on service experience, certain types of cracks could go undetected except by the employment of positive inspection aids. Therefore, we are retaining the requirement of the use of these aids.

Reference in the notice to "positive inspection aids" in the proposed visual inspection instructions was not specific enough to provide regulatory guidance and the final rule as adopted provides for a specific or equivalent inspection aid.

Commentators noted that the type of crack referred to in the notice would not compromise the safe operation of the airplane since the inspection programs and fail-safe design peculiar to that type of airplane, will preclude an unsafe condition from developing. Although admittedly the frames at fuselage stations 503, 525, and 544 are similar in design and installation, there is insufficient evidence to establish that these three frames could not develop this type of failure, either simultaneously or progressively, without prior crack propagation into the fuselage skin. A condition could exist whereby, based on the discussions herein, these frames could develop failures that would not be obvious and readily detectable. The maintenance inspection programs now in use by the various operators might permit the condition to go undetected for a considerable period of time and if said condition is allowed to exist, may result in deterioration of the strength of the structure to the extent that safe operation of the airplane could be compromised.

In one comment it was recommended that the proposed 1,500-hour initial inspection compliance time be extended to 2,500 hours to permit inspection during major maintenance checks. The commentator failed to present sufficient justification to support a change based upon an equivalent level of safety.

Other commentators recommended that only an initial inspection be required and that results of inspections be reported to the FAA only when cracks are found, with repetitive inspections contingent on the results of the initial inspections. The FAA agrees in part with these comments and the amendment as adopted requires mandatory reporting only when cracks are found. Based on service experience the FAA does not agree that the initial inspections and existing maintenance inspection programs, in lieu of the repetitive inspections proposed in the notice, will insure a level of airworthiness commensurate with the intent of the Federal Aviation Regulations.

Subsequent to issuance of the notice and as a result of the comments received, it was determined that certain of the DC-9-10 series airplanes have fuselage frames, P/N 9915590, installed and the adopted amendment has been revised to include this additional part number frame.

Reference to "fittings," as published in the notice and which describe that section of the frame where the failure was

located, have been changed for clarification purposes and the amendment as adopted refers to the "lower section" of the frame.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697) section 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive.

McDonnell Douglas. Applies to Model DC-9-10 Series Airplanes certificated in all categories.

Compliance required as indicated:

To detect fatigue cracks in the fuselage frames (P/N 9915590, 9958198, 9958200 and 9958202) at fuselage stations 503, 525, or 544 accomplish the following:

A. 1. For airplanes with 10,000 hours or more time in service on the effective date of this A.D., unless already accomplished within the last 500 hours time in service prior to the effective date of this A.D., within the next 1,000 hours time in service and thereafter at intervals not to exceed 1,500 hours time in service from the last inspection, inspect the left and right hand lower section of the fuselage frames P/N 9915590, 9958198, 9958200, and 9958202, in accordance with the instructions and procedures of paragraph B, below.

2. For airplanes with less than 10,000 hours time in service on the effective date of this A.D., comply with paragraph (B) before the accumulation of 11,000 hours time in service.

B. 1. Visually inspect for evidence of cracking, using dye penetrant methods and/or a magnifying glass with a minimum of 4-power, or an equivalent method approved by the Chief, Aircraft Engineering Division, FAA Western Region, the areas between and surrounding the two upper bolts (including the inboard flange of the lower section of the frame) which attach the rear face of the lower section of the fuselage frames (9915590, 9958198, 9958200 and 9958202) to the transverse floor beam member at fuselage stations 503, 525, and 544, both left and right hand sides.

2. If cracks are found, replace with a new part(s) of the same design, or repair in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region. If cracks are found as a result of the inspections performed in compliance with this A.D., report the findings to the Chief, Aircraft Engineering Division, FAA Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. (Reporting approved by the Bureau of the Budget under BOB No. 04-R0174.)

3. Upon accomplishment of paragraph B.2 the repetitive inspections per this A.D. may be discontinued, for that part(s) only, until the new or repaired part has accumulated an additional 10,000 hours time in service, at which time reinstate the program of repetitive inspections and/or corrective actions per this A.D.

C. Equivalent inspections and replacement or repairs may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective May 30, 1973.

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

Issued in Los Angeles, Calif., on April 13, 1973.

ARVIN O. BASNIGHT,
Director,
FAA Western Region.

[FR Doc.73-8079 Filed 4-25-73;8:45 am]

[Airspace Docket No. 72-SW-84]

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

Extension of VOR Federal Airway

On February 26, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 5182) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 71 of the Federal Aviation Regulations that would extend VOR Federal Airway No. 306 from Austin, Tex., to Junction, Tex.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 21, 1973, as hereinafter set forth.

Section 71.123 (38 FR 307 and 5455) is amended as follows:

In V-306 "From Austin, Tex., via Navasota, Tex.;" is deleted and "From Junction, Tex., via INT Junction 099° and Austin, Tex., 279° radials; Austin; Navasota, Tex.;" is substituted therefor.

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

Issued in Washington, D.C., on April 18, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-8082 Filed 4-25-73;8:45 am]

[Airspace Docket No. 72-AL-29]

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

Designation of Control Zone and Transition Area

On March 2, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 5658) stating that the Federal Aviation Administration proposed amendments to part 71 of the Federal Aviation Regulations that would establish the Ketchikan, Alaska, terminal airspace structure and delete the Guard Island, Alaska, transition area.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments.

Objections were received from air taxi service operators in the Ketchikan area. Their primary comments being that the establishment of controlled airspace will seriously disrupt the normal VFR air commerce operations when the weather is below basic VFR minimums. The objections are summarized as follows:

1. The weather is below basic VFR minimums 40 to 50 percent of the time. It appears that designation of controlled airspace was done without regard to its effect on VFR operations.

2. Delays caused by the regulated flow of traffic will increase operating costs and inconvenience passengers and pilots.

3. Traffic congestion that develops outside of controlled airspace while waiting for a control zone clearance, will create a hazardous condition.

4. The 700- and 1,200-foot floor transition areas are too large.

To lessen the impact that the designated controlled airspace would have on their operations, commenters suggested the establishment of special corridors within the control zone area with appropriate procedures that would allow IFR and VFR operations under certain conditions to operate simultaneously within the zone.

In accordance with regulations, Ketchikan controlled airspace area is being established to provide protected airspace at the public airport for both IFR and VFR operations. The size and shape of the control zone and transition areas are configured to conform with standards specified for IFR holding, departure, and arrival procedures (U.S. Standard for Terminal Instrument Procedures).

We acknowledge that delays may occur under certain weather and traffic situations; however, delegation of special VFR control zone authority to the Ketchikan FSS is expected to provide an acceptable degree of service with safety.

We are currently conducting a study to determine the feasibility of modifying the control zone structure to accommodate floatplane operations under marginal weather conditions with a minimum of delay. Pending completion of our study, it is necessary to establish controlled airspace to accommodate approved IFR operations scheduled to coincide with the commissioning of the Ketchikan airport.

Therefore, in consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., May 24, 1973, as hereinafter set forth.

1. In § 71.171 (38 FR 351) the Ketchikan, Alaska, control zone is designated to read:

KETCHIKAN, ALASKA

Within a 5-mile radius of the Ketchikan airport (lat. 55°21'09" N., long. 131°42'22" W); and within 2 miles each side of the Ketchikan localizer 316° course, extending from the 5-mile radius zone to 10 miles northwest of the Ketchikan localizer (lat. 55°20'52" N., long. 131°41'53" W.). This control zone is effective from 0800 to 1700 local time daily or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication, Supplement Alaska.

2. In § 71.181 (38 FR 435) the Ketchikan, Alaska, transition area is designated to read:

KETCHIKAN, ALASKA

That airspace extending upward from 700 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Ketchikan ILS localizer southeast and northwest course, extending from 8.5 miles southeast to 26 miles northwest of the Ketchikan localizer (lat. 55°20'52" N., long. 131°41'53" W.); and that airspace extending upward from 1,200 feet above the surface within 13 miles northwest and 8.5 miles southeast of the 247° and the 067° bearings from the Guard Island

RBN, extending from 11 miles northeast to 24 miles southwest of the RBN; within 7 miles northeast and 17 miles southwest of the 150° and 330° bearing from the Guard Island RBN, extending from 12 miles southeast to 26.5 miles northwest of the RBN, excluding the portion within the Annette Island 700- and 1,200-foot floor transition area.

3. In § 71.181 (38 FR 435) the Guard Island, Alaska, transition area is deleted.

(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 Anchorage, Alaska, on April 12, 1973.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.73-8080 Filed 4-25-73;8:45 am]

[Airspace Docket No. 73-CE-9]

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

Alteration of Control Zone

The purpose of this amendment to part 71 of the Federal Aviation Regulations is to alter the Kirksville, Mo., control zone.

The Kirksville, Mo., control zone, serving the Clarence Cannon Memorial Airport is being changed from a continuous to a part-time operation. Accordingly, it is necessary to alter the Kirksville control zone description to reflect the part-time status of the control zone. The new hours for the control zone will initially be published in advance by a Notice to Airmen. Thereafter, the effective date and time of the control zone and any changes thereto will continuously be published in the Airman's Information Manual.

Since this alteration is relaxatory in nature and is in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., June 21, 1973, as hereinafter set forth:

In § 71.171 (37 FR 351), the following control zone is amended to read:

KIRKSVILLE, MISSOURI

Within a 5-mile radius of Clarence Cannon Memorial Airport (lat. 40°05'45" N., long. 92°32'50" W.). This control zone will be effective initially during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

Issued in Kansas City, Mo., on March 30, 1973.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.73-8081 Filed 4-25-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-796, Amdt. 22]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Explanation and Data Supporting Tariff Changes and New Matter in Tariff Publications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of April 1973.

In notice of proposed rulemaking EDR-229,[1] the Board proposed to amend part 221 of its economic regulations (14 CFR pt. 221) to require that (1) air carriers and foreign air carriers submit to the Board explanations of and reasons for tariff changes and new matter in tariff publications which relate to foreign air transportation, and (2) air carriers file economic data and information in support of such tariff changes and new matter in such tariff publications.

Pursuant to the notice, comments were filed by KLM Royal Dutch Airlines; Lufthansa German Airlines; Pan American World Airways, Inc.; Saturn Airways, Inc.;[2] Swissair, Swiss Air Transport Company Ltd.; and Trans World Airlines, Inc.

Upon consideration of the comments, the Board has determined, for the reasons set forth hereinafter and in EDR-229, to adopt the rules substantially as proposed. However, to clarify our intended exemption of foreign air carriers from having to file the detailed economic data required by § 221.165(b), we will revise the wording of proposed § 221.165(d)(2) which embodies this exemption. Except as modified herein, the tentative findings and conclusions set forth in EDR-229 are incorporated and made final.

We first address ourselves to Saturn's claim that the proposed rules would impose extreme burdens on U.S. supplemental carriers. According to Saturn, charter rates in foreign air transportation are individually negotiated, continually fluctuating in response to directionality, seasonality, and the existence of what would otherwise be ferry legs, as well as in light of competition, particularly from European charter carriers. Saturn thus argues that the supplementals cannot develop economic analyses for each of hundreds of point-to-point tariff filings, particularly insofar as they reflect competitive circumstances often not shown in competitors' tariffs on file at the time the rates are negotiated.

However, we find Saturn's argument unpersuasive. All that section 221.165 requires, in essence, is that a tariff filing be accompanied by a rational explanation of the basis for the filing, and enough corroborative information to enable the Board to determine whether or not suspension and/or investigation of the tariff is warranted. The Board is fully cognizant of the many considerations which bear on the level of charter rates, but in the absence of a showing to the contrary, we assume that carrier managements have some rational basis for establishing charter rates at particular levels, and we adhere to our tentative view that we and the public are entitled to a disclosure of such information which is claimed to justify point-to-point charter rates.[3]

In cases where tariffs are filed pursuant to an IATA resolution, TWA appears to have read the proposed rule as requiring carriers to provide economic justification which is essentially duplicative of that submitted in conjunction with the IATA resolution. TWA thus requests that the proposed rule be amended to allow carriers in such instances to merely file an additional copy of the justification accompanying the agreement. However, there is no need to modify the proposed rule in this respect, since in such cases, the carriers would be exempted from § 221.165(b) by virtue of § 221.165(d)(1)(ii).

As noted previously, the proposed rules would bring foreign air carriers within the general requirements of § 221.165, but would except them from supplying the detailed economic information required by paragraph (b) thereof. The rationale for this exception was that, since foreign air carriers do not file periodic financial and operating data with the Board, and do not maintain uniform records, the limited value of such data would not warrant the burdens imposed on these carriers. The Board also found that such data should be available from the form

[1] Dated Aug. 16, 1972 (37 FR 16880).

[2] In addition, Overseas National Airways, Inc. filed a comment, more than 3 weeks late, accompanied by a motion for leave to file. The motion claims that "ONA did not choose to file because it did not fully comprehend that EDR-229 was intended to apply to supplemental carriers." The motion further asserts that the record is in want of information as to the day-to-day impact of the proposed rules on supplemental carriers, and that ONA's comment should be accepted as an indication of the strength of the supplementals' position on this issue. The Board has determined to deny the motion. ONA's motion has not demonstrated that EDR-229 was actually misleading, or that acceptance of its comment will significantly add to the material contained in the comment filed by Saturn, another supplemental carrier.

[3] We will not pass on TWA's suggestion that the Board adopt a general policy with respect to short-duration charter rates in this proceeding, since the propriety of short-duration charter tariffs is the subject of a petition for rulemaking filed by TWA in docket 24978. We also note that our amended regulations pertaining to travel group charters (TGC's) require that the terms of a TGC proposed contract must conform with tariffs in effect at the time the proposed contract is filed, i.e., before the TGC may be offered for sale, 14 CFR 372a.22(a)(2).

41 reports of competing U.S. carriers, as well as from the pleadings in cases where complaints are filed.

Lufthansa and Swissair argue that foreign air carriers should be exempted entirely from § 221.165, on the ground that in an open rate situation, compliance with even the limited requirements proposed could be an onerous burden, particularly if other governments followed suit.

The Board is not persuaded by this argument. Lufthansa and Swissair have failed to substantiate their conclusory allegation that the minimal data we are requiring of them constitutes an "onerous" burden. Moreover, even if other governments "follow suit," the mere fact that carriers may be required to furnish identical data to more than one government does not necessarily constitute a significant burden.

On the other hand, we have determined to reject the suggestions of TWA and Pan American that we broaden the extent to which section 221.165 applies to foreign air carriers. TWA proposes that we should not except foreign air carriers from paragraph (b) at all. TWA argues that it would be anomalous to allow foreign air carriers to submit a less than complete justification for their tariffs, since Public Law 92-259, which extended the Board's jurisdiction to the reasonableness of rates in foreign air transportation, was enacted in response to a rate war begun by foreign air carriers. In addition, TWA claims that excepting foreign air carriers from paragraph (b) places an unfair burden on complainants. In our judgment, however, TWA's arguments do not outweigh the reasons, summarized above, which underlie our decision to grant this exception. Accordingly, we will not apply paragraph (b) to foreign carriers at this time.*

Pan American contends that foreign air carriers should at least be required to provide the traffic and revenue estimates required by § 221.165(b)(2), even in cases where the tariff is filed pursuant to Government order. Pan American claims that it would not be burdensome for foreign carriers to provide this data, which is critical to a determination of whether or not to suspend a tariff and is not otherwise available to the Board. While we find some merit in Pan American's proposal, we are not inclined to increase the burden on foreign air carriers at this time. However, if subsequent experience shows that the absence of this data from foreign air carriers hampers our evaluation of tariffs filed by foreign air carriers, or appears to place an undue burden on complainants, we can duly institute a future proceeding to require this data.

Finally, KLM, Lufthansa, and Swissair request changes in the wording of proposed § 221.165(d)(2) so as to make it clear that economic justification need not be provided when the tariffs of foreign air carriers include unchanged arbitraries to interior U.S. points. We agree that clarification is desirable, and have made appropriate changes in the wording of paragraph (d)(2).

In consideration of the foregoing, the Board hereby amends part 221 of the economic regulations (14 CFR pt. 221), effective May 26, 1973, as follows:

Amend the introductory paragraph and paragraphs (a) and (d) (2) and (3) of § 221.165 to read as follows:

§ 221.165 Explanation and data supporting tariff changes and new matter in tariff publications.

When a tariff publication is filed with the Board which contains new or changed local or joint rates, fares, or charges for air transportation, or new or changed classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, the issuing air carrier, foreign air carrier, or agent shall submit with the filing of such publication, in or attached to the transmittal letter:

(a) An explanation of the new or changed matter and the reasons for the filing, including (if applicable) the basis of rate making employed. Where a tariff publication is filed pursuant to an intercarrier agreement approved by the Board, the explanation shall identify such agreement by CAB agreement number, IATA, or ATC resolution number, or if none is designated, then by other definite identification. Where a tariff publication is filed on behalf of a foreign air carrier pursuant to a Government order, a copy of such order shall be submitted with the letter of tariff transmittal.

* * * * *

(d) Exceptions:

* * * * *

(2) The requirement for data and/or information in paragraph (b) of this section will not apply to foreign air carriers.

(3) The requirement for information in paragraph (c) of this section will not apply to tariff publications containing new or changed rates, fares or charges which result from (i) uniform percentage adjustments, (ii) specific increment adjustments, or (iii) cancellation of rates, fares or charges.

(Secs. 204(a) and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 758, as amended; 49 U.S.C. 1324 and 1373)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-8138 Filed 4-25-73;8:45 am]

*TWA also urges that when a tariff implements a government-ordered fare, the flag carrier of such government should provide a full economic justification. This request is largely predicated on a misapprehension that U.S. carriers, when filing fares pursuant to order by other governments, will have the burden of justification. However, in such instances, the U.S. carriers' tariffs presumably will be filed to meet competition and thus they will be exempted from having to file economic justification by § 221.165(d)(1)(iv).

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2371]

PART 13—PROHIBITED TRADE PRACTICES

Horizon Industries, Inc., et al.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.) [Cease and desist order, Horizon Industries, Inc., et al., Dalton, Ga., docket No. C-2371, Mar. 29, 1973.]

In the Matter of Horizon Industries, Inc., a Corporation Formerly Trading as Tile Company of America, Inc., and Peter Spirer, Individually and as an Officer of the Corporation

Consent order requiring a Dalton, Ga., manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

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

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

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

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

It is further ordered, That the provisions of this order with respect to customer notification, recall and processing or destruction shall be applicable to the products designated in subparagraph 1 of paragraph 2 of the complaint giving rise to this order, and any other lots of Style Melody determined to be in violation of the Flammable Fabrics Act, as amended, prior to the date of acceptance, by the Commission of the final compliance report.

It is further ordered, That respondents herein shall, within 10 days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since July 16, 1971, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or carpet tile currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or carpet tile.

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

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

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

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

Issued March 29, 1973.

By the Commission.

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

[FR Doc.73-8052 Filed 4-25-73;8:45 am]

[Docket No. 8880]

PART 13—PROHIBITED TRADE PRACTICES

Seekonk Freezer Meats, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages, or connections: 13.15–70 Financing activities; § 13.73 Formal regulatory and statutory requirements: 13.73–92 Truth in Lending Act; § 13.85 Government approval, action, connection or standards: 13.85–60 Standards, specifications, or source; § 13.155 Prices: 13.155–10 Bait; 13.155–30 Credit price same as cash; 13.155–35 Discount savings; 13.155–75 Product or quantity covered; 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act; 13.155–100 Usual as reduced, special, etc.; § 13.175 Quality of product or service; § 13.180 Quantity; § 13.230 Size or weight. Subpart—Misrepresenting oneself and goods—Business Status, Advantages or Connections: § 13.1417 Financing activities—Goods: § 13.1623 Formal regulatory and statutory requirements: 13.1623–95 Truth in Lending Act; § 13.1645 Government standards or specifications; § 13.1715 Quality; § 13.-1720 Quantity—Prices: § 13.1779 Bait; § 13.1823 Terms and conditions: 13.-1823–20 Truth in Lending Act—Services: § 13.1843 Terms and conditions. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements: 13.1852–75 Truth in Lending Act; § 13.1857 Instruments' sale to finance companies; § 13.1876 Notice of third party sale of contract; § 13.1886 Quality, grade or type; § 13.1905 Terms and conditions: 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605.) [Cease and desist order, Seekonk Freezer Meats, Inc., et al., Seekonk, Mass., docket No. 8880, Mar. 15, 1973.]

In the Matter of Seekonk Freezer Meats, Inc., a Corporation, and Lawrence Fontes, Individually and as an Officer of Said Corporation

Order requiring a Seekonk, Mass., seller and distributor of meat and meat products, among other things to cease using "bait and switch" tactics in selling and advertising its products; misrepresenting the price, quantity, quality of any meat or other food products or the savings available to purchasers thereof; failing to disclose to customers that any credit transactions with respondent will be transferred to a finance company or other third party and failing to disclose a statement to the effect that any subsequent holder of a credit transaction is subject to the terms and conditions of the original contract; and failing to provide certain information required by regulation Z of the Truth in Lending Act.

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

It is ordered, That the initial decision of the administrative law judge shall, on the 15th day of March 1973, become the decision of the Commission.

It is ordered, That respondent Seekonk Freezer Meats, Inc., a corporation, its officers, successors, and assigns, and Lawrence Fontes, individually and as an officer of said corporation, and his successors and assigns, and respondents' agents, salesmen, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale, or distribution of meat or other food products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which represents directly or by implication:

(a) That any products are offered for sale, when the purpose of such representation is not to sell the offered products, but to obtain prospects for the sale of other products at higher prices.

(b) That any product is offered for sale when such offer is not a bona fide offer to sell such product.

(c) That any meat offered for sale is high quality meat, which in fact is either ungraded or below the grades of "Prime", "Choice", and "Good", or which is yield grade 5 of the quality grade.

(d) That the meat a purchaser will receive or take home, when untrimmed beef sides, hindquarters, forequarters, or other untrimmed pieces, "Bundles", or "Packs" are sold, will consist, after cutting, dressing, and trimming, entirely or primarily of steaks, or other high quality cuts, unless such is the fact.

2. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which:

(a) Fails to disclose clearly, without ambiguity, and with prominence:

(1) That untrimmed beef sides, hindquarters, forequarters, or other untrimmed pieces, "Bundles", or "Packs", offered for sale, will suffer weight loss due to cutting, dressing and trimming.

(2) That the price charged for such untrimmed meat is based on the hanging weight before cutting, dressing and trimming occurs.

(3) The correct average percentage of weight loss of such untrimmed side, quarter, piece, "Bundle", or "Pack" due to cutting, dressing and trimming.

(b) Fails to include clearly and with prominence:

(1) When U.S. Department of Agriculture graded meat is advertised which is below the grade of "USDA Good", the statement "This meat is of a grade below U.S. Prime, U.S. Choice, and U.S. Good."

(2) When meat not graded by the U.S. Department of Agriculture is advertised, the statement "This meat has not been graded by the United States Department of Agriculture."

(3) When the meat in (1) or (2) of this subparagraph is a portion of the total meat offered, a statement indicating the portion which is ungraded, or below the grades of "Prime", "Choice" and "Good", and the percentage of such meat, by weight, of the total meat offered.

3. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which misrepresents in any manner the price, quantity or quality of any meat or other food products, or the savings available to purchasers thereof.

4. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which represents, directly or by implication, that the prices stated in such advertisements are not the regular and ordinary prices at which respondents offer for sale, and sell meat or other food products, but are instead "sale" or "special" prices, and therefore are lower than respondents' regular and ordinary prices when, in fact, such advertised prices are the prices regularly and ordinarily charged by respondents for the products advertised and do not constitute a reduction or dollar saving from respondents' regular and ordinary prices.

5. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which represents, directly or by implication:

(a) That purchasers may arrange for credit granted by respondents for purchases of meat or other food products when respondents do not in fact extend credit in the ordinary course and conduct of their business.

(b) That purchasers may arrange to make deferred payments for their purchases directly to respondents when, in the ordinary course and conduct of their business, respondents do not accept deferred payments but transfer purchasers' obligations to a finance company or other third party to whom such deferred payments must be made.

6. Disseminating, or causing the dissemination of, any advertisement, or utilizing any sales presentation, which fails to disclose clearly and with prominence that purchasers' obligations will be transferred to a finance company, or other third party, when, in the ordinary course and conduct of their business, such is respondents' practice.

7. Discouraging the purchase of, or disparaging in any manner, any meat or other food products which are advertised or offered for sale.

8. Displaying any side, hindquarter, forequarter, or other portion of a beef carcass of inferior quality and unwholesome appearance, or of fatty, wasty yield grade, to prospective customers who have answered an advertisement or sales presentation of respondents, as the meat featured in such advertisement or presentation, so as to discourage such prospective customers from seeking to purchase the meat which was the subject of the advertisement or presentation.

9. Assigning, selling, or otherwise transferring notes, contracts or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract or other documents evidencing the indebtedness.

10. Failing to include the following statement clearly and with prominence on the face of any note, contract or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE

Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding.

11. Failing to maintain for a period of 2 years adequate records, and to permit the inspection and copying thereof by Commission representatives:

(a) Which disclose the facts upon which are based price representations and statements as to the quality and the U.S.D.A. grade of meat offered for sale, savings claims, representations as to the percentage of steaks, or other high quality cuts in advertised meat, and similar representations of the type covered by this order, and from which the validity of such statements and representations can be established; and

(b) Records from which respondents' compliance with the requirements of this order can be ascertained.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all persons now engaged, or who become engaged, in the sale of meat or other food products as respondents' agents, salesmen, representatives or employees, and to secure from each of said persons a signed statement acknowledging receipt of a copy thereof.

It is further ordered, That respondents Seekonk Freezer Meats, Inc., a corporation, its officers, successors, and assigns, and Lawrence Fontes, individually and as an officer of said corporation, and his successors and assigns, and respondents' agents, salesmen, representatives, and employees directly or through any corporation, subsidiary, division or other device, in connection with any advertisement to aid, assist or promote, directly or indirectly, any extension of consumer credit, as "advertisement" and "consumer credit" are defined in regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Stating in any advertisement the amount of the down payment required or that no down payment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless there is also stated, in terminology prescribed under § 226.8 of regulation Z, as required by § 226.10 (d) (2) of regulation Z, all of the following items—(i) the cash price; (ii) the amount of the down payment required or that no down payment is required, as applicable; (iii) the number, amount, and due dates or period of repayments scheduled to repay the indebtedness if the credit is extended; (iv) the annual percentage rate; and (v) the deferred payment price.

2. Making any disclosure not in accordance with the requirements of § 226.10 of regulation Z.

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

It is further ordered, That respondents shall, within 60 days after service of this order upon them, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order to cease and desist.

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

[FR Doc.73-8051 Filed 4-25-73;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5384, 34-10099, 35-17931, 40-7768]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Amendment of Rule 5-02-1 of Regulation S-X To Extend a Compliance Date

Accounting Series Release No. 136 (Jan. 11, 1973) [38 FR 1733] provided notification of the adoption of an amendment to regulation S-X [17 CFR part 210] deferring the effective date of rule 5-02-1 [paragraph 1 of section 5-02 of part 210] as it relates to disclosure of compensating balances. The Commission hereby amends paragraph 1 of section 5-02 to defer for 60 days the date after which disclosure will be required on interim date balance sheets by changing

"June 30, 1973" in the last line to "August 31, 1973," as shown below:

§ 210.5-02 Balance sheets.

* * * * *

1. *Cash and cash items.*—State separately (a) cash on hand and demand deposits; (b) funds subject to repayment on call or immediately after the date of the balance sheet required to be filed; (c) time deposits; and (d) other funds, the amounts of which are known to be subject to withdrawal or usage restrictions, e.g., as compensating balances or special purpose funds. The general terms and nature of such repayment provisions and withdrawal or usage restrictions shall be described in a note referred to herein. Funds subject to withdrawal or usage restrictions shall not be included under this caption unless they are reasonably expected to become available for current operations within 1 year. The requirement of this paragraph relating to disclosure of compensating balances is effective for financial statements covering periods beginning on or after December 30, 1972, but in no event shall such disclosure be required for financial statements filed prior to August 31, 1973.

* * * * *

The amendment to rule 5-02-1 of regulation S-X is adopted pursuant to the authority conferred on the Commission by the Securities Act of 1933, particularly sections 6, 7, 8, 10, and 19(a) thereof; the Securities Exchange Act of 1934, particularly sections 12, 13, 15(d) and 23(a) thereof; the Public Utility Holding Company Act of 1935, particularly sections 5 (b), 14, and 20(a) thereof; and the Investment Company Act of 1940, particularly sections 8, 30, 31(c), and 38(a) thereof.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908, sec. 8, 68 Stat. 685, 15 U.S.C. 77f, 77g, 77h, 77j, 77s; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901, secs. 3, 8, 49 Stat. 1377, 1379, secs. 3, 4, 6, 10, 78 Stat. 565, 569, 570, 580, secs. 1, 2, 84 Stat. 1497, 15 U.S.C. 78l, 78m, 78o(d), 78w; secs. 5(b), 14, 20(a), 49 Stat. 812, 827, 833, 15 U.S.C. 79e, 79n, 79t; secs. 8, 30, 31(c), 38(a), 54 Stat. 803, 836, 838, 841, sec. 3(c), 84 Stat. 1415, 15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a).)

By the Commission.

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

APRIL 12, 1973.

[FR Doc.73-8100 Filed 4-25-73;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER III—DELAWARE RIVER BASIN COMMISSION

PART 401—RULES OF PRACTICE AND PROCEDURE

The purpose of this amendment is to revise part 401—Rules of Practice and Procedure of the Delaware River Basin Commission. The revision updates the regulations and incorporates recent changes in Commission procedures.

Therefore, the Delaware River Basin Commission revises part 401 of Title 18 of the Code of Federal Regulations to read as follows, effective February 1, 1973.

Sec.

401.0 Introduction.

Subpart A—Comprehensive Plan

401.1 Scope.
401.2 Concept of the plan.
401.3 Other agencies.
401.4 Amendments and revisions.
401.5 Review of proposal.
401.6 Further action.
401.7 Public projects under article 11 of the Compact.
401.8 Custody and availability.

Subpart B—Water Resources Program

401.21 Scope.
401.22 Concept of the program.
401.23 Procedure.
401.24 Preparation and adoption.
401.25 Alternatives for public projects.
401.26 Inventory of other projects.

Subpart C—Project Review Under Section 3.8 of the Compact

401.31 Scope.
401.32 Concept of 3.8.
401.33 Administrative agreements.
401.34 Submission of project required.
401.35 Classification of projects for review under section 3.8 of the Compact.
401.35-1 Water pollution control projects—regional requirements.
401.35-2 Environmental statement.
401.35-3 Siting studies for major electric generating projects.
401.36 Sequence of approval.
401.37 Form of referral by State or Federal agency.
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401.39 Preliminary action; Informal conference; Emergencies.
401.40 Hearings.
401.41 Objections.
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Subpart D—Review in Water Quality Cases

401.51 Scope.
401.52 Notice and request for hearing.
401.53 Form of request.
401.54 Report.
401.55 Form and contents of report.
401.56 Protection of trade secrets; confidential information.
401.57 Failure to furnish report.
401.58 Informal conference.
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Subpart E—Conduct of Hearings

401.61 Hearings generally.
401.62 Hearing officer.
401.63 Hearing procedure.
401.64 Staff and other expert testimony.
401.65 Record of proceedings.
401.66 Findings and report.
401.67 Action by the Commission.

Subpart F—General Provisions

401.71 Definitions.
401.72 Supplementary details.
401.73 Waiver of rules.
401.74 Construction.

AUTHORITY.—Sec. 14.2, Delaware River Basin Compact, 75 Stat. 708.

§ 401.0 Introduction.

(a) These regulations govern the process whereby the Commission will include projects in the comprehensive plan and extend them into an annual water resources program. Also set forth herein are the procedures and definitions that the Commission will use in screening projects proposed by others to test their compatibility with the comprehensive plan. An interrelationship among these three requirements is apparent in the Delaware River Basin compact.

(b) Article 13 of the compact calls for the adoption of the comprehensive plan and water resources program. These documents are defined as follows:

(1) *Comprehensive plan.*—A plan that includes all public and private projects and facilities which are required in the judgment of the Commission for optimum planning, development, conservation, use, management, and control of the water resources of the Delaware Basin to meet present and future needs. The comprehensive plan is dynamic and will be periodically revised.

(2) *Water resources program.*—An annual presentation, based upon the comprehensive plan, of the quantity and quality of water resources needs of the area to be served during the ensuing 6 years or for such reasonably foreseeable period as the Commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects to be anticipated, together with a separate statement of the projects proposed to be undertaken by the Commission during such period.

(c) To protect the integrity of the comprehensive plan and avoid conflicts of jurisdiction, the compact provides generally, in article 11, for cooperative planning of all public projects, and more specifically, in section 3.8 of the compact, confers certain regulatory authority upon the Commission. Section 3.8 provides for a review of water resources projects to determine two matters: First, whether the project will have a substantial effect on the water resources of the basin; and secondly, whether a project having such an effect would substantially impair or conflict with the comprehensive plan. The basic concept is thus both comprehensive and integrated planning and development.

(d) A project may enter the comprehensive plan in the discretion of the Commission whenever the project is ready for such action, both on its own merits and in relation to other projects which are part of the plan. Article 1 of this part develops the concept of the comprehensive plan and the procedure to be followed for inclusion of new projects or modification of existing ones. The water resources program represents a selection of projects by the Commission taken the comprehensive plan. These are projects which the Commission recommends for action during the ensuing 6-year period. Procedures that the Commission will follow in developing the Water Resources Program are contained in article 2 of this part.

(e) The regulatory power of the Commission under section 3.8 of the compact extends to all public and private projects. However, since the compact also provides for cooperative planning of public projects (article 11), a special procedure to accelerate Commission approval of such

projects is provided as part of the process of adoption of a water resources program. Under subpart B and subpart C of this part, the sponsor of a public project has a choice of routes for Commission approval: Where advance approval is necessary or desirable, the sponsor may secure approval through the process of project inclusion in the water resources program; and this is an opportunity that will be available at a specified time each year. When the sponsor may for any reason prefer the alternate course, the public project may be submitted for review under section 3.8 of the compact. In brief, approval of a public project as ready for action within the water resources program will have the effect of approval for purposes of section 3.8, but omission of a project from the water resources program will still leave the door open for the project sponsor to proceed under section 3.8. Finally, under these regulations, private projects are required to proceed under section 3.8.

Subpart A—Comprehensive Plan

§ 401.1 Scope.

sion, consideration, and inclusion of projects into the comprehensive plan.

§ 401.2 Concept of the plan.

(a) The comprehensive plan, as required in section 13.1 of the compact, will provide for the immediate and long-range development and use of the water resources of the basin. The plan will include all public and private projects and facilities which are required, in the judgment of the Commission, for the optimum planning, development, conservation, use, management, and control of the water resources of the basin, in light of present and foreseeable future needs. It will consist of statements of policy, criteria, and standards, as well as the principal physical projects, objectives, and programs that will be involved in the development of the river basin.

(b) The plan will be a body of documents expressing a systematic set of policies and programs for the future, and the means for carrying them out. It will be expressed through narrative text, maps, charts, schedules, budgets, and other means.

(c) From time to time specific projects and facilities and programs may be incorporated, deleted, or modified to reflect changing conditions, research results, and new technology. At any given time the degree of detail describing particular projects will vary depending upon the state of their development.

§ 401.3 Other agencies.

For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the Commission as a regional agency of the signatory parties to the compact, Federal, State, and local agencies shall follow the requirements of article 11 of the compact.

(As to Federal agencies, the compact provides: "No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the Commission in the Comprehensive Plan."

As to State and local agencies, the compact provides: "No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the Commission in the Comprehensive Plan."

As to Federal, State, and local agencies, the compact provides: "The planning of all projects related to powers delegated to the Commission by this Compact shall be undertaken in consultation with the Commission . . . " Each . . . "agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.")

§ 401.4 Amendments and revisions.

The comprehensive plan will be open, upon application of any interested party, for review and inclusion of new projects and for deletion or alteration of previously included projects. To this end, the Commission will receive and consider proposals for changes and additions to the comprehensive plan which may be submitted by any agency of the signatory parties, or any interested person, organization, or group. Any such proposal shall be submitted in such form as may be required by the Executive Director to facilitate consideration by the Commission, and shall include at least the following information.

(a) Purpose or purposes, including quantitative measures of physical benefits anticipated from the proposal.

(b) Approximate location, dimensions (if a structural project) and land area required.

(c) Draft or description of a proposed standard, policy or other nonstructural measure.

(d) Forecast of the cost (if structural) or effect on the utilization of water resources (if a nonstructural measure).

(e) Relation to other parts of the existing comprehensive plan.

(f) A description of the construction procedures to be followed in excavating, backfilling, retention of sediment, reseeding and landscaping, all with particular reference to minimizing soil erosion and sedimentation in the stream.

§ 401.5 Review of proposal.

Following staff study, examination, and review of each proposal, the Commission will take such action on the proposal as may be appropriate, and will hold such public hearings thereon as are required by the compact.

§ 401.6 Further action.

The Commission will review the comprehensive plan in its entirety at least once every 6 years from the date of the initial adoption of the comprehensive plan (phase 1, March 28, 1962). The amendments, additions, and deletions will be compiled and the plan as so revised will be republished annually.

§ 401.7 Public projects under article 11 of the compact.

(a) After a project of any Federal, State, or local agency has been included in the comprehensive plan, no further action will be required by the Commission or by the agency to satisfy the requirements of article 11 of the compact, except as the comprehensive plan may be amended or revised pursuant to the compact and these regulations. Any project which is changed susbtantially from the project as described in the comprehensive plan will be deemed to be a new and different project for the purposes of article 11 of the compact. Whenever a change is made the sponsor shall advise the executive director who will determine whether the change is deemed substantial within the meaning of these regulations.

(b) Any project not having a substantial effect on the water resources of the basin, as defined in article 3 of these regulations, may proceed without reference to article 11 of the compact.

§ 401.8 Custody and availability.

The comprehensive plan shall be and remain in the custody of the executive director. The plan, including all maps, charts, descriptions, and supporting data shall be and remain a public record open to examination during the regular business hours of the Commission, under such safeguards as the executive director may determine to be necessary to preserve and protect the plan against lost, damage, or destruction. Copies of the comprehensive plan or any part or parts thereof shall be made available by the executive director for public sale at a price covering the cost of production and distribution.

Subpart B—Water Resources Program

§ 401.21 Scope.

This article shall govern the submission, consideration, and inclusion of projects into the water resources program.

§ 401.22 Concept of the program.

The water resources program, as defined and described in section 13.2 of the compact, will be a reasonably detailed amplification of that part of the comprehensive plan which the Commission recommends for action within the ensuing 6-year period. That part of the program consisting of a presentation of the water resources needs of the basin will be revised only at such intervals as may be indicated to reflect new findings and conclusions, based upon the Commission's continuing planning programs.

§ 401.23 Procedure.

Each project included in the water resources program shall have been previously included in the comprehensive plan, except that a project may be added to both the plan and the program by concurrent action of the Commission. The project's sponsor shall furnish the following information prior to the inclusion of the project in the water resources program:

(a) The comprehensive plan data brought up-to-date for the period of the water resources program;

(b) Specific location and dimension of a structural project, and specific

language of a standard, policy or other nonstructural proposal;

(c) The plan of operation of a structural project;

(d) The specific effects of a nonstructural project;

(e) Sufficient data to indicate a workable financial plan under which the project will be carried out; and

(f) A timetable for implementation.

§ 401.24 Preparation and adoption.

The water resources program will be prepared and considered by the Commission for adoption annually during the month of February. Projects required to satisfy the basin needs during the period covered by the Program may be classified as follows:

(a) *A list.*—This shall include public projects which require no further review, and inclusion in such list shall be deemed to be approved for the purposes of section 3.8 of the compact;

(b) *B list.*—This shall include public projects not included in the *A* list and privately sponsored projects which are proposed or anticipated by the Commission.

§ 401.25 Alternatives for public projects.

Any public project which has been included in the comprehensive plan but is not on the "A" list of the current water resources program, at the option of the sponsor, may be submitted for review and approval under section 3.8 of the compact in accordance with subpart C of this part.

§ 401.26 Inventory of other projects.

Each water resources program will include, for information purposes only, an inventory of projects approved during the previous year pursuant to section 3.8 of the compact but which are not part of the comprehensive plan or water resources program.

Subpart C—Project Review Under Section 3.8 of the Compact

§ 401.31 Scope.

This article shall govern the submission and review of projects under section 3.8 of the Delaware River Basin compact.

§ 401.32 Concept of 3.8.

Section 3.8 is intended to protect and preserve the integrity of the comprehensive plan. This section of the compact provides:

No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation, or governmental authority unless it shall have been first submitted to and approved by the Commission, subject to the provisions of sections 3.3 and 3.5. The Commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan. The Commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any determination of the Commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

§ 401.33 Administrative agreements.

The executive director is authorized and directed to enter into cooperative administrative agreements with Federal and State regulatory agencies concerned with the review of projects under Federal or State law as follows:

(a) To facilitate the submission and review of applications and the determinations required under section 3.8 of the compact;

(b) To avoid unnecessary duplication of staff functions and hearings required by law;

(c) For such other and different purposes as he may deem feasible and advantageous for the administration of the compact or any other law; and

(d) Provided that any such administrative agreement shall be effective solely for purposes of intergovernmental cooperation and the failure of any applicant to comply with the provisions of any such agreement shall not prejudice his application or the consideration thereof.

§ 401.34 Submission of project required.

Any project which may have a substantial effect on the water resources of the basin, except as provided in paragraph (d) of this section, shall be submitted to the Commission for a determination as to whether the project will have a substantial effect on the water resources of the basin and, if so, whether the project impairs or conflicts with the comprehensive plan, as follows:

(a) Where the project is subject to review by a State or Federal agency which has entered into an administrative agreement with the Commission, such project will be referred to the Commission in accordance with the terms of the administrative agreement, and appropriate instructions will be prepared and issued by the Executive Director for guidance of project sponsors and applicants.

(b) Where no other State or Federal agency has jurisdiction to review and approve a project, or no administrative agreement is in force, the project sponsor shall apply directly to the Commission.

(c) Any project proposal, which may have a substantial effect on the water resources of the basin, may be received and reviewed by the staff informally in conference with the project sponsor during the preliminary planning phase to assist the sponsor to develop the project in accordance with the Commission's requirements.

(d) Whenever a project sponsored by one of the signatory parties, or by any agency, political subdivision or public corporation thereof, has been included in the water resources program in the "A List" classification, the project, to the extent of such inclusion and as described in the program, shall be deemed approved for the purposes of section 3.8 of the compact.

(e) Whenever a project is subject to review and approval by the Commission under this section, there shall be no substantial construction activity thereon, including related preparation of land, unless and until the project has been approved by the Commission; *Provided, however*, That this prohibition shall not apply to the drilling of wells for purposes of obtaining geohydrologic data, nor to inplant control and pretreatment facilities for pollution abatement.

§ 401.35 Classification of projects for review under section 3.8 of the compact.

(a) Except as the Commission may specially direct by notice to the project owner or sponsor, or as a State or Federal agency may refer under paragraph (c) of this section, a project in any of the following classifications will be deemed not to have a substantial effect on the water resources of the basin and is not required to be submitted under section 3.8 of the compact:

(1) The construction of new impoundments or the enlargement or removal of existing impoundments, for whatever purpose, when the storage capacity is less than 100 million gallons;

(2) A withdrawal from ground water for any purpose when the daily average gross withdrawal during any calendar month does not exceed 100,000 gallons;

(3) A withdrawal from impoundments or running streams for any purpose when the daily average gross withdrawal during any calendar month does not exceed 100,000 gallons;

(4) The construction of new municipal sewage treatment facilities or alteration or addition to existing municipal sewage treatment facilities when the design capacity of such facilities is less than a daily average rate of 50,000 gallons, and all local sewage collector systems and improvements discharging into authorized trunk sewage systems;

(5) The construction of new facilities or alteration or addition to existing facilities for the direct discharge to surface or ground waters of industrial waste water having design capacity of less than 50,000 gallons per day, except where such waste water contains toxic concentrations of waste materials;

(6) A change in land cover on major ground water infiltration areas when the amount of land that would be altered is less than 3 square miles;

(7) Deepening, widening, cleaning or dredging existing stream beds or relocating any channel, and the placement of fill or construction of dikes, on streams within the basin except the Delaware River and tidal portions of tributaries thereto, and streams draining more than one state;

(8) Periodic maintenance dredging;

(9) Encroachments on streams within the basin caused by:

(i) floating docks and anchorages and buoys and navigational aids;

(ii) temporary construction such as causeways, coffer-dams and falsework required to facilitate construction on permanent structures;

(10) Bridges and highways unless they would pass in or across an existing or proposed reservoir or recreation project area as shown in the comprehensive plan;

(11) Liquid petroleum products pipelines and appurtenances designed to operate under pressures less than 150 lb/in²; local electric distribution lines and appurtenances; local communication lines and appurtenances; local natural and manufactured gas distribution lines and appurtenances; local water distribution lines and appurtenances; and local sanitary sewer mains, unless such lines would involve significant disturbance of ground cover affecting water resources;

(12) Electric transmission or bulk power system lines and appurtenances; major trunk communication lines and appurtenances; natural and manufactured gas transmission lines and appurtenances; major water transmission lines and appurtenances; unless they would pass in, on, under or across an existing or proposed reservoir or recreation project area as shown in the comprehensive plan; unless such lines would involve significant disturbance of ground cover affecting water resources;

(13) Liquid petroleum products pipelines and appurtenances designed to operate under pressures of more than 150 lb/in², unles they would pass in, on, under or across an existing or proposed reservoir or recreation project area as shown in the comprehensive plan, or in, on, under or across any stream within the basin; unless such lines would involve significant disturbance of ground cover affecting water resources;

(14) Landfill projects limited to disposal of solid inert wastes such as earth, rock, gravel, concrete, asphalt paving fragments, glass, plaster, plasterboard, rubber products, steel mill slag, clay, clay products, plastics, asbestos shingles, and similar materials, unless such projects are located on flood plains delineated by the Commission or a signatory State.

(15) Draining, filling or otherwise altering marshes or wetlands when the area affected is less than 25 acres.

(b) All other projects which have or may have a substantial effect on the water resources of the basin shall be submitted to the Commission in accordance with these regulations for determination as to whether the project will have a substantial effect on the water resources of the basin and, if so, whether the project impairs or conflicts with the comprehensive plan. Among these are projects involving the following (except as provided in paragraph (a) of this section):

(1) Impoundment of water;

(2) Withdrawal of ground water;

(3) Withdrawal of water from impoundment or streams;

(4) Diversion of water into or out of the basin;

(5) Deepening or widening of existing streambeds, channels, anchorages, harbors or turning basins, or the construction of new or enlarged channels, anchorages, harbors or turning basins, or the dredging of the bed of any stream or lake and disposal of the dredged spoil, when the nature or location of the project would affect the quantity or quality of ground or surface waters, or fish and wildlife habitat;

(6) Discharge of pollutants into waters of the basin;

(7) Facilities designed to intercept and transport sewage to a common point of discharge; and pipelines and electric power and communication lines;

(8) Facilities for the direct discharge to surface or ground waters of industrial waste water;

(9) Projects that substantially encroach upon the stream or upon the 100-year flood plain of the Delaware River or its tributaries;

(10) Change in land cover on major ground water infiltration areas;

(11) Hydroelectric power projects, including pumped storage projects;

(12) Projects or facilities of Federal, State and local agencies such as highways, buildings and other public works and improvements, affecting the water and related land resources of the basin; and

(13) Draining, filling or otherwise altering marshes or wetlands.

(c) Whenever a State or Federal agency determines that a project falling within an excluded classification (as defined in paragraph (a) of this section) may have a substantial effect on the water resources of the basin, such project may be referred by the State or Federal agency to the Commission for action under these rules.

§ 401.35–1 Water pollution control projects—regional requirements.

(a) The use of regional solutions to water pollution problems, with the least number of separate treatment plants which may be efficient in the particular circumstances, is required whenever feasible. Each waste treatment project shall be submitted to the Commission not later than the completion of preliminary engineering for review of its compliance with this and other requirements of the comprehensive plan.

(b) In reviewing a project for compliance with this section, the Commission will consider the following matters, comparing regional versus separate treatment systems:

(1) Construction costs and economies of various scales of development;

(2) Operating costs and economies of various scales of operation;

(3) Capability of handling industrial wastes with and without pretreatment;

(4) Capability to assimilate high peak flows and temporary shock loads or emergency conditions;

(5) Space and facilities for sludge disposal;

(6) Personnel skills required and their availability for operation and supervision;

(7) Capacity to absorb growth; and the relative times required to place a separate and a regional system in operation;

(8) Desirability of the site selection alternatives for the treatment plant in view of considerations of efficiency of land use, potential service area, and relative transmission distances;

(9) The effect for a reasonable distance downstream on the quality of the receiving waters; and

(10) Effectiveness of the proposal in identifying all sources of pollution, and in achieving a coordinated, comprehensive, and orderly plan for abatement of pollution in the region.

(c) A preliminary engineering report shall accompany each application and shall include factual findings and conclusions with respect to paragraphs (b) (1) through (8) of this section.

(d) For the purpose of this regulation, "a region" is defined to mean one or more drainage areas or parts thereof. A "regional solution" is one which is based upon a feasibility study of the region for which a single system of sewage collection and treatment would be physically and economically feasible.

§ 401.35–2 Environmental statement.

(a) Not later than the completion of preliminary engineering or feasibility studies, the applicant for a project within any of the following classifications shall submit, in compliance with the provisions of the National Environmental Policy Act (Public Law 91–190), an environmental report, together with and as part of the application:

(1) Impoundments having storage capacity in excess of 100 million gallons;

(2) Diversion of water from one subbasin to another or into or out of the basin in excess of an average of 1 million gallons per day during any calendar month;

(3) Electric generating stations of all types having an installed capacity in excess of 100,000 kilowatts;

(4) Electric transmission or bulk power system lines and appurtenances, or highways affecting any aspect of the comprehensive plan and which are not excluded by § 401.35(a) of the rules of practice and procedure;

(5) Draining or filling or otherwise altering marshes or wetlands when the area affected exceeds 25 acres;

(6) Stream channelization projects when the proposed action would have a significant environmental impact; and

(7) Any other project which the Executive Director, in his discretion, determines is a major action which may have a significant environmental impact.

(b) An environmental report shall state in reasonable detail the following:

(1) A description of the proposed action, including such information as is otherwise required by the rules;

(2) The probable environmental impact of the proposed action, including its impact on ecology of wildlife, fish and other marine life, without limitation thereto; an estimate of the effect of the proposed action on population characteristics; an assessment of the effect, if any, upon the resource base, including land use, water and public services;

(3) Any adverse environmental effects which cannot be avoided;

(4) All alternatives to the proposed action that have been considered;

(5) An evaluation of the project in relation to short-term use of man's environment and the maintenance and enhancement of long-term productivity;

(6) Any commitments of natural resources involved in the proposed action, including identification of those resources that would be irreversibly and irretrievably committed; and

(7) An estimate of the effect of the proposed action on the economy, including employment, and a balanced analysis of the economic costs and benefits, whenever the Executive Director determines that such estimate or analysis is necessary for a proper review of the project.

(c) The Executive Director shall prepare a draft environmental statement based upon the applicant's environmental report and staff analysis of the proposed action.

(d) The Executive Director shall distribute the draft environmental statement to the Council on Environmental Quality and other interested public and private agencies and organizations and invite their comments. Such comments may be submitted within 45 days thereafter.

(e) The Executive Director shall schedule each draft environmental statement for a public hearing by the Commission. Notice of hearing shall be published in accordance with the administrative manual, and shall include notice of availability of the draft environmental statement for public inspection. The hearing shall be held not less than 15 days after the draft environmental statement has been made available to the public.

(f) Following receipt of comments on the draft environmental statement and public hearing, the Executive Director shall prepare a final environmental statement and forward it to the Council on Environmental Quality and other agencies in accordance with the provisions of the Council's guidelines.

(g) All draft and final environmental statements, including comments received thereon, shall be available for public examination at the Commission's offices and such other offices as the Executive Director may designate.

(h) The Commission will act upon a project that is subject to the requirements of this section not less than 90 days after a draft environmental statement has been released for public comment and not less than 30 days after the final environmental statement has been forwarded to the Council on Environmental Quality. Each docket decision by the Commission will specifically include or refer to the environmental statement of any such project, and will make specific findings and conclusions with respect to the environmental effects of the project.

(i) In the event of emergency circumstances as provided for in section 2-3.9 of these rules, the Executive Director will consult with the Council on Environmental Quality with respect to waiver, suspension or deferment of the requirements of this section.

(j) In the case of projects the Commission may construct or sponsor, an environmental statement shall be prepared by the Executive Director and submitted to the Commission, and the environmental statement shall be processed in accordance with the Council on Environmental Quality guidelines.

(k) When any project listed in paragraph (a) of this section is subject to the requirement of an environmental impact statement to be prepared by another Federal agency, the Executive Director will consult with such agency and establish appropriate lead agency arrangements that will meet the requirements of the National Environmental Policy Act to avoid duplication.

§ 401.35-3 Siting studies for major electric generating projects.

(a) An application under section 3.8 of the compact for approval of an electric generating project with a design capacity of 100,000 kw or more shall include, as part of the application: (1) A master siting study, (2) a site selection analysis for the project, and (3) the environmental statement otherwise required.

(b) (1) The master siting study shall describe in general terms all existing major electric generating projects of the applicant and of other public utilities using the water resources of the basin, and all such projects proposed or planned for the ensuing 15-year period. The master siting study shall describe particularly the impact of each proposed project on the water resources and related land resources of the basin. It shall include, with as much detail as is available, a description of the 5-mile reach of any stream within which each proposed project is or will be located, the concept, capacity and fuel source of each project, the quantity and method of heat and moisture dissipation, the water resource requirements and water-related ecological effects of each proposed project in the study.

(2) The master siting study will be reviewed by the Commission in relation to the comprehensive plan, may be employed as an input to the comprehensive plan, and may be considered, in whole or in part, for inclusion in the plan. A master siting study may be amended from time to time to reflect changing power demands, technology and water resource conditions. The Commission will act in relation to a master siting study or amendment thereof only after public hearing.

(c) The site selection analysis shall demonstrate the relationship of the proposed project, and its specific location, to the master siting study. Prior to submitting the site selection analysis, the applicant shall circulate it for comment among other interested public utilities, the Federal and State governmental agencies having jurisdiction over the siting of electric generating stations in the State in which the project is located, regional or county planning commissions having jurisdiction in the project area, and such major water users as the Commission shall designate, and such comments shall be appended to and submitted together with the application. Prior to acting on the application, the Commission will make the site selection analysis available for public review and comment.

(d) The Commission will review each application for a major electric generating project with reference to the doctrine of equitable apportionment, including such priority of uses as will recognize alternative water resources and sites for electric generating projects, the increasing demands on the water resources of the basin and the optimum beneficial use of the water resources of the basin.

(e) The Commission will not act upon an application for approval under section 3.8 of the compact to initiate a partial or preliminary phase of an electric generating project which is subject to this regulation unless the application conforms to requirements of paragraph (a) of this section.

§ 401.36 Sequence of approval.

A project will be considered by the Commission under section 3.8 of the compact either before or after any other State or Federal review, in accordance with the provisions of the administrative agreement applicable to such project.

§ 401.37 Form of referral by State or Federal Agency.

Upon approval by any State or Federal agency of any project reviewable by the Commission under this part, if the project has not prior thereto been reviewed and approved by the Commission, such agency shall refer the project for review under section 3.8 of the compact in such form and manner as shall be provided by administrative agreement.

§ 401.8 Form of submission of projects not requiring prior approval by State or Federal agencies.

Where a project does not require approval by any other State or Federal agency, or where such approval is required but an administrative agreement is not in force, the project shall be submitted directly to the Commission for review and determination of compatibility with the comprehensive plan, in such form of application, with such supporting documentation, as the Executive Director may reasonably require for the administration of the provisions of the compact. These shall include without limitation thereto:

(a) *Exhibits to accompany application.*—The application shall be accompanied by the following exhibits: (1) Abstract of proceedings authorizing project, where applicable; (2) general map showing specific location and dimension of a structural project, or specific language of a standard or policy in the case of a nonstructural proposal; (3) section of the United States Geological Survey topographic map showing the territory and watershed affected; (4) maps, drawings, specifications and profiles of any proposed structures, or a description of

the specific effects of a nonstructural project; (5) written report of the applicant's engineer showing the proposed plan of operation of a structural project; (6) map of any lands to be acquired or occupied; (7) estimate of the cost of completing the proposed project, and sufficient data to indicate a workable financial plan under which the project will be carried out; and (8) a description of the construction procedures to be followed in excavating, backfilling, retention of sediment, reseeding and landscaping, all with particular reference to minimizing soil erosion and sedimentation in the stream.

(b) *Letter of transmittal.*—The application shall be accompanied by a letter of transmittal in which the applicant shall include a list of all enclosures, the names and addresses to which communications may be directed to the applicant, and the names and addresses of the applicant's engineer and counsel, if any.

(c) *Number of copies.*—Unless otherwise ordered by the Commission, two copies of the application and accompanying papers shall be filed. If an application is contested, the Commission may require additional copies of the application and all accompanying papers to be furnished by the applicant. In such cases, certified copies or photographic prints or reproductions may be used.

§ 401.39 Preliminary action; informal conference; emergencies.

(a) Whenever the Executive Director shall deem necessary, or upon request of the applicant, an informal conference may be scheduled to explain, supplement or review an application.

(b) Whenever the Executive Director determines that an application is for a project not included in the classes listed in § 401.35, which would not have a substantial effect upon the water resources or the basin within the meaning of section 3.8 of the compact, he may, subject to the approval of the chairman of the Commission, so certify to the applicant. At the next meeting of the Commission, the Executive Director shall report all such certifications not previously reported. Any project which has been so certified need not be further reviewed by the Commission unless an objection thereto is taken by the Commission at the meeting at which such certification is reported.

(c) In the event of an emergency requiring immediate action to protect the public interest or to avoid substantial and irreparable injury to any private person or property, and the circumstances do not permit a review, hearing and determination in the regular course of these regulations, the Executive Director with the approval of the chairman of the Commission may issue an emergency certificate authorizing an applicant to take such action as the Executive Director may deem necessary and proper in the circumstances, pending review, hearing and determination by the Commission as otherwise required in this part.

§ 401.40 Hearings.

(a) The Executive Director may, and whenever any substantial objection is filed pursuant to this section shall, cause a hearing to be scheduled upon an application received under § 401.38. He may, and at the request of the applicant shall, cause a hearing to be scheduled as to any application referred under § 401.37. Notice of the intention of the Commission to act upon an application received pursuant to § 401.38, or upon a request for a hearing with regard to an application received pursuant to § 401.37 shall be published by the Executive Director in one or more newspapers of general circulation in the area affected, at least once a week for 2 successive weeks, which publications shall not be less than 7 nor more than 21 days prior to the date on which action is proposed to be taken. Such notice shall direct any person objecting to the application to file his objection with the Commission not later than 2 days before the scheduled date of action. If the Executive Director determines that any filed objection is substantial, he shall defer consideration by the Commission, furnish a copy of each such objection to the applicant, and schedule a hearing on the application to be held not less than 10 nor more than 30 days after the last day for filing objections. Notice of the hearing shall be served forthwith by certified mail upon the applicant and each person filing a substantial objection. Proof of such publication and of service of notice shall be filed with the Commission on or before the date for which the hearing is scheduled.

(b) The application and supporting documents, maps, and data, as filed or amended shall be open to inspection by any interested person prior to the hearing.

§ 401.41 Objections.

Every objection filed pursuant to § 401.40 shall be in writing and shall particularly specify the ground thereof. Amendments to the objections may be permitted by the Commission. All objections and supporting documents shall be filed in duplicate in such form as the director may prescribe. No person may be heard in opposition to an application except on objections so filed. Such objections shall be heard and determined under the procedure prescribed by subpart E (hearings) of this part.

§ 401.42 Limitation of approval.

Approval by the Commission under this part shall expire 3 years from the date of Commission action unless prior thereto the sponsor has expended substantial funds (in relation to the cost of the project) in reliance upon such approval. An approval may be extended or renewed by the Commission upon application.

§ 401.43 Certificate of compliance.

The executive director, upon application duly made to him, and after appropriate inspection and such other proof as may be required, may certify to any applicant that the applicant has duly complied with the requirements of any action or determination by the Commission pursuant to this part. The executive director may make such certification whenever he finds and determines that there has been sufficient compliance to satisfy the purposes and objectives of the Commission's action or determination notwithstanding the existence of any technical variation or omission in the work done. All such certifications shall be reported to the Commission at its next meeting thereafter.

§ 401.44 Certification for Federal license or permit.

(a) For the purposes of section 401 of the Federal Water Pollution Control Act Amendments of 1972, upon application, the executive director may give notice and he, or such person as he may designate, may hold a public hearing with respect to any project which is deemed not to have a substantial effect on the water resources of the basin by virtue of the provisions of § 401.35(a).

(b) As to all other projects which are subject to review by the Commission, the notice required by the said section 401 will be given and a hearing may be held by the Commission at or before the meeting at which it considers the project for the purposes of section 3.8 or article 11 of the compact.

(c) In either case a certificate under said section 401 may be issued by the executive director following appropriate findings and determinations after public notice and hearing (if any) by the director or the Commission, as the case may be. Such certificate may be issued either before or after review and action which may be required under the laws and regulations applicable to any other governmental agency of the signatory parties.

(d) In the event that an application for emergency action is submitted to the director pursuant to § 401.39(c), the director may hold a hearing for the purposes of the said section 401 and issue a certificate thereunder in connection with the issuance of an emergency certificate for the purposes and under the conditions described in said paragraph (c) of this section.

Subpart D—Review in Water Quality Cases

§ 401.51 Scope.

This article shall apply to the review, hearing, and decision of objections and issues arising as a result of administrative actions and decisions taken or rendered under the basin regulations.

§ 401.52 Notice and request for hearing.

The executive director shall serve notice of an action or decision by him under the basin regulations by personal service or certified mail, return receipt requested. The affected discharger shall be entitled (and the notice of action or decision shall so state) to show cause at a Commission hearing why such action or decision should not take effect. A request for such a hearing shall be filed with the Secretary of the Commission not more than 20 days after service of the executive director's determination. Failure to file such a request within the time limited shall be deemed to be an acceptance of the executive director's determination and a waiver of any further hearing.

§ 401.53 Form of request.

A request for a hearing may be informal but shall indicate the name of the individual and the address to which an acknowledgment may be directed. It may be stated in such detail as the objector may elect. The request shall be deemed filed only upon receipt by the Commission.

§ 401.54 Report.

Whenever the executive director determines that the request for a hearing is insufficient to identify the nature and scope of the objection, or that one or more issues may be resolved, reduced, or identified by such action, he may require the objector to prepare and submit to the Commission, within such reasonable time (not less than 20 days) as he may specify, a technical report of the facts relating to the objection prior to the scheduling of the hearing. The report shall be required by notice in writing served upon the objector by certified mail, return receipt requested, addressed to person or entity filing the request for hearing at the place indicated in the request.

§ 401.55 Form and contents of report.

(a) *Generally.*—A request for a report under this article may require such information and the answers to such questions as may be reasonably pertinent to the subject of the action or determination under consideration.

(b) *Waste loading.*—In cases involving objections to an allocation of the assimilative capacity of a stream, the report shall be signed and verified by a technically qualified person having personal knowledge of the facts stated therein, and shall include such of the following items as the executive director may require:

(1) A specification with particularity of the ground or grounds for the objection; and failure to specify a ground for objection prior to the hearing shall foreclose the objector from thereafter asserting such a ground at the hearing;

(2) A description of industrial processing and waste treatment operational characteristics in such detail as to permit an evaluation of the character, kind and quantity of the discharges, both treated and untreated, including the physical, chemical, and biological properties of any liquid, gaseous, solid, radioactive, or other substance composing the discharge in whole or in part;

(3) The thermal characteristics of the discharges and the level of heat in flow;

(4) Information in sufficient detail to permit evaluation in depth of any inplant control or recovery process for which credit is claimed;

(5) An analysis of all the parameters that may have an effect on the strength of the waste or impinge upon the water quality criteria set forth in the basin regulations, including a determination of and the projection of a first-stage carbonaceous oxygen demand;

(6) Measurements of the waste as closely as possible to the processes where the wastes are produced, with the sample composited either continually or at frequent intervals (one-half hour or, where permitted by the executive director, 1 hour periods), so as to represent adequately the strength and volume of waste that is discharged; and

(7) Such other and additional specific technical data as the executive director may reasonably consider necessary and useful for the proper determination of a waste load allocation.

§ 401.56 Protection of trade secrets; confidential information.

No person shall be required in such report to divulge trade secrets or secret processes. All information disclosed to any Commissioner, agent or employee of the Commission in any report required by these rules shall be confidential for the purposes of section 1905 of title 18 of the United States Code which provides:

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation or association; or permits any income return or copy thereof to be seen or examined by any persons except as provided by law; shall be fined not more than $1,000 or imprisoned not more than 1 year, or both; and shall be removed from office or employment. June 25, 1948, C.645, 62 Stat. 791.

§ 401.57 Failure to furnish report.

The Executive Director may, upon 5 days' notice to the objector, dismiss the request for a hearing as to any objector who fails to file a complete report within such time as shall be prescribed in the Director's notice.

§ 401.58 Informal conference.

Whenever the Executive Director deems it appropriate, he may cause an informal conference to be scheduled between an objector and such member of the Commission staff as he may designate. The purpose of such a conference shall be to resolve or narrow the ground or grounds of the objections.

§ 401.59 Consolidation of hearings.

Following such informal conferences as may be held, to the extent that the same or similar grounds for objections are raised by one or more objectors, the Executive Director may in his discretion and with the consent of the objectors, cause a consolidated hearing to be scheduled at which two or more objectors asserting that ground may be heard.

Subpart E—Conduct of Hearings

§ 401.61 Hearings generally.

(a) *Scope of article.*—This article shall apply to hearings required for the purposes of subparts C and D of this part and, to the extent applicable, to the conduct of administrative hearings for which no other provision is made by statute or regulation.

(b) *Timely request.*—Any person aggrieved by any action or decision of the Executive Director taken under any Basin regulation shall be entitled upon timely filing of a request therefor, to a hearing in accordance with these regulations.

(c) *Optional joint hearings.*—Whenever designated by a department, agency or instrumentality of a signatory party, and within any limitations prescribed by the designation, a hearing officer designated pursuant to this article may serve as a hearing officer, examiner or agent pursuant to such additional designation. The hearing officer may conduct joint hearings for the Commission and for such other department, agency or instrumentality. Pursuant to the additional designation, a hearing officer shall cause to be filed, with the department, agency or instrumentality making the designation, a certified copy of the transcript of the evidence taken before him and, if requested, of his findings and recommendations. Neither the hearing officer nor the Delaware River Basin Commission shall have or exercise any power or duty as a result of such additional designation to decide the merits of any matter arising under the separate laws of a signatory party (other than the Delaware River Basin compact).

(d) *Schedule.*—The Executive Director shall cause the schedule for each hearing to be listed in advance upon a "hearing docket" which shall be posted in public view at the office of the Commission.

§ 401.62 Hearing officer.

(a) *Generally.*—Hearings shall be conducted by one or more members of the Commission, by the Executive Director, or by such other hearing officer as the chairman may designate, except as provided in paragraph (b) of this section.

(b) *Waste load allocation cases.*—In cases involving the allocation of the assimilation capacity of a stream:

(1) The Executive Director shall appoint a hearing board of at least two persons. One of them shall be nominated by the water pollution control agency of the State in which the discharge originates, and he shall be chairman. The board shall have and exercise the powers and duties of a hearing officer;

(2) A quorum of the board for purposes of the hearing shall consist of two members; and

(3) Questions of practice or procedure during the hearing shall be determined by the chairman.

§ 401.63 Hearing procedure.

(a) The hearing officers shall have the power to rule upon offers of proof and the admissibility of evidence, to regulate the course of the hearings, and to hold conferences for the settlement or simplification of issues.

(b) The hearing officer shall cause each witness to be sworn or to make affirmation.

(c) Any party to a hearing shall have the right to present evidence and to examine and cross-examine witnesses.

(d) When necessary, in order to prevent undue prolongation of the hearing, the hearing officer may limit the number of times any witness may testify, the repetitious examination or cross-examination of witnesses, or the extent of corroborative or cumulative testimony.

(e) The hearing officer shall exclude irrelevant, immaterial, or unduly repetitious evidence, but the parties shall not be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received.

(f) Any person entitled to be heard may appear and be heard in person or be represented by an attorney at law or, if the applicant is a corporation, by its corporate officer, an authorized employee, or by an attorney at law.

(g) Briefs and oral argument may be required by the hearing officer and shall be permitted upon request made prior to the close of the hearing by any party. They shall be part of the record unless otherwise ordered by the hearing officer.

§ 401.64 Staff and other expert testimony.

(a) The Executive Director shall arrange for the presentation of testimony by the Commission's technical staff and other experts, as he may deem necessary or desirable, to incorporate in the record or support the administrative action, determination or decision which is the subject of the hearing.

(b) A party to the hearing may submit the testimony of an expert witness, to be made part of the record, whether or not the expert is present, provided that such testimony has been reduced to writing, sworn, and copies thereof distributed to all parties appearing at the hearing. Such testimony, however, shall not be admitted whenever the expert is not present and available for cross-examination at the hearing unless the testimony shall have been made available to all parties of record at least 5 days prior to the hearing and all parties have waived the right of cross-examination.

§ 401.65 Record of proceedings.

A record of the proceedings and evidence at each hearing shall be made by a qualified stenographer designated by the Executive Director. Where demanded by the applicant, objector, or any other person who is a party to these proceedings, or where deemed necessary by the hearing officer, the testimony shall be transcribed. In those instances where a transcript of proceedings is made, two copies shall be delivered to the Commission. The applicant, objector, or other persons who desire copies shall obtain them from the stenographer at such price as may be agreed upon by the stenographer and the person desiring the transcript.

§ 401.66 Findings and report.

The hearing officer shall prepare a report of his findings and recommendations. In the case of an objection to a waste load allocation, the hearing officer shall make specific findings of a recommended allocation of carbonaceous oxygen demand, which may increase, reduce or confirm the Executive Director's determination. The report shall be served by personal service or certified mail (return receipt requested) upon each party to the hearing or its counsel unless all parties have waived service of the report. The applicant and any objector may file objections to the report within 20 days after the service upon him of a copy of the report. A brief shall be filed together with any objections. The report of the hearing officer together with objections and briefs shall be promptly submitted to the Commission. The Commission may require or permit oral argument upon such submission prior to its decision.

§ 401.67 Action by the Commission.

The Commission will act upon the findings and recommendations of the hearing officer pursuant to law. The determination of the Commission will be in writing and shall be filed together with any transcript of the hearing, report of the hearing officer, objections thereto, and all plans, maps, exhibits and other papers, records or documents relating to the hearing. Subject to the provisions of § 401.56, all such records, papers, and documents may be examined by any person at the office of the Commission, and shall not be removed therefrom except temporarily upon the written order of the Secretary after the filing of a receipt therefor in form prescribed by the Secretary. Copies of any such records and papers may be made in the office of the Commission by any person, subject to such reasonable safeguards for the protection of the records as the Executive Director may require.

Subpart F—General Provisions

§ 401.71 Definitions.

For the purposes of this part, except as the context may otherwise require:

(a) All words and phrases which are defined by section 1.2 of the compact shall have the same meaning herein.

(b) Words and phrases which are defined by part I of the Administrative Manual (section 1–3) shall have the same meaning for the purposes of this part 401.

(c) "Application" shall mean a request for action by the Commission in any written form, including without limitation thereto, a letter, referral by any agency of a signatory party, or an official form prescribed by the Commission: *Provided*, That whenever an official form of application has been duly required, an application shall not be deemed to be pending before the Commission until such time as such form, together with the information required thereby, has been completed and filed.

(d) "Applicant" shall mean any sponsor or other person who has submitted an application to the Commission.

(e) "Sponsor" shall mean any person authorized to initiate, construct or administer a project.

§ 401.72 Supplementary details.

Forms, procedures, and supplementary information, to effectuate these regulations, may be provided or required by the Executive Director as to any hearing, project or class of projects.

§ 401.73 Waiver of rules.

The Commission may, for good cause shown, waive rules or require additional information in any case.

§ 401.74 Construction.

This part is promulgated pursuant to section 14.2 of the compact and shall be construed and applied subject to all of the terms and conditions of the compact and of the provisions of section 15.1 of Public Law 87–328, 75 Stat. 688.

[SEAL] W. BRINTON WHITALL,
Secretary.

APRIL 18, 1973.

[FR Doc.73–8110 Filed 4–25–73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

Termination of Provisional Listing and Certification of FD&C Violet No. 1; Clarification of Applicability to Mixtures and Lakes

In the FEDERAL REGISTER of April 10, 1973 (38 FR 9077) the Commissioner of Food and Drugs published an order amending 21 CFR parts 8 and 9 terminating the postponement of the closing date of the provisional listing of FD&C Violet No. 1 and cancelling, effective as of April 10, 1973, all certificates issued for batches of FD&C Violet No. 1.

For the purpose of clarification and in response to inquiries received concerning this matter, the Commissioner hereby gives notice that the provisions of the order of April 10, 1973 (38 FR 9077) concerning FD&C Violet No. 1 apply equally to any lakes or mixtures prepared therefrom.

This notice is issued pursuant to provisions of title II of the Color Additive Amendments of 1960 (title II, Public Law 86–618; 74 Stat. 404 et seq.; 21 U.S.C. note under 376) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated April 19, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73–8063 Filed 4–25–73;8:45 am]

SUBCHAPTER C—DRUGS

PART 138—DRUGS; OFFICIAL NAMES

Additions, Deletions, and Changes in Listing of Names; Correction

In FR Doc. 73-3610, appearing at page 5343 in the issue of Wednesday, February 28, 1973, in the table under the heading "Official name", the entry reading "Sulfisobenzone" is corrected to read "Sulisobenzone."

Dated April 20, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-8059 Filed 4-25-73;8:45 am]

SUBCHAPTER F—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Child Protection Packaging Standards For Turpentine and Methyl Alcohol; Extension of Effective Date

In the FEDERAL REGISTER of October 13, 1972 (37 FR 21632, 21635), the Commissioner of Food and Drugs promulgated regulations establishing child protection packaging standards for certain household substances in liquid form containing methyl alcohol (21 CFR 295.2(a)(8), effective Apr. 11, 1973) and for certain household substances in liquid form containing turpentine (21 CFR 295.2(a)(6), effective Apr. 11, 1973).

The Commissioner has received requests for an extension of the effective date of these standards from a number of individual turpentine and methyl alcohol packagers and from the American Turpentine Farmers Association Cooperative and the National Paint and Coatings Association. The basis for these requests is that many packagers are unable to obtain shipments of special packaging on order or have not received promised packaging equipment modifications necessary to apply the new special packaging.

In order to evaluate these extension requests, the Commissioner has conducted a survey of 22 known packagers of turpentine and methyl alcohol throughout the country and of the manufacturers of special packaging suitable for use on packages of these products. The survey results support the claims of the packagers.

The majority of packagers of these substances have historically purchased the closures manufactured by one firm. That firm did develop two designs of a closure which, when tested by the method set forth at § 295.10 (21 CFR 295.10), were reported to meet the effectiveness specifications of the standards. In fact the firm sent a letter to its customers on July 14, 1972, announcing the development of their special packaging, providing tentative price information, assuring packagers that no equipment changes other than altering capping chucks would be necessary, and stating that they expected to be in production by September 1972 on both designs of closures. Subsequently, the bulk of the orders for special packaging were placed with this closure manufacturer.

The second closure manufacturer with special packaging suitable for use on metal cans of turpentine and methyl alcohol reports having available production capacity for their one design of closure. Their closure however is not of a threaded-cap design and therefore would require a new can spout (necessitating reordering all new cans with the modified spout) and a complete change in packaging equipment. By the time those packagers who ordered from the first manufacturer realized they could not meet the April 11 effective date, it was too late to convert can spouts and packaging equipment to enable using the closure of the second manufacturer.

Records submitted by the packagers supporting their requests for an extension show that assurances were given them as early as July 1972 that the special packaging would be available. Documentation provided by packagers to demonstrate their attempts to comply show that some orders placed as early as October 1972 have yet to be filled. A number of packagers have ordered one of the two designs of closure, received assurances of timely shipment, and ordered retooling of their packaging lines. The closure manufacturer, however, has been unable to begin commercial production of this closure as of April 11, 1973. Furthermore, the manufacturer of the packaging machinery used by most packagers is unable to provide retooling necessary to apply the one design of special packaging which the closure manufacturer is able to produce.

Having carefully reviewed the data submitted by the packagers and after consideration of the aforesaid survey findings, the Commissioner concludes that the packagers in this case did attempt in good faith to purchase adequate supplies of special packaging and to make the necessary equipment modifications to enable them to comply with the standards. In spite of these attempts, many are unable to comply with the standards through no fault of their own.

The effective date for both standards was established at 180 days after promulgation in the FEDERAL REGISTER. Based on the new data, the Commissioner concludes that a limited extension of the effective date of both standards is warranted. Although some packagers requested up to a 6-month extension, which would be the maximum allowable under the Poison Prevention Packaging Act of 1970, the Commissioner concludes that an extension to July 1, 1973, is adequate to relieve the situation.

This extension will give sufficient time for packagers to obtain shipments of the design of special packaging which is in production and for those packagers who have ordered the packaging not yet in production to decide whether to continue waiting or to convert can spouts and packaging equipment to utilize the special packaging of another manufacturer. On July 1, 1973, there should be no further basis for requesting an additional extension. Of course the Commissioner expects that all packagers will begin the use of special packaging immediately as it becomes available prior to July 1, 1973.

The Commissioner is aware that some packagers have received shipments of special packaging and are otherwise in position to comply with the initial effective date (April 11, 1973). The Commissioner realizes that this extension may appear to be unfair to these few packagers; however, in granting the extension he recognizes that many manufacturers who acted in good faith have been unable to comply.

Therefore, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under authority delegated to the Commissioner (21 CFR 2.120), the effective date of § 295.2(a)(6) and (8) is hereby extended to July 1, 1973, for those packagers who ordered adequate stocks of special packaging well in advance of April 11, 1973, and who will immediately begin to use special packaging complying with § 295.2(a)(6) and (8) when it is delivered to them.

Dated April 20, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-8058 Filed 4-25-73;8:45 am]

Title 24—Housing and Urban Development

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

[Docket No. FI-108]

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of part 1914 of subchapter B of chapter X of title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Colorado	Boulder	Louisville, City of.	H 08 013 1540 01	Colorado Water Conservation Board, room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	City of Louisville, City Hall, 749 Main St., Louisville, Colo. 80027.	Mar. 3, 1972. Emergency. May 4, 1973. Regular.
Indiana	St. Joseph	Roseland, Town of.	H 18 141 4240 01	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Area Plan Commissioner Office, County-City Bldg., 227 West Jefferson Blvd.	May 5, 1972. Emergency. May 4, 1973. Regular.
Michigan	Wayne	Rockwood, City of.				Apr. 24, 1973. Emergency.
Missouri	Cape Girard au	Jackson, City of	H 29 031 3080 01 through H 29 031 3080 02	Water Resources Board, P.O. Box 271, Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	City Administrator, City Hall, Jackson, Mo. 63755.	Sept. 10, 1971. Emergency. May 4, 1973. Regular.
Pennsylvania	Lancaster	East Cocalico, Township of.				Apr. 24, 1973. Emergency.
Do	do	Conestoga, Township of.				Do.
Do	Clinton	Pine Creek, Township of.				Do.
Do	Snyder	Selinsgrove, Borough of.	H 42 109 7470 01	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Borough Manager, Borough of Selinsgrove, Selinsgrove, Pa. 17870.	July 30, 1971. Emergency. May 4, 1973. Regular.
North Carolina	Dare	Kill Devil Hills, Town of.	H 37 055 2435 01 through H 37 055 2435 03	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Office of the Town Clerk, Town of Kill Devil Hills, Kill Devil Hills, N.C. 27948.	Feb. 4, 1972. Emergency. May 4, 1973. Regular.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued April 19, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-7962 Filed 4-25-73;8:45 am]

[Docket No. FI-106]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of part 1914 of subchapter B of chapter X of title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Illinois	Monroe	Unincorporated areas.				Apr. 20, 1973, Emergency.
Iowa	Hamilton	Webster City, City of.				Do.
Louisiana	Iberville Parish	Unincorporated areas.				Apr. 16, 1973, Emergency.
Missouri	St. Louis	University City, City of.				Apr. 20, 1973, Emergency.
New York	Cayuga	Fair Haven, Village of.				Do.
Do	Onondaga	Pompey, Town of.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued April 13, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-7964 Filed 4-25-73;8:45 am]

[Docket No. FI-109]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of part 1914 of subchapter B of chapter X of title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Illinois	St. Clair	Caseyville, Village of.				Apr. 20, 1973, Emergency.
Michigan	Bay	Portsmouth, Township of.				Do.
Pennsylvania	Erie	Erie, City of				Do.
Do	Schuylkill	Tremont, Borough of.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued April 18, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-7988 Filed 4-25-73;8:45 am]

[Docket No. FI-110]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of part 1914 of subchapter B of chapter X of title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Louisiana	Assumption Parish.	Unincorporated areas.				Apr. 20, 1973, Emergency.
New Jersey	Union	Roselle Park, Borough of.				Apr. 25, 1973, Emergency.
New York	Chautauqua	Dunkirk, City of				Do.
Do	Livingston	Geneseo, Town of				Do.
Do	do	Groveland, Town of.				Do.
Do	Westchester	Scarsdale, Village of.				Do.
Ohio	Ottawa	Unincorporated areas.				Do.
Do	Erie	Margaretta, Township of.				Do.
Wisconsin	Winnebago	Menasha, City of				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued April 19, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-7989 Filed 4-25-73;8:45 am]

[Docket No. FI-107]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding, a purpose which is accomplished pursuant to statute by denying subsidized flood insurance to structures thereafter built within such areas. The practice of issuing proposed identifications for comment or of delaying effective dates would tend to frustrate this purpose by permitting imprudent or unscrupulous builders to start construction within such hazardous areas before the official identification became final, thus increasing the communities' aggregate exposure to loss of life and property and the agency's financial exposure to flood losses, both of which are contrary to the statutory purposes of the program. Accordingly, the Department is not providing for public comment in issuing this amendment and it will become effective April 26, 1973.

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Illinois	Cooke	Des Plaines, City of.	H 17 031 2330 01 through H 17 031 2330 07	Department of Local Government Affairs, 309 West Washington St., Chicago, Ill. 60606. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	City Engineer's Office, 1585 Ellinwood St., Des Plaines, Ill. 60016.	May 4, 1973.
New Jersey	Essex	Maplewood, Township of.	H 34 013 1825 01 through H 34 013 1825 02	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton N.J. 08625.	Township of Maplewood, Municipal Bldg., 574 Valley St., Maplewood, N.J. 07040.	Do.
Do	Cumberland	Vineland, City of.	H 34 011 3460 01 through H 34 011 3460 06	do	Vineland City Hall, Seventh and Wood Sts., Vineland, N.J. 08360.	Do.
Oregon	Umatilla	Pendleton, City of.	H 41 059 1610 01 through H 41 059 1610 03	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem, Oreg. 97310.	City Manager, City Hall, Pendleton, Oreg. 97801.	Do.
Pennsylvania	Chester	Pennsbury, Township of.	H 42 029 5388 01 through H 42 029 5388 06	Department of Community Affairs, Commonwealth of Philadelphia, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Township of Pennsbury, Savery's Road, Rural Delivery No. 1, Kennett Square, Pa. 19348.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued April 19, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-7963 Filed 4-25-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[Federal Procurement Regs.; Temporary Reg. 31]

PART 1-1—GENERAL

Compliance With Wage and Price Controls

1. *Purpose.*—This FPR temporary regulation amends procedures previously established in FPR temporary regulations 22, 23, 26, and 28 to insure compliance with the requirements of Executive Order 11695, January 11, 1973, regarding the stabilization of the economy.

2. *Effective date.*—This regulation is effective May 3, 1973.

3. *Expiration date.*—This regulation will continue in effect until canceled.

4. *Background.*—Executive Order 11695 was issued on January 11, 1973, which further provides for the stabilization of the economy, and supersedes Executive Orders 11640, 11660, and 11674. The new Executive order modifies the President's economic stabilization program to provide for compliance largely on a voluntary basis. However, compliance on a mandatory basis has been continued for food, health services, construction, crude petroleum, and petroleum products, and such other commodities and services as may be identified from time to time by the Cost of Living Council. The price certifications prescribed by this FPR temporary regulation are limited in applicability to the areas subject to mandatory controls. Should the Cost of Living Council make changes in the commodities, services, and dollar limitations with respect to mandatory controls, agencies are authorized to modify the applicability provisions in the certifications prescribed by this regulation.

5. *Effect on other issuances.*—FPR temporary regulations 22, 23, 26, and 28 are canceled.

6. *Explanation of changes.*—Section 1-1.321 is amended to read as follows:

§ 1-1.321 Stabilization of prices, rents, wages, and salaries.

By Executive Order 11695, January 11, 1973, the President abolished the Pay Board and Price Commission (established by Executive Order 11627) and ordered that the Cost of Living Council (established by Executive Order 11615) be continued. The responsibilities of the Pay Board and Price Commission were transferred to the Cost of Living Council, and the Chairman of the Cost of Living Council was directed by the order to issue regulations and orders to carry out the purposes of the order. This section prescribes procedures for carrying out the purposes of the regulations and orders

issued by the Cost of Living Council in 6 CFR part 130.

§ 1–1.321–1 Solicitations.

(a) Each solicitation for other than small purchases, under the procedures in subpart 1–3.6, shall include the following notice:

STABILIZATION OF PRICES, WAGES, AND SALARIES

Offerors are advised that prices are expected to be in compliance with the general price standards of the Cost of Living Council as set forth in § 130.13 of title 6, Code of Federal Regulations.

(b) Except for small purchases, the following provision shall be included in solicitations and contracts for commodities and services as identified by the Cost of Living Council. Currently, these include food, health services, construction, and crude petroleum, and petroleum products. The alternate price certification set forth in paragraph (c) may be employed under the conditions prescribed therein. Should the Cost of Living Council change the commodities or services and dollar limits for the application of mandatory controls, the applicability paragraph of the price certification prescribed by this paragraph (b) may be modified accordingly.

PRICE CERTIFICATION

(Applicable to contracts for food, health services, and construction where the contractor's annual sales or revenues are $50 million or more, and to contracts for crude petroleum and petroleum products where the contractor's annual sales or revenues are $250 million or more.)

(a) By submission of this bid (offer) bidder (offeror) certifies that he is in compliance with the requirements of Executive Order 11695, January 11, 1973, or any amendments thereof.

(b) Prior to the payment of invoices under this contract, the Contractor shall place on, or attach to, each invoice submitted one of the following certifications, as appropriate:

I hereby certify that the amounts invoiced herein do not exceed the lower of (1) the contract price, or (2) maximum levels established in accordance with Executive Order 11695, January 11, 1973, or any amendments thereof.

I hereby certify that my annual sales or revenues are less than the applicable amount specified in the price certification clause of this contract.

(c) The price certification set forth in this paragraph may be employed in lieu of the certification in paragraph (b) only in those situations which do not involve the submission of invoices. Should the Cost of Living Council change the commodities or services and the dollar limits for the application of mandatory controls, the applicability paragraph of the price certification prescribed by this paragraph (c) may be modified accordingly.

PRICE CERTIFICATION

(Applicable to contracts for food, health services, and construction where the contractor's annual sales or revenues are $50 million or more and to contracts for crude petroleum and petroleum products where the contractor's annual sales or revenues are $250 million or more.)

(a) By submission of this bid (offer) bidder (offeror) certifies that he is in compliance with and will continue to comply with the requirements of Executive Order 11695, January 11, 1973, or any amendments thereof.

(b) Acceptance of any payments for property, goods, or services furnished during the effective period of Executive Order 11695, January 11, 1973, or any amendments thereof, shall constitute a certification by the contractor (1) that the amounts paid do not exceed the lower of (i) the contract price, or (ii) maximum levels established in accordance with such order; or (2) that his annual sales or revenues are less than the applicable amount specified in the price certification clause of this contract.

§ 1–1.321–2 Notification to contractors.

(a) Except as provided in (b) and (c), below, where deemed appropriate, or upon a contractor's request, contracting officers may notify contractors with existing contracts for other than food, health services, construction, and crude petroleum and petroleum products of their obligations under Executive Order 11695, January 11, 1973, or any amendments thereof.

(b) Contractors who have existing contracts for food, health services, construction, crude petroleum, and petroleum products, or other commodities or services made subject to mandatory controls by the Cost of Living Council, shall be notified of the requirement for placing on, or attaching to, each invoice submitted one of the certifications set forth in this paragraph (b). Should the Cost of Living Council change the commodities or services and dollar limits for the application of mandatory controls, the applicability paragraph of the price certifications prescribed by this paragraph (b) may be modified accordingly.

(1) First alternative price certification.

PRICE CERTIFICATION

(Applicable to contracts for food, health services, and construction where the contractor's annual sales or revenues are $50 million or more and to contracts for crude petroleum and petroleum products where the contractor's annual sales or revenues are $250 million or more.)

I hereby certify that the amounts invoiced herein do not exceed the lower of (1) the contract price, or (2) maximum levels established in accordance with Executive Order 11695, January 11, 1973, or any amendments thereof.

(2) Second alternative price certification.

PRICE CERTIFICATION

(Applicable to contracts for food, health services, and construction where the contractor's annual sales or revenues are $50 million or more and to contracts for crude petroleum and petroleum products where the contractor's annual sales or revenues are $250 million or more.)

I hereby certify that my annual sales or revenues are less than the applicable amount specified in the applicability paragraph of this price certification.

(c) For existing contracts for food, health services, construction, crude petroleum and petroleum products, or other commodities or services made subject to the mandatory controls of the Cost of Living Council, that do not involve the submission of invoces, contractors shall be notified of the requirement for a price certification as to the acceptance of payments made under the contract. The requirement for this notification may be satisfied by either a modification of the contract or a letter from the contracting officer, acknowledged by the contractor, incorporating the price certification prescribed by this paragraph (c). Should the Cost of Living Council change the commodities or services and the dollar limits for the application of mandatory controls, the applicability paragraph of the price certification prescribed by this paragraph (c) may be modified accordingly.

PRICE CERTIFICATION

(Applicable to contracts for food, health services, and construction where the contractor's annual sales or revenues are $50 million or more and to contracts for crude petroleum and petroleum products where the contractor's annual sales or revenues are $250 million or more.)

Acceptance of any payments for property, goods, or services furnished during the effective period of Executive Order 11695, January 11, 1973, or any amendments thereof, shall constitute a certification by the contractor (1) that the amounts paid do not exceed the lower of (i) the contract price, or (ii) maximum levels established in accordance with such order; or (2) that his annual sales or revenues are less than applicable amount specified in this price certification.

§ 1–1.321–3 [Reserved].
§ 1–1.321–4 [Reserved].
§ 1–1.321–5 [Reserved].
§ 1–1.321–6 [Reserved].
§ 1–1.321–7 [Reserved].

* * * * *

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

APRIL 19, 1973.

[FR Doc.73–8134 Filed 4–25–73;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–70]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority With Respect to Gifts and Bequests of Property

The purpose of this amendment is to delegate to the Assistant Secretary for Administration functions vested in the Secretary by section 9(m) of the Department of Transportation Act (Oct. 15, 1966, Public Law 89–670, section 9(m), 80 Stat. 944; 49 U.S.C. 1657(m)).

Since this amendment relates to Departmental management, procedures,

and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective April 26, 1973, § 1.60 of part 1 of Title 49, Code of Federal Regulations, is amended by adding a new paragraph (k), to read as follows:

§ 1.60 Delegations to Assistant Secretary for Administration.

* * * * *

(k) *Gifts and bequests.*—Carry out the functions vested in the Secretary by section 9(m) of the Department of Transportation Act (Public Law 89–670).

This action is taken under the authority of section 9(e) of the Department of Transportation Act (49 U.S.C. 1657(e)).

Issued in Washington, D.C., on April 17, 1973.

CLAUDE S. BRINEGAR,
Secretary of Transportation.

[FR Doc.73–8077 Filed 4–25–73;8:45 am]

Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1421]

RICE

Loan and Purchase Program for 1973 Crop

Notice is hereby given that consideration is being given to a loan and purchase program for special varieties of rough rice having characteristics which make them undesirable for export or domestic table use at a level of support based on the broken rice value factor. The production of such varieties would be voluntary and subject to the existing acreage allotment and marketing quota provisions.

Prior to making any of the foregoing determinations, consideration will be given to data, views, and recommendations, which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director on or before May 28, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during the regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Signed at Washington, D.C., on April 19, 1973.

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

[FR Doc.73-8086 Filed 4-25-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 10]

"SAFE AND SUITABLE" FOOD INGREDIENTS

Proposed Definition

Numerous food standards permit the use of any "safe and suitable" food ingredient, with or without additional limitations. This phrase has been uniformly defined in numerous regulations to include only substances that are functional, and that meet the requirements for food additives and color additives under the law. The Commissioner of Food and Drugs has concluded that a general definition of "safe and suitable" should be included in part 10 of the regulations to avoid repeating this same definition in every individual food standard in the future.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 409, 701(a), 706, 52 Stat. 1046, 1055, 1058, 72 Stat. 1785–1788; 21 U.S.C. 341, 348, 371(a), 376) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend part 10 in § 10.1 by adding a new paragraph (d) to read as follows:

§ 10.1 **Definitions and interpretations.**

* * * * *

(d) "Safe and suitable" means that the ingredient

(1) Performs an appropriate function in the food in which it is used.

(2) Is used at a level no higher than necessary to achieve its intended purpose in that food.

(3) Is not a food additive or color additive as defined in section 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act as used in that food, or is a food additive or color additive as so defined and is used in conformity with regulations established pursuant to section 409 or section 706 of the act.

Interested persons may, on or before May 29, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated April 20, 1973.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.73-8060 Filed 4-25-73;8:45 am]

Office of the Secretary

[45 CFR Subtitle A]

OFFICE OF EDUCATION PROGRAMS

Proposed General Provisions

CROSS REFERENCE: For a document regarding proposed amendments to parts 60 and 61 of subtitle A of Title 45 CFR, see FR Doc. 73-7866, Department of Health, Education, and Welfare, Office of Education, part III of this issue.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 35]

[GD 73-11P]

TANK VESSELS

Emergency Equipment

The Coast Guard is proposing to amend regulations concerning "Fireman's outfit on Manned Tank Barges with Cargo Tanks of 15 feet or less in Depth."

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council (GCMC/82), room 8234, 400 Seventh Street, SW., Washington, D.C. 20590 (phone 202–426–1477). Written comments should include the docket number of this notice, the name and address of the person submitting the comments, and the specific section of the proposal to which each comment is addressed.

Although there is no public hearing presently planned, one will be held if anyone with a genuine issue requests one. All relevant communications received on or before May 28, 1973 will be fully considered before final action is taken on this proposal. This proposal may be changed in the light of the comments received. Comments received will be available for examination in room 8234. Copies of comments will be furnished interested persons upon request to the Coast Guard (GCMC/82) and payment of the fees prescribed in 49 CFR 7.81.

Section 35.30–20 Rules and Regulations for Tank Vessels was amended in 1969 to require a minimum of two complete fireman's outfits, on certain tankships, and one complete fireman's outfit on all other manned tank vessels. The latter requirement was inadvertently applied to those manned barges not having tanks exceeding 15 feet in depth. Such barges formerly had no requirement to provide a fireman's outfit, and there was no intent to include them in the 1969 amendment. The purpose of this amendment is to remove the requirement for a fireman's outfit for manned tank barges which do not have a tank exceeding 15 feet in depth. This change is needed to bring the regulations into agreement and to comply with the intent of the 1969 change.

In consideration of the foregoing it is proposed to amend subchapter D of title 46 of the Code of Federal Regulation as follows:

1. By revising § 35.30–20 to read as follows:

§ 35.30–20 **Emergency equipment TB/ALL**

(a) Two emergency outfits are required for the following:

(1) All tankships on international voyage.

(2) All tankships over 1,000 gross tons.

(3) All tankships having cargo tanks which exceed 15 feet in depth, measured from the deck to the lowest point at which cargo is carried.

(b) One emergency outfit is required for all manned tank barges having cargo

tanks which exceed 15 feet in depth, measured from the deck to the lowest point at which cargo is carried.

(c) Each emergency outfit shall be equipped as follows:

(1) One approved fresh air breathing apparatus including belt and lifeline. The length of the air hose shall be sufficient to reach from the open deck, well clear of hatch or doorway, to any part of the holds, tanks, and except as provided in the following subparagraph, the machinery spaces.

(2) If it is not practicable to reach all portions of the machinery space with the airhose of the fresh air breathing apparatus, an approved self-contained breathing apparatus with adequate lifeline shall be carried for use in the machinery space. In such case, the particular apparatus provided for the machinery space shall be used for no other purpose, shall be marked indicating the restriction to its use, and shall be stowed convenient to, but outside of the machinery space.

(3) One approved 3-cell, explosion-proof flashlight constructed in accordance with subpart 161.008 of subchapter Q (specifications) of this chapter.

(4) One fire ax.

(5) Boots and gloves of rubber or other electrically nonconducting material.

(6) A rigid helmet which provides effective protection against impact.

(7) Protective clothing of material that will protect the skin from the heat of fire and burns from scalding steam. The outer surface shall be water resistant.

(d) Approved self-contained breathing apparatus with adequate lifelines may be provided in addition to the equipment required in the preceding paragraph, and may be used in any space on the vessel.

(e) Lifelines shall be of steel or bronze wire rope. Steel wire rope shall be either inherently corrosion resistant or made so by galvanizing or tinning. Each end shall be fitted with a hook with keeper having a throat opening which can be readily slipped over a $\frac{5}{8}$-inch bolt. The total length of the lifeline shall be dependent upon the size and arrangement of the vessel, and more than one line may be hooked together to achieve the necessary length. No individual length of lifeline may be less than 50 feet in length. The assembled lifeline shall have a minimum breaking strength of 1,500 pounds.

(46 U.S.C. 170, 391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.4(b), 1.46 (b) and (o)(4).)

Dated April 20, 1973.

G. H. READ,
Captain, U.S. Coast Guard, Deputy Chief, Office of Merchant Marine Safety.

[FR Doc.73-8109 Filed 4-25-73;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-CE-32]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending part 71 of the Federal Aviation regulations so as to designate a transition area at Mapleton, Iowa.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before May 28, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use nondirectional beacon instrument approach procedure is being developed for the Mapleton, Iowa Municipal Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Mapleton, Iowa.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (FR 435), the following transition area is added:

MAPLETON, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Mapleton, Iowa Municipal Airport (lat. 42°10'36" N., long. 95°47'42" W.); and within 3½ miles each side of the 035° bearing from Mapleton Municipal Airport, extending from the 5-mile radius area to 11½ miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within the 4½ miles southeast and 9½ miles northwest of the 035° bearing from Mapleton Municipal Airport, extending to 18½ miles northeast of the airport excluding that portion that overlies Ida Grove, Iowa and Sioux City, Iowa transition areas.

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

Issued in Kansas City, Mo., on March 23, 1973.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.73-8085 Filed 4-25-73;8:45 am]

[14 CFR Parts 71, 73]

[Airspace Docket No. 73-RM-5]

RESTRICTED AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to parts 71 and 73 of the Federal Aviation regulations that would alter R-6102 Badlands, S. Dak., by designating it a joint-use restricted area, changing its time of designation, and adding it to the list of restricted areas included in the continental control area.

Interested persons may participate in the proposed rulemaking 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, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All communications received on or before May 28, 1973, will be considered before action is taken on the proposed amendments. The proposals 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, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendments would:

1. Add R-6102 Badlands, S. Dak., to the list of restricted areas included in the continental control area.

2. Change the time of designation for R-6102 from "a 2-week period annually between June 1 and August 31, to be publicized by NOTAM" to "Continuous, March 1 through November 30 annually."

3. Designate the Federal Aviation Administration, Denver ARTC Center as controlling agency for R-6102.

The present time of designation for R-6102 has not been satisfactory as it has not provided the flexibility needed by the using agency to accommodate changes in its training schedule. The

lack of joint-use procedures has also been unsatisfactory because R–6102 has thereby remained restricted for its entire time of designation even though the using agency could have occasionally released it for public access.

The amendments proposed in this notice would overcome the above deficiencies by extending the period of time when R–6102 is available to the using agency and by assigning a controlling agency who can authorize other operations in the area when it is not being used for the purpose designated. Although the using agency would have a longer period of time within which to schedule training, the total amount of public restriction from the area should actually be reduced.

These amendments are 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 April 18, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73–8084 Filed 4–25–73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73–SW–19]

VOR FEDERAL AIRWAYS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to part 71 of the Federal Aviation Regulations that would:

1. Realign the airway structure simultaneously with the relocation of Monroe, La., VORTAC.

2. Extend an airway from Monroe to Lambert, Miss., intersection.

3. Designate a standard west alternate airway.

Interested persons may participate in the proposed rulemaking 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, P.O. Box 1689, Fort Worth, Tex. 76101. All communications on or before May 28, 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, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration (FAA) is considering an amendment to part 71 of the Federal Aviation Regulations that would extend V–94 from Monroe, La., to Lambert, Miss., and would realign V–18 between Shreveport, La., and Jackson, Miss., and V–71 between Natchez, Miss., and El Dorado, Ark., to coincide with the relocation of the Monroe VORTAC from its present location to the Monroe Municipal Airport at latitude 32°31'00" N., longitude 92°02'09" W.

The proposed amendment would alter airways in the vicinity of Monroe as follows:

1. The description of V–18 and V–18N between Shreveport and Jackson, and V–18S between Monroe and Jackson would not be changed, but their centerline would be moved approximately 4 miles northward because of the relocated Monroe VORTAC. V–18S between Shreveport and Monroe would be redesignated as a standard alternate.

2. The description of V–71 between Natchez and El Dorado would not be changed, but its centerline would be moved approximately 4 miles eastward because of the relocated Monroe VORTAC. V–71W would be added as a standard alternate between Natchez and Monroe. V–71E between Natchez and Monroe would be realigned via the intersection of the Natchez 341° T (335° M) and the Monroe 105° T (099° M) radials.

3. V–94 would be extended from Monroe via Greenville, Miss., with a standard west alternate, thence via the Greenville 036° T (030° M) radial to the Lambert Intersection. The description of V–94 between Elm Grove, La., and Monroe would not be changed, but its centerline would be moved approximately 3 miles to the north because of the relocated Monroe 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 April 18, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73–8083 Filed 4–25–73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19692]

ANTENNA MONITORS IN STANDARD BROADCAST STATIONS WITH DIRECTIONAL ANTENNAS

Order Extending Time For Filing Comments and Reply Comments

In the matter of amendment of part 73 of the Commission's rules and regulations to establish standards for the design and installation of sampling systems for antenna monitors in standard broadcast stations with directional antennas.

1. On Februray 21, 1973, the Commission adopted a notice of inquiry and notice of proposed rulemaking in the above-captioned proceeding and publication in the FEDERAL REGISTER was given on March 2, 1973 (38 FR 5666). Comment and reply comment dates are presently designated as May 7 and May 21, 1973, respectively.

2. On April 16, 1973, the Association of Federal Communications Consulting Engineers (AFCCE) filed a petition for extension of time for a period of 60 days in which to submit comments. AFCCE states that in its March 15 meeting a significant number of its members indicate that they intend to file comments indiivdually. It further states that the discussion indicated there were several matters mentioned in the notice where complete agreement could not be in a position of filing comments on behalf of its membership, but in the position of encouraging individual members to file detailed comments. It notes that its annual meeting was scheduled for April 12 through April 15, 1973, at which time the subject rulemaking would be under discussion. AFCCE states that the 60-day extension will permit the Association's members to prepare their comments after that meeting.

3. We are of the view that the public interest would be served by extending the time for filing comments and reply comments. *Accordingly, it is ordered,* That the time for filing comments and reply comments in the above docket are extended to and including July 6, 1973, and July 20, 1973, respectively.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted April 17, 1973.

Released April 19, 1973.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73–8113 Filed 4–25–73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33–5384, 34–10099, 35–17931, 40–7768]

FORM AND CONTENT OF FINANCIAL STATEMENTS

Notice of Proposed Amendments to Regulation S–X and Related Interpretations and Guidelines (S7–481)

A. INTRODUCTION

One of the recent amendments to regulation S–X [17 CFR part 210], "Form and Content of Fnancial Statements" (accounting series release No. 125 adopted by the Commission on June 23, 1972) [37 FR 1459] (called for the expansion of rule 5–02–1 [para. 1 of § 5–02 of part 210] which related to cash and cash items. Specifically, the rule now requires disclosure of funds subject to withdrawal or usage restrictions such as

compensating balances. Since June the Commission has received many inquiries as to the form of disclosure contemplated by this rule and preliminary guidelines were drawn up and exposed in November 1972 to interested groups. Comments received indicated a need for additional time both to improve guidelines and to develop procedures for implementation on the part of registrants, independent accountants and lending institutions. Accordingly, the Commission announced in accounting series release No. 136, dated January 11, 1973 [38 FR 1733], a deferral of the effective date of this requirement.

As this matter has been discussed and considered with the assistance of industry and professional group, it has become apparent that certain amendments to the rules are required to assure adequate information for investors as well as interpretations and guidelines. This release therefore proposes revisions to rules 5-02-1, 5-02-25, 5-02-29, 5-02-30, and 5-02-32 of regulation S-X [pars. 1, 25, 29, 30 and 32 of § 5-02 of part 210] and provides interpretations and guidelines to facilitate understanding and implementation of the disclosure requirements relating to restricted funds and the effective cost of borrowing.

REASONS FOR REQUIREMENTS

Funds subject to withdrawal or usage restrictions often are a significant element in financial policy decisions of management. The existence of restrictions affects both the liquidity and the effective cost of borrowing of a firm. Disclosure of such amounts and their effect on interest rates is necessary if the investor is to adequately appraise management's financial policies.

Despite the importance of such restricted funds, and despite the general recognition in the financial community that such situations affect liquidity and the effective cost of borrowing, disclosure of the essential details of such arrangements has been infrequent. When disclosure has occurred, the information supplied has generally been insufficient to permit statement users to deal analytically with the subject. Lack of disclosure of amounts affecting effective liquidity such as compensating balances has been justified on the grounds that such arrangements were generally unwritten, informal, and not subject to precise quantification. Failure to disclose the interest rate on short-term borrowings has been excused because rates on balances at the end of a period were not necessarily indicative of rates during the period or of future rates. Both these failures have precluded an accurate determination by investors of the effective cost of borrowing.

None of the reasons given are sufficient to support a policy of nondisclosure of situations which are recognized to be both real and significant. They do, however, support the need for rule changes and disclosure guidelines so that reasonably uniform and understood standards for disclosure can be applied. They also indicate that disclosure must be based in many circumstances on reasonable estimates and that precision of measurement cannot be expected.

B. PROPOSED AMENDMENTS TO REGULATION S-X

Commission action: The Commission hereby proposes to amend paragraphs 1, 25 (a) and (b), 29, 30, and 32 of § 210.5-02 of chapter II of title 17 of the Code of Federation Regulations, and, as so amended, they would read as follows:

§ 210.5-02. Balance sheets.

* * * * *

1. *Cash and cash items.*—State separately: (a) Cash on hand and unrestricted demand deposits; (b) deposits held as compensating balances against borrowing arrangements; (c) time deposits and certificates of deposit (excluding amounts shown in (b) above); (d) funds subject to repayment on call or immediately after the date of the balance sheet required to be filed; and (e) other funds, the amounts of which are known to be subject to withdrawal or usage restrictions, e.g., special purpose funds. The general terms and nature of such repayment provisions in (d) and withdrawal or usage restrictions in (e) shall be described in a note referred to herein. Funds included in (b) above that are maintained: (i) Under a formal agreement to assure future credit availability, or (ii) under a formal long-term borrowing agreement requiring maintenance of such funds for a period greater than a year shall be separately disclosed in the notes to the financial statements along with the amount and terms of such agreement.

* * * * *

25. *Accounts and notes payable.*—(a) State separately amounts payable to: (1) Banks for borrowings; (2) holders of commercial paper; (3) trade creditors; (4) parents and subsidiaries; (5) other affiliates and other persons the investment in which are accounted for by the equity method; (6) underwriters, promoters, directors, officers, employees and principal holders (other than affiliates) of equity securities of the person and its affiliates; and (7) others. Exclude from (6) amounts for purchases from such person subject to usual trade terms, for ordinary travel expenses, and for other such items arising in the ordinary course of business. With respect to (4) and (5), state separately in the registrant's balance sheet the amounts which in the related consolidated balance sheet are (i) eliminated and (ii) not eliminated.

(b) The interest rate and terms (as well as formal provisions for the extension of the term) of each category of short-term borrowing (items (a)(1) and (a)(2) above) reflected on the balance sheet at the end of the period shall be disclosed along with the maximum amount of short-term borrowings outstanding at any month end during the period. In addition, average short-term borrowings outstanding during the year and the weighted average interest rate for such short-term borrowings should be disclosed in the notes to the financial statements together with the effective interest rate giving effect to compensating balances and any other fees or charges associated with such short-term borrowings.

(c) The amount and terms of unused lines of credit for short-term financing shall be disclosed in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangements shall be separately identified.

* * * * *

29. *Bonds, mortgages and similar debt.*—(a) State separately here, or in a note referred to herein, each issue or type of obligation and such information as will indicate (see § 210.3-13): (1) The general character of each type of debt including the rate of interest; (2) the date of maturity, or if maturing serially, a brief indication of the serial maturities, such as "maturing serially from 1980 to 1990"; (3) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (4) a brief indication of priority; (5) if convertible, the basis; and (6) the combined aggregate amount of maturities and sinking fund requirements for all issues, each year for the 5 years following the date of the balance sheet. For amounts owed to affiliates, state separately in the registrant's balance sheet the amounts which in the related consolidated balance sheet are (i) eliminated and (ii) not eliminated.

(b) The amount and terms of unused commitments for long-term financing arrangements that would be disclosed under this rule if used shall be disclosed in the notes to the financial statements.

* * * * *

30. *Unamortized debt discount and premium.*—The amounts applicable to debt issues under captions 5-02-29, 31, 32, or 33 shall be deducted from or added to the face amounts of the issues under the particular caption either individually or in the aggregate, but if the aggregate method is used the face amounts of the individual issues and the applicable amortized discount or premium shall be shown parenthetically or otherwise. The effective interest rate of long-term debt under each caption after giving consideration to the impact of discounts, premiums, compensating balances, and charges related to debt issues shall be disclosed in the notes to the financial statements.

* * * * *

32. *Other long-term debt.*—(a) Include under this caption all amounts of long-term debt not provided for under captions 29(a) and 31 above. State separately amounts payable to (1) persons specified in captions 25(a) (1), (2), and (5); and (2) others, specifying any material item. Indicate the extent that the debt is collateralized. Show here, or in

a note referred to herein, the information required under caption 29.

(b) The amount and terms of unused commitments for long-term financing arrangements not provided for under caption 29(b) above shall be disclosed in the notes to the financial statements.

* * * * *

C. GUIDELINES AND INTERPRETATIONS

Guidelines and interpretations are presented below to facilitate understanding and application of the revised rules as proposed.

COMPENSATING BALANCES

Rule 5-02-1 has been expanded to require a separate statement of compensating balances in order to avoid commingling of such balances with other funds having different liquidity characteristics and bearing little or no relationship to borrowing arrangements. It also requires footnote disclosure distinguishing the amounts of such balances required to be maintained by a formal long-term borrowing arrangement for a period greater than a year. While these rule changes eliminate certain inconsistencies previously noted, several questions have been asked indicating considerable uncertainty in the application of any rule relating to compensating balances. Accordingly, the Commission has concluded that it would be beneficial to registrants to publish the following guidelines.

DEFINITION

For purposes of this requirement, a compensating balance is defined as that portion of any demand deposit (or any time deposit or certificate of deposit) maintained by a corporation (or by any other person on behalf of the corporation) which either formally or informally is required in order to support existing borrowing arrangements of the corporation (or any other person) with a lending institution. Such arrangements would include both outstanding borrowings and the assurance of future credit availability.

FORM OF DISCLOSURE

The manner of disclosure cannot be specified with precision since it will vary according to the factual situation involved. The rule calls for separate statement of compensating balances. Such statement in most cases will involve segregation on the face of the balance sheet, but there are some circumstances in which this will not be the most meaningful presentation and footnote disclosure will be preferable.

In general, when the terms of the compensating balance arrangement are formal and are described in connection with the terms of a particular lending agreement, balance sheet segregation is appropriate. Such arrangements can be regarded as formal even though they are not reduced to writing if fixed amounts have been explicitly agreed upon by both parties involved. Examples of formal arrangements would include situations where a certificate of deposit must be held while a loan is outstanding or where a minimum balance must be maintained at all times while credit is extended or available. The fact that balances are legally subject to withdrawal would not be the determining factor in deciding what disclosure practice should be followed. However, an arrangement where the balance required was expressed as an average might lead to footnote disclosure since the cash balance at the balance sheet date might bear no relationship to the requirement. Footnote disclosure generally should be sufficient when arrangements are informal.

The extent of disclosure required will also depend on the circumstances, but a general statement that such arrangements exist will not be satisfactory. In most cases, the terms of the arrangement should be described and the amount of the compensating balance disclosed. This should be expressed as an average balance where the amount at the close of the reporting period is significantly different from the average balance held during the period. Disclosure of a range rather than a single valued amount may be desirable if a single figure does not effectively reflect the situation. Disclosure may also include a statement, if appropriate, that the amounts are legally subject to withdrawal with or without sanctions, as applicable. If many banks are involved, the disclosure should summarize the most common arrangements and aggregate the compensating balances involved.

If arrangements requiring maintenance of compensating balances during the year were materially different than those at year end that fact should be disclosed. The full impact of compensating balances on the effective cost of bank, commercial paper and other financing should be reflected and related to interest rates disclosed.

Where a company is not in compliance with a formal compensating balance arrangement, that fact generally should be disclosed along with stated or possible sanctions. If the arrangement is informal, however, and the bank has given no indication of applying sanctions to enforce it, disclosure of lack of compliance ordinarily would not be necessary.

In determining whether compensating balance arrangements are sufficiently material to require segregation or disclosure, various factors should be considered. Among these may be the relationship of the amount of the balances to total cash, total liquid assets and net working capital, and the impact of the balances on the effective rate of financing. In the usual case, compensating balances which in the aggregate amount to more than 15 percent of liquid assets (current cash balances, restricted and unrestricted, plus marketable securities) would be considered to be material. Lesser amounts may be material if they represent a high percentage of cash balances or if they have a significant impact on the cost of financing.

Compensating balances maintained for the benefit of affiliates, officers, directors, or principal stockholders may be of particular significance to investors. Separate disclosure of such items may be required under other Commission rules and regulations even if they are not individually of a magnitude such that they would meet the materiality guidelines set forth above.

MEASUREMENT PROBLEMS

A number of problems arise in the process of measuring the amount of compensating balances and the effect of such amounts on the effective cost of borrowing. It is recognized that precision of measurement may not be practicable, but that fact should not limit the disclosure of material arrangements. Since several of the problems of measurement occur frequently, and since it is desirable that they be similarly solved to assure uniformity of practice among companies, the following guidelines have been developed to assist registrants. It is recognized that every situation cannot be anticipated, and the need for judgment on the part of registrants and their auditors cannot and should not be avoided.

1. *Minimum operating balance.*—All corporations require some minimum amount of cash on which to operate. The amount will depend upon the extent of seasonal and random fluctuations in short-term cash demand as well as management judgment regarding necessary safety factors. It has been argued that, in those cases where part of the compensating balance reflects funds that would be held anyway as a minimum operating balance, such funds should be subtracted from compensating balances since the maintenance of such a compensating balance has no incremental cost to the borrower. For purposes of these disclosure requirements, such a subtraction is not appropriate. Not only is the measurement of such minimum operating balances highly subjective, but the concept of subtraction implies that the compensating balance is of secondary importance and this is by no means apparent. It would be equally reasonable to contend that operating funds are free of cost because compensating balances must be maintained. It is permissible, however, for companies to supplement disclosure with statements regarding the dual purpose of such amounts and their estimates of the impact of operating cash requirements on the incremental cost of compensating balance arrangements.

2. *Float.*—The balance shown on the bank's ledgers and the company's books will differ due to delays in presentment of checks and deposits in transit. In addition, some amounts included in the bank ledger figure may include funds subject to collection which may not be considered as meeting compensating balance requirements. These factors complicate the calculation of the amount of compensating balance to be disclosed both conceptually and empirically. The compensating balance arrangements negotiated between a company and its bank are normally expressed in terms of the collected bank ledger balance, but the financial statements are presented on the

basis of the company's books. In order to make the disclosure of compensating balance amounts consistent with the amounts reflected in the financial statements, the balance figure agreed upon by the bank and the company should be adjusted by the estimated average net "float" so that the disclosed amount will relate to the book figure. In computing the impact on the effective cost of financing, however, the bank ledger figure may be the more appropriate one depending on the facts of the case. The calculation of "float" also presents problems of estimation since neither banks nor companies routinely compute this figure with precision. A reasonable estimate based on the information management uses to manage its bank relationships will be satisfactory.

3. *Compensation for other bank services.*—Balances are maintained not only in connection with financing arrangements but also to compensate the bank for its account handling function and in some cases to pay for other services such as lock boxes and account reconcilement. Balances maintained for these purposes should not be included in the disclosed compensating balances and would not be construed as special funds per 5–02–1(e) since such funds are available for use upon payment of a service charge and would not affect the cost of borrowing. If a bank allows balances to serve both purposes, the balances should be considered as a compensating balance for the purposes of computing the effective interest rate and should be disclosed in accordance with 5–02–1(b) when maintained under a formal arrangement. Supplemental disclosure by companies of the dual purpose of such amounts and their estimate of the impact on the incremental cost of compensating balance arrangements is permissible.

4. *Prior periods.*—In general, compensating balance arrangements and their impact on the financial statements should only be disclosed for the latest fiscal year and later interim period for which statements are presented. If the terms of the arrangements require balance sheet segregation, however, this should be reflected in all balance sheets presented. In addition, if the change in the arrangements from one period to the next is so great as to constitute a fact of unusual significance to the investor in appraising the company, the change should be disclosed.

SPECIAL PURPOSE FUNDS

Rule 5–02–1 requires the disclosure of "other funds, the amounts of which are known to be subject to withdrawal or usage restrictions." Restrictions on the use of funds may include contracts entered into with others or company statements of intention with regard to particular deposits. Examples of the former might be letters of credit and escrow accounts. Examples of the latter are cash balances set aside for use in a capital expenditure program or to meet a particular debt obligation when it comes due. Cash balances related to statements of intention should only be segregated when particular deposits or balances have been earmarked for such special purposes. Board approval of a capital budget calling for the expenditure of certain amounts would not be the basis for segregation unless the specific amounts of cash to be spent are identified and set aside.

FUNDS MAINTAINED FOR FUTURE CREDIT AVAILABILITY

Rule 5–02–1 requires disclosure of any funds maintained under a formal agreement for the purpose of assuring future credit availability. These funds would be included as part of compensating balances disclosed separately on the balance sheet in accordance with rule 5–02–1(b) and this requirement contemplates separate disclosure of such amounts and the related terms in the notes to the financial statements. Such disclosure will be required even if such funds are not subject to withdrawal restrictions. While such funds would not affect the effective cost of existing borrowings, their disclosure provides important and useful information to the investor about management policies regarding liquidity and future financing.

COMMERCIAL PAPER

Rule 5–02–25 has been expanded to provide needed information to the investor regarding borrowing policies and their effective cost. The separate statement of commercial paper outstanding is a recognition of the increasing importance of this form of short-term borrowing in corporate financial management. Commercial paper represents short-term unsecured notes issued for cash by the corporation, generally supported in whole or part by outstanding lines of credit extended by financial institutions.

Commercial paper should be classified as a current liability even though the issuer's intention is to roll over such debt at its maturity. The fact that an issuer has both financial strength and a past borrowing record such that sale of new paper appears reasonably assured does not constitute a basis for long-term classification, since the power to terminate the credit remains with the creditor. Only: (1) When a borrower has a noncancelable binding formal agreement from a creditor to refinance the paper at substantially the same terms and (2) when the refinancing extends the maturity date beyond 1 year or the current operating cycle of the business (whichever is longer) and (3) when the borrower's intention is to exercise this right, should borrowings under such an agreement be shown as a long-term liability (along with disclosure of the above facts).

UNUSED LINES OF CREDIT OR COMMITMENTS

Rules 5–02–25, 5–02–29, and 5–02–32 also call for the disclosure of the amount and terms of unused lines of credit and commitments. This will provide the investor with useful information regarding future liquidity and borrowing potential.

Unused lines disclosed as "backstopping" commercial paper should include only usable lines. For this purpose usable lines are construed to be total lines used to "backstop" commercial paper less lines needed to meet "cleanup" provisions of a borrowing arrangement. Such provisions require borrowers to retire credit extended at a bank or banks at some specified interval for a specified period. Total lines outstanding are therefore not necessarily a measure of the total credit available on a continuing basis.

Rules 5–02–29 and 5–02–32 would include disclosure of commitments such as standby commitments, commitments for future disbursements, and unused revolving credits maturing after 1 year.

EFFECTIVE COST OF BORROWING

Rules 5–02–25 and 5–02–30 now require the disclosure of the effective cost of borrowing and 5–02–25 provides for the disclosure of relevant information concerning annual interest charges related to short-term borrowings. Compensating balances should be included in the effective interest rate computation even if such amounts are not segregated or otherwise disclosed due to their immateriality relative to total liquid assets as discussed in compensating balance guidelines given earlier in this release.

RESPONSIBILITIES

The registrant is responsible for computing the effective interest rate and preparing financial statement disclosure of such effective interest rate, short-term interest rates, compensating balances, unused lines of credit, commercial paper and other disclosures as specified in these rules and guidelines. The independent accountant has the responsibility of satisfying himself that the disclosure is adequate. When arrangements such as compensating balances and unused lines of credit exist, the computation would be facilitated and more readily substantiated if the borrower sets forth the bases of the mutual understanding in a letter which he sends to the lender (or potential lender) with a request for confirmation.

* * * * *

The proposed amendments to regulation S–X would be adopted pursuant to authority conferred on the Commission by the Securities Act of 1933, particularly sections 6, 7, 8, 10, and 19(a) thereof; the Securities Exchange Act of 1934, particularly sections 12, 13, 15(d), and 23(a) thereof; the Public Utility Holding Company Act of 1935, particularly sections 5(b), 14, and 20(a) thereof; and the Investment Company Act of 1940, particularly sections 8, 30, 31(c), and 38(a) thereof.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908, sec. 8, 68 Stat. 685, 15 U.S.C. 77f, 77g, 77h, 77j, 77s; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901, secs. 3, 8, 49 Stat. 1377, 1379, secs. 3, 4, 6, 10, 78 Stat. 565, 569, 570, 580, secs. 1, 2, 84 Stat. 1497, 15 U.S.C. 78l, 78m, 78o(d), 78w; secs. 5(b), 14, 20(a), 49 Stat. 812, 827, 833, 15 U.S.C. 79e, 79n, 79t; secs. 8, 30, 31(c), 38(a),

54 Stat. 803, 836, 838, 841, sec. 3(c), 84 Stat. 1415, 15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a).)

The Commission has issued these proposed rule changes and guidelines to clarify and provide guidance for compliance with the objectives of disclosure of restricted funds and the effective cost of borrowing. All interested persons are invited to submit their views and comments with respect to the foregoing proposals to amend rules 5-02-1, 5-02-25, 5-02-29, 5-02-30, and 5-02-32 and with respect to associated guidelines and interpretations set forth therein on or before June 15, 1973. All such views and comments should be submitted to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Such communications should refer to file No. S7-481. All such communications will be available for public inspection.

By the Commission.

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

APRIL 12, 1973.

[FR Doc.73-8101 Filed 4-25-73;8:45 am]

VETERANS' ADMINISTRATION

[38 CFR Part 3]

DEPENDENCY AND INDEMNITY COMPENSATION

Apportionments

The Administrator of Veterans' Affairs proposes a regulatory change to reflect an amendment to Title 38, United States Code affecting dependency and indemnity compensation which is a benefit payable to eligible survivors of veterans whose deaths are service connected. Prior to enactment of Public Law 91-96 (83 Stat. 144), 38 U.S.C. 411(b) provided an additional amount, subject to certain limitations, for each child in excess of one under 18 years of age when there was a widow entitled to dependency and indemnity compensation. When there was a widow and only one child under age 18, no additional amount was payable under section 411(b). Public Law 91-96 amended section 411(b) to provide a specific amount to be added to the widow's basic rate for each child under age 18 and eliminated the limitation on the amount payable. The proposed revision reflects that under the current provisions of section 411(b) the basic rate is increased for every child in the case under age 18.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (232H), Veteran's Administration, Central Office, 810 Vermant Avenue NW., Washington, D.C. 20420. All relevant material received before May 29, 1973 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and the above room number.

Notice is given that it is proposed to make the change effective December 1, 1969.

To reflect the amendment of 38 U.S.C. 411(d), it is proposed to amend paragraph (b)(4)(ii) of § 3.461, Part 3, Code of Federal Regulations to read as follows:

§ 3.461 Dependency and indemnity compensation.

* * * * *

(b) *Rates payable.* * * *

(4) Where the widow has elected to receive dependency and indemnity compensation instead of death compensation and there is a child or children over the age of 18 years, the amount of dependency and indemnity compensation payable to or for such child will be included in determining the total dependency and indemnity compensation payable. The share of dependency and indemnity compensation for such child will be whichever is the greater:

* * * * *

(ii) The share which would have been payable as death compensation subject to the limitation that the total payable in the case will not exceed the total dependency and indemnity compensation which is authorized for a widow and a child or children, if any, under 18 years of age and a child who is a school child.

Approved April 20, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES, *Deputy Administrator.*

[FR Doc.73-8116 Filed 4-25-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

RESEARCH ADVISORY COMMITTEE
Notice of Meeting

Pursuant to Executive Order 11686 and the provisions of section 10(a)(2), Public Law 92-463, Federal Advisory Committee Act, notice is hereby given of the AID Research Advisory Committee meeting on May 9 and 10, 1973, at the Pan American Health Organization Building, 23d Street and Virginia Avenue NW., conference room "B", to review, appraise, and make recommendations to the Administrator, Agency for International Development, concerning proposals for research contracts in the fields of fertility control, technology policy, export policy, environmental safeguards, and education technology. In addition, a portion of the meeting will be devoted to a discussion of information management and utilization in the central research program. That portion of the meeting concerning proposals for research contracts, will be held from 9:30 a.m. to 12:45 p.m., May 9, and 9 a.m. to 5:30 p.m., May 10. The sessions concerning information management and utilization in the central research program will be held on May 9 at 2:30 p.m. to 5:30 p.m. In order to provide for public participation to the maximum practicable extent, the right to close the portion of the meeting involving the review of research contract proposals pursuant to the exemptions provided in section 552(b) of title 5, United States Code, is waived without prejudice to any future determinations, where necessary, to invoke the aforementioned exemptions in applicable cases. Dr. Erven Long, Associate Assistant Administrator, is designated as the AID representative at the meeting. It is suggested that those desiring more specific information contact the Advisory Committee Management Office, Mr. James McMahon, 21st Street and Virginia Avenue NW., Washington, D.C. 20523, or call area code 202-632-9726.

Dated April 18, 1973.

JOHN A. HANNAH,
Administrator, Agency for International Development.

[FR Doc.73-8048 Filed 4-25-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

BOARD OF VISITORS, U.S. MILITARY ACADEMY
Notice of Meeting

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

Name of committee: Board of Visitors, U.S. Military Academy.
Date of meeting: April 27, 1973.
Places of meetings: Morning—Building 600, West Point, N.Y.; afternoon—Building 745, West Point, N.Y.

Two meetings will be open for public attendance on April 27 from 1100-1145 and from 1300-1330 when the Dean of the Academic Board and the Director of Admissions and Registrar will brief the Board on matters under their purview, respectively. The remainder of the meetings will pertain to internal Academy policies, procedures, and personnel matters and will be held in closed session.

Proposed discussion topics: As desired by the Board of Visitors, and pursuant to provisions of the United States Code, section 4355.

Any additional information concerning the meeting may be obtained from Col. Edwin V. Sutherland, Executive Secretary, Board of Visitors, U.S. Military Academy, West Point, N.Y. 10996, telephone number 914-938-4200.

RICHARD B. BELNAP,
Special Advisor to The Adjutant General.

APRIL 20, 1973.

[FR Doc.73-8150 Filed 4-25-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 2696]

ARAVAIPA CANYON, ARIZ.
Notice of Closure Order on Discharge of Firearms

Notice is hereby given that certain national resource lands (public lands) in the Aravaipa Canyon Primitive Area are closed to the discharge of firearms to protect the public safety, in accordance with the provisions of 43 CFR parts 6010.4 and 6010.5, and part 24.3. This closure order does not restrict the carrying of firearms.

Aravaipa Canyon and its side canyons within the primitive area are rocky, narrow, and winding, with canyon walls to a height of 1,000 feet. Because of this topography and limited view, the discharge of firearms poses a threat to sightseers, hikers, backpackers, and others traveling through the canyon.

This closure applies to national resource lands (public lands) in the confines of Aravaipa Canyon and its side canyons from the east boundary of the designated primitive area at the confluence of Turkey and Aravaipa Creeks, to the west boundary near the center of section 13, T. 6 S., R. 17 E. The closure does not apply to public lands above the rims of the canyons. The closed area is posted by signs at the east and west entrances of the primitive area.

The restriction on the use of firearms was one of the management proposals discussed at the public meetings on BLM's proposed management plan for the Aravaipa Canyon Primitive Area.

Maps of the area are available at the Safford District Office, BLM, Safford, Ariz., and in the BLM State Office, room 3202 Federal Building, Phoenix, Ariz.

Dated April 20, 1973.

JOE T. FALLINI,
State Director.

[FR Doc.73-8064 Filed 4-25-73;8:45 am]

BOISE DISTRICT ADVISORY BOARD
Notice of Tour

Notice is hereby given that the Bureau of Land Management, Boise District Advisory Board, will tour the Saylor Creek and Devil Creek units on May 8 and 9, 1973. The tour will commence May 8, 1973, at 7:30 a.m. at the Boise District Office of the Bureau of Land Management, 230 Collins Road.

The agenda for the tour includes discussion of grazing problems in the Saylor Creek and Devil Creek units, and the consideration of any protests regarding an application to construct a fence around the Grindstone Butte project in the Saylor Creek unit.

The tour is open to the public, but interested persons must provide their own transportation, food and lodging. Those wishing to attend the tour should contact the District Manager at the Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, prior to May 8 for information regarding the tour route and schedule.

Those wishing to make an oral statement concerning agenda items must so inform the Advisory Board Chairman in writing prior to May 8, 1973. Written statements will be accepted, but must also be submitted to the Advisory Board Chairman prior to May 8. Statements should be mailed to: Chairman, Boise District Advisory Board, c/o District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

RICHARD H. PETRIE,
Acting State Director.

[FR Doc.73-8132 Filed 4-25-73;8:45 am]

[Colorado 17286]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 18, 1973.

The Bureau of Land Management of the Department of the Interior has filed an application for the withdrawal of the public lands and the minerals reserved to the United States in the patented lands as described below from those forms of appropriation as specified.

The applicant desires the lands to preserve and protect their scenic splendor, natural wonder, scientific interest, primitive environment, and other natural values for the enjoyment and use of present and future generations.

On or before May 29, 1973, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

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

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

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

The application is for the withdrawal, subject to valid existing rights, of:

A. The following described public lands from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., chapter 2, but not from leasing under the mineral leasing laws:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

Beginning at the northeast corner of Sec. 20, T. 46 N., R. 2 W.

Thence southerly up the east bank of the East Fork of Powerhorn Creek approximately 6½ miles to its intersection with the north boundary of Sec. 21, T. 45 N., R. 2 W.; thence easterly approximately 2¾ miles to the southwest corner of Sec. 13, T. 45 N., R. 2 W.; thence south one-half mile, west three-quarter mile, south one-quarter mile, east one-half mile, south one-quarter mile, east three-quarter mile, south one-quarter mile, east one-quarter mile, south three-quarter mile, one-quarter mile to the northwest corner of Sec. 36, T. 45 N., R. 2 W.; thence south 1 mile, and east approximately 1 mile to Cebolla Creek; thence southerly approximately one-quarter mile along the west bank of Cebolla Creek; thence west one-quarter mile to the southwest corner of the NE¼NE¼ of Sec. 1, T. 44 N., R. 2 W.; thence south approximately 1¼ miles; thence northwesterly approximately one-eighth mile to a point where Cebolla Creek crosses the Cathedral Road; thence northwesterly and then southwesterly one-half mile along the north bank of Cebolla Creek; thence approximately one-quarter mile west to the west quarter corner of Sec. 12, T. 44 N., R. 2 W.; thence west one-quarter mile, south one-quarter mile, west one-half mile, south one-half mile, west one-quarter mile, south one-quarter mile, west one-quarter mile, south one-quarter mile, west one-quarter mile, and south one-quarter mile to the boundary of the Gunnison National Forest; thence 1½ miles west along said boundary, north 3 miles along said boundary, west 8 miles along said boundary to the southeast corner of Sec. 36, T. 45 N., R. 4 W.; thence north 2½ miles to the west quarter corner of Sec. 19, east three-quarter mile, north one-quarter mile, west one-quarter mile, north one-half mile, west one-quarter mile, north three-quarter mile, east one-half mile, south one-quarter mile, east one-quarter mile, south one-quarter mile, east one-quarter mile, north one-quarter mile, east one-quarter mile, north 1¼ miles to the north quarter corner of Sec. 8, T. 45 N., R. 3 W.; thence east approximately 2½ miles to the northeast corner of Sec. 10, T. 45 N., R. 3 W.; thence south approximately one-eighth mile to the northwest corner of Sec. 11; thence east approximately 2¼ miles to the West Fork of Powderhorn Creek; thence northerly along the west bank of the West Fork of Powderhorn Creek to the north section line of Sec. 20, T. 45 N., R. 2 W.; thence east approximately three-quarter mile to the point of beginning.

The area described aggregates approximately 40,400 acres.

B. The minerals reserved to the United States in the following described patented lands from appropriation under the mining laws, 30 U.S.C., chapter 2, but not from leasing under the mineral leasing laws:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 45 N., R. 3 W.,
Sec. 21, N½NE¼;
Sec. 22, N½N½, SW¼NW¼;
Sec. 34, W½SW¼.

The area described aggregates approximately 360 acres.

The total of the areas described above aggregate approximately 40,760 acres in Gunnison and Hinsdale Counties.

DALE R. ANDRUS,
State Director.

[FR Doc.73-8066 Filed 4-25-73;8:45 am]

[OR 10676]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 19, 1973.

The Bureau of Land Management, Department of the Interior, has filed an application, serial No. OR 10676, for the withdrawal of public lands described below, from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., ch. 2) but not from leasing under the mineral leasing laws.

Chief value of the lands is for recreational purposes, associated with geologic features formed by recent volcanism throughout the area.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than May 26, 1973, to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 2965 (729 NE Oregon St.), Portland, Oreg. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

After receipt of comments from interested parties, he will prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn, as requested by the Bureau of Land Management.

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

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

The lands involved in the application are:

WILLAMETTE MERIDIAN

T. 28 S., R. 31 E.,
Sec. 24, E½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 25, E½NE¼, NW¼NE¼, NE¼NW¼, NE¼SE¼.
T. 29 S., R. 31 E.,
Sec. 1, E½E½;
Sec. 12, NE¼NE¼.
T. 28 S., R. 32 E.,
Sec. 17;
Sec. 18, lot 4, S½NE¼, SE¼SW¼, SE¼;
Secs. 19 through 22, inclusive;
Sec. 23, SW¼, S½SE¼;
Sec. 24, SW¼SW¼;
Sec. 25, NW¼NW¼, S½NW¼, SW¼;
Secs. 26 through 35, inclusive.
T. 29 S., R. 32 E.,
Sec. 1, W½NW¼, SW¼;
Secs. 2 through 6, inclusive;
Sec. 7, lot 1, N½NE¼, NE¼NW¼;
Sec. 8, N½, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 9;
Sec. 10, N½, SW¼;
Sec. 11, W½NE¼, NW¼;
Sec. 15, N½NW¼.

The areas described aggregate 16,656.18 acres in Harney County.

IRVING W. ANDERSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.73-8065 Filed 4-25-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 228]

ASSIGNMENT OF HEARINGS

APRIL 23, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate

steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

AB 5 Sub 75, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees of the property of Penn Central Transportation Co., debtor, abandonment between Williamson and Union Hill, Wayne County, N.Y., now assigned April 30, 1973, at Rochester, N.Y., is postponed to May 9, 1973, at the U.S. Courthouse and Federal Building, 100 State Street, Rochester, N.Y.

FD 20812, Railway Express Agency, Inc., notes, now being assigned for a prehearing conference on June 4, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107295-Sub 624, Pre-Fab Transit Co., a corporation, now being assigned hearing June 11, 1973 (1 day) in room 5A15-17, New Federal Building, 1100 Commerce Street, Dallas, Tex.

MC-119789 Sub 133, Caravan Refrigerated Cargo, Inc., now being assigned hearing June 12, 1973 (1 day), in room 5A15-17, New Federal Building, 1100 Commerce Street, Dallas, Tex.

MC-F-11678, Georgia Highway Express, Inc.—purchase—Ohio Kentucky Express, Inc., now assigned May 21, 1973, will be held in Mezzanine Court Room, Franklin County Courthouse Annex, Fulton and High Street, Columbus, Ohio.

MC-5812, John P. Sorice, doing business as, John P. Sorice Trucking, now assigned May 23, 1973, will be held in room 2 State Office Building, 65 South Front Street, Columbus, Ohio.

MC-F-11729, The Aetna Freight Lines, Inc.—purchase—C. L. Holder Trucking Co., now being assigned hearing June 13, 1973 (3 days), in room 5A15-17, New Federal Building, 1100 Commerce Street, Dallas, Tex.

MC 123048 Sub 238, Diamond Transportation System, Inc., now assigned April 30, 1973, at Memphis, Tenn., is cancelled and the application dismissed.

MC 133095 Sub 19, Texas Continental Express, Inc., now assigned June 15, 1973, at New Orleans, La., is cancelled and the application is dismissed.

MC-C-5930, *Crouse Cartage Co. v. Victor Grouthaus, doing business as Grouthaus Express, and Wade W. Mohr*, now being assigned oral hearing May 22, 1973 (1 day), in room 812 Federal Building, 106 South 15th Street, Omaha, Nebr.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-8120 Filed 4-25-73;8:45 am]

COLONIAL PIPELINE CO., ET AL.

Notice of Tentative Valuations

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below.

Valuation docket No. 1422 (1971 report), Colonial Pipeline Co., P.O. Box 18855, Atlanta, Ga. 30326.

Valuation docket No. 1431 (1969 report), Hydrocarbon Transportation, Inc., 223 Dodge St., Omaha, Nebr. 68102.

Valuation docket No. 1408 (1970 report), Texas Eastern Transportation Corp., P.O. Box 2521, Houston, Tex. 77001.

On or before May 29, 1973, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in the valuation of any carrier named above may, pursuant to rule 72 of the Commission's "General Rules of Practice" (49 CFR 1100.72), file an original and three copies of a petition for leave to intervene and, if granted, thus to come within the category of "additional parties as the Commission may prescribe" under section 19a(h) of the act, thereby enabling the party to file a protest. Blanket petitions to intervene in all or several of these proceedings is not permissible. Individual petitions to intervene must be filed with respect to each valuation in which participation is sought. It is also required that a copy of the petition to intervene be served at the address shown above upon the carrier whose property is the subject of the tentative valuation and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a petition; they are entitled to file protests as a matter of right under the statute.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-8119 Filed 4-25-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 23, 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 on or before May 11, 1973.

FSA No. 42667—*Hexamethylene Diamine Solution to Washington, W. Va.* Filed by Southwestern Freight Bureau, agent (No. B-411), for interested rail carriers. Rates on hexamethylene diamine solution, in tank car loads, as described in the application, from Bloomington, Houston, and Orange, Tex., to Washington, W. Va.

Grounds for relief—Rate relationship.

Tariff—Supplement 17 to Southwestern Freight Bureau, agent, tariff 12-H, ICC No. 5043. Rates are published to become effective on May 20, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-8118 Filed 4-25-73;8:45 am]

[Ex Parte 241; Rule 19; Exemption 40]

LOUISIANA AND ARKANSAS RAILWAY CO.

Exemption From Mandatory Car Service Rules

It appearing, that because of flood conditions there is an immediate need for shipments of slag for rehabilitation of roadbed at various points on the lines of the Louisiana & Arkansas Railway Co.; that shippers located on the Texas & Northern Railway Co., a short line dependent upon the Louisiana & Arkansas Railway Co. for its car supply, are able to produce and load sufficient quantities of slag to meet the emergency; that sufficient open-top hopper cars of suitable ownership are not available on the Louisiana & Arkansas Railway Co. to enable it to supply the Texas & Northern Railway Co. with sufficient equipment to load the emergency shipments of slag; that compliance with Car Service Rules 1 and 2, with respect to its handling of open-top hopper cars, would prevent the Louisiana & Arkansas Railway Co. from meeting the emergency during this period.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Louisiana & Arkansas Railway Co. is authorized to accept empty and to move, place, and accept from connections and shippers open-top hopper cars loaded with slag for movement on its lines without regard to the provisions of Car Service Rules 1 and 2.

Effective April 19, 1973.

Expires April 30, 1973.

Issued at Washington, D.C., April 19, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.73-8117 Filed 4-25-73;8:45 am]

[Notice No. 32]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

APRIL 20, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by § 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before May 28, 1973. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing: (1) That it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commisison order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

No. MC 1936 (sub-No. 39), filed March 15, 1973. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross St., Pittsburgh, Pa. 15224. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of the Ford Motor Company at Romeo (Macomb County), Mich., as an off-route point in connection with carrier's authorized regular-route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 2202 (sub-No. 445), filed March 19, 1973. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William Slabaugh (same address as applicant). Authority sought to operate as a *common carirer*, 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), serving the plantsite and warehouse facilities of Curtis Mathes Corp., located at or near Athens, Tex., as an off-route point in connection with applicant's present regular-route authority to and from Tyler, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 6945 (sub-No. 34), filed March 5, 1973. Applicant: THE NATIONAL TRANSIT CORPORATION, 4401 Stecker Avenue, P.O. Box 610, Dearborn, Mich. 48121. Applicant's representative: Robert D. Schuler, One Woodward Avenue—Suite 1700, Detroit, Mich. 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), serving the plantsite and facilities of Ford Motor Co. at Romeo, Mich., as an off-route point in connection with carrier's otherwise authorized regular-route operations to and from Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 7640 (sub-No. 34), filed March 2, 1973. Applicant: BARNES TRUCK LINE, INC., 506 Mayo Street, Wilson, N.C. 27893. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material, mineral wool, and mineral wool products*, from Williamstown Junction, N.J., to points in North Carolina and South Carolina.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 11207 (sub-No. 325), filed March 9, 1973. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brass, bronze, or copper, pipe or tubing, fittings, rod and castings*, from the plantsite and warehouse facilities of Mueller Brass Co. located at or near Fulton, Miss., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Oklahoma, North Carolina, South Carolina, Tennessee, Texas, and Virginia; (2) *brass, bronze or copper, scrap*, from points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Oklahoma, North Carolina, South Carolina, Tennessee, Texas, and Virginia to the plantsite and warehouse facilities of Mueller Brass Co. located at or near Fulton, Miss.; (3) *brass, bronze or copper, castings or cathodes*, from Mobile, Ala. and New Orleans, La., to the plantsite and warehouse facilities of Mueller Brass Company located at or near Fulton, Miss.; and (4) *brass, bronze or copper fittings* from Charlotte, N.C. to the facilities of Mueller Brass Company located at or near Fulton, Miss.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Charlotte, N.C.

No. MC 11207 (sub-No. 326), filed March 26, 1973. Applicant: DEATON, INC., 317 Avenue West, P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings and accessories* for the installation thereof, from the plantsite and facilities of Johns-Manville Corp., at or near Jackson, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and South Carolina.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority.

If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 13123 (sub-No. 70), filed March 23, 1973. Applicant: WILSON FREIGHT CO., 3636 Follett Avenue, Cincinnati, Ohio 45223. Applicant's representative: Milton H. Bortz (same address as applicant). 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, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of the Anaconda Aluminum Co., at or near Sebree, Ky., as an off-route point in connection with applicant's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 13134 (sub-No. 29), filed March 19, 1973. Applicant: GRANT TRUCKING, INC., P.O. Box 266, Oak Hill, Ohio 45656. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, complete*, knocked down, or in sections, from Parkersburg, W. Va., to points in and east of Wisconsin, Illinois, Kentucky, Tennessee,

Mississippi, and Louisiana; and *materials and supplies* used in the manufacture of the above-named commodities on return.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority.

If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 18416 (sub-No. 17), filed March 12, 1973. Applicant: CLAWGES TRANSFER CO., a corporation, Box 2158, Morgantown, W. Va. 26505. Applicant's representative: James W. Lawson, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Cleveland, Ohio, to Fairmont, Kingwood, Morgantown, and Westover, W. Va., and Oakland, Md., and *empty bottles and kegs* on return.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack, and therefore does not identify the points or territories which can be served through tacking.

Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 19311 (sub-No. 25), filed March 5, 1973. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, Mich. 48077. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, suite 1700, Detroit, Mich. 48226. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities, in bulk, and commodities requiring special equipment) serving the plantsite and facilities of Ford Motor Co. located at or near Romeo, Mich. (Macomb County) as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 20783 (sub-No. 89), filed March 28, 1973. Applicant: TOMPKINS MOTOR LINES, INC., P.O. Box 1830, Gadsden, Ala. 35902. Applicant's representative: John P. Carlton, 601 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and chilled foodstuffs* moving in vehicles equipped with mechanical refrigeration, from points in Davidson County, Tenn., to points in Mississippi, Louisiana, Arkansas, Texas, and those in Alabama on and west of U.S. Highway 31.

NOTE.—Applicant states that the requested authority can be tacked with its subs 39, 42, 43, 55, 57, 59, 68, 69, 77, and 86, but it has no present intention of tacking. If a hearing is deemed necessary, applicant requests it be held at Nashville, or Memphis, Tenn.

No. MC 20824 (sub-No. 32), filed March 26, 1973. Applicant: COMMERCIAL MOTOR FREIGHT, INC., 2141 South High School Road, Indianapolis, Ind. 46241. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. 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), serving the plantsites, warehouses and other facilities of O. M. Scott & Sons Co., Inc., at or near Marysville, Ohio, as an off-route point in connection with carrier's regular route operations authorizing service to points in Illinois, Indiana, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Columbus, Ohio.

No. MC 22229 (sub-No. 76), filed March 8, 1973. Applicant: TERMINAL TRANSPORT CO., INC., 248 Chester Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Ralph B. Matthews (same address as applicant). 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), serving the plantsite and facilities of the Ford Motor Co., at Romeo, Mich., as an off-route point in connection with carrier's authorized regular-route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 22278 (sub-No. 43), filed March 19, 1973. Applicant: TAKIN BROS. FREIGHT LINE, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel sheets, coils and bars and iron and steel articles* from Chicago, Ill., and points in the commercial zone thereof, to points in Iowa.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant request it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 27500 (sub-No. 6), filed March 12, 1973. Applicant: MISHAK TRUCK LINE, INC., 320 Seventh Avenue North, Clear Lake, Iowa 50428: Applicant's representative: Larry D. Knox, ninth floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) from Chicago, Ill., to points in Iowa and Minnesota on and south of U.S. Highway 12; (2) from points in Porter County, Ind., to points in Iowa and Minnesota, on and south of U.S. Highway 12; and (3) from Perioa, Ill., to points in Iowa Minnesota, South Dakota, and North Dakota.

NOTE.—Applicant holds contract carrier authority under MC 127410 sub-No. 1 therefor dual operations and also common control may be involved.

If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 30844 (sub-No. 459), filed March 15, 1973. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000, Waterloo, Iowa 50702. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, and nonedible foods*, when moving in vehicles equipped with mechanical refrigeration, from Bettendorf, Iowa to points in Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, North Dakota, Michigan, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, and Wisconsin, restricted to shipments originating at the facilities of Terminal Ice & Cold Storage Co., located at or near Bettendorf, Iowa.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg. or Washington, D.C.

No. MC 30844 (sub-No. 460), filed March 19, 1973. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50702. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Filter paper*, from Rochester, Mich., Watertown, N.Y., and Richmond, Va., to Lake Mills, Iowa.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Washington, D.C.

No. MC 32882 (sub-No. 69), filed March 20, 1973. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Boulevard, Portland, Oreg. 97217. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Signs, sign parts, attachments* and *accessories and equipment*, between the plantsites of Federal Sign and Signal Corp. at Los

Angeles and Oakland, Calif., Knoxville, Tenn., Portland, Oreg., Louisville, Ky., Burr Ridge, Ill., and Arlington, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg. or San Francisco, Calif.

No. MC 33919 (sub-No. 4), filed March 7, 1973. Applicant: FAIRCHILD GENERAL FREIGHT, INC., 19 West Washington Street, Yakima, Wash. 98901. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberboard containers and partitions and paper products*, between the plantsite and warehouse distribution facilities of Container Corp. of America at Portland, Oreg., on the one hand, and, on the other, Renton and Seattle, Wash.; (2) *fiberboard containers and packing forms*, from the plantsite and warehouse distribution facilities of Container Corp., of America at Portland, Oreg., to points in Idaho and to points in that part of Washington east of the line formed by the western boundaries of Okanogan, Chelan, Kittitas, Yakima and Klickitat Counties; and (3) *glass containers and closures therefor*, from the plantsite and warehouse distribution facilities of Owens-Illinois, Inc., at Portland, Oreg., to points in Idaho, Montana and Washington.

NOTE.—Common control may be involved. Applicant states it presently holds authority to transport the same commodities between the same points or in the same territory for specified shippers as a contract carrier and by instant application seeks to convert such authority to a common carrier certificate. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 35807 (sub-No. 34), filed March 5, 1973. Applicant: WELLS FARGO ARMORED SERVICE CORP., 210 Baker Street NW., Atlanta, Ga. 30313. Applicant's representative: Harry J. Jordan, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except coin, currency, and negotiable securities), as are used in banking operations, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware and those in Mercer, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland, and Cape May Counties, N.J., under a continuing contract, or contracts, with banks and banking institutions.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 38170 (sub-No 28), filed March 6, 1973. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield, Lincoln Park, Mich. 48146. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 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), serving the plantsite and facilities of Ford Motor Co., located at or near Romeo (Macomb County), Mich. as an off-route point in connection with applicant's presently authorized regular-route operations to and from Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 41432 (sub-No. 130), filed March 12, 1973. Applicant: EAST TEXAS MOTOR FREIGHT LINES., INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207. Applicant's representative: W. P. Furrh (same address as applicant). 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, livestock, rock, gravel, sand, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of Ford Motor Co., at Romeo, Mich., as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill. or Washington, D.C.

No. MC 41432 (sub-No. 132), filed March 19, 1973. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207. Applicant's representative: W. P. Furrh (same address as applicant). 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, livestock, rock, gravel, sand, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Dallas, Tex., and Amarillo, Tex.: From Dallas over Texas Highway 183 to junction U.S. Highway 287, thence over U.S. Highway 287 to Amarillo, and return over the same route, as an alternate route for operating convenience only.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 42125 (sub-No. 2), filed March 5, 1973. Applicant: OVERLAND WESTERN INTERNATIONAL, INC., 2828 Howard Street, Detroit, Mich. 48216. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, Suite 1700, Detroit, Mich. 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 commodities requiring special equipment), serving the plantsite and facilities of Ford Motor Co., at Romeo, Mich., as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 42487 (sub-No. 807), filed March 19, 1973. Applicant: CONSOLIDATED FREIGHTWAYS CORP., 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: E. T. Liipfert, suite 1100, 1660 L Street NW., Washington, D.C. 20036. 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, livestock, green hides, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite and facilities of Anaconda Aluminum Co., at or near Sebree, Ky., as an off-route point in connection with carrier's existing regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 44639 (sub-No. 68), filed March 29, 1973. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between Clarkton and Lumberton, N.C., on the one hand, and, on the other, Copiague, N.Y. and points in the New York, N.Y. Commercial Zone.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in No. MC-44639 at New York, N.Y. but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or New York, N.Y.

No. MC 52110 (sub-No. 136), filed March 26, 1973. Applicant: BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, Iowa 50312. Applicant's representative: Cecil L. Goettsch, 11th Floor Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over 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), serving the plantsite and facilities of Ford Motor Co. located at Romeo, Mich., as an off-route point in connection with applicant's regular-route authority to and from Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 59124 (sub-No. 17), filed March 5, 1973. Applicant: MAIERS MOTOR FREIGHT CO., a corporation, 875 East Huron Avenue, Vassar, Mich. 48768. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, suite 1700, Detroit, Mich. 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 commodities requiring special equipment), serving the plantsite and facilities of Ford Motor Co. at Romeo, Mich., as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 59264 (sub-No. 57), filed March 15, 1973. Applicant: SMITH & SOLOMON TRUCKING CO., a corporation, How Lane, New Brunswick, N.J. 08903. Applicant's representative: Herbert Burstein, 1 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty trailers* between points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 59336 (sub-No. 26), filed March 5, 1973. Applicant: U.S. TRUCK CO., INC., 2290 24th Street, Detroit, Mich. 48216. Applicant's representative: G. F. Whitmore (same address as applicant). 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), serving the plantsite and facilities of Ford Motor Co., Romeo, Mich., as an off-route point in connection with carrier's regular route operations.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Detroit, Mich., Chicago, Ill., of Washington, D.C.

No. MC 59680 (sub-No. 206), filed March 19, 1973. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, P.O. Box 5689, Dallas, Tex. 75222. Applicant's representative: Oscar P. Peck (same address as applicant). 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of Ford Motor Co., Romeo, Mich., as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 61440 (sub-No. 135), filed March 6, 1973. Applicant: LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, Okla. 73108. Applicant's representative: Roland Rice, Suite 618, Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Oklahoma City, Okla., and Nashville, Tenn., over Interstate Highway 40 and return over the same route, serving no intermediate points and serving Memphis, Tenn., as a point of joinder only; (2) between Memphis, Tenn., and Birmingham, Ala., over U.S. Highway 78, and return over the same route, serving no intermediate points and serving Memphis, Tenn., as a point of joinder only; and (3) between Memphis, Tenn., and Atlanta, Ga., from Memphis, Tenn., over U.S. Highway 72 and Alternate U.S. Highway 72 to Decatur, Ala., thence over U.S. Highway 31 and/or Interstate Highway 65 to Cullman, Ala., thence over U.S. Highway 278 to Atlanta, Ga., and return over the same route, serving no intermediate points and serving Memphis, Tenn., as a point of joinder only, all as alternate routes for operating convenience only in conjunction with applicant's presently authorized regular route operations between Oklahoma City, Okla., and Nashville, Tenn.; Birmingham, Ala., and Atlanta, Ga., to be restricted against the transportation of any traffic originating or destined to points in Texas on and east of U.S. Highway 281, commencing at the Oklahoma-Texas State line and extending in a southerly direction to the Texas-Mexico International Boundary at or near Hidalgo, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Washington, D.C.

No. MC 61955 (sub-No. 19), filed March 29, 1973. Applicant: CENTROPOLIS TRANSFER CO., INC., 6700 Wilson Avenue, Kansas City, Mo. 64125. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from points in Muncie and Edwardsville, Kans., and their respective commercial zones, to points in Missouri.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 64932 (sub-No. 511), filed March 19, 1973. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plant and warehouse facilities of Borden Chemical Co., at Illiopolis, Ill., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 66121 (sub-No. 28), filed March 16, 1973. Applicant: INDIAN BOW TRUCK LINES, LTD., a corporation, 225 Marcus Boulevard, Deer Park, N.Y. 11729. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are ordinarily transported on flat bed vehicles, between points on Long Island, N.Y., on the one hand, and, on the other, points in the United States in and east of the western borders of New Mexico, Colorado, Nebraska, South Dakota, and North Dakota.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Plainview, N.Y.

No. MC 69833 (sub-No. 106), filed March 7, 1973. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of Ford Motor Co., Romeo, Mich., as an off-route point in connection with carrier's authorized regular route operations to and from Detroit and Pontiac, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 69901 (sub-No. 28), filed March 15, 1973. Applicant: COURIER-NEWSON EXPRESS, INC., P.O. Box 270, Columbus, Ind. 47201. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, commodities in bulk, those requiring special equipment, and household goods as defined by the Commission), serving the plantsite and facilities of the Ford Motor Co. at Romeo, Mich., as an off-route point in connection with applicant's regular route authority to and from Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 70151 (sub-No. 49), filed March 5, 1973. Applicant: UNITED TRUCKING SERVICE, INC., 3047 Lonyo Road, Detroit, Mich. 48209. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, suite 1700, Detroit, Mich. 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 commodities requiring special equipment), serving the plantsite and facilities of Ford Motor Co. at Romeo, Mich., as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 72140 (sub-No. 61), filed March 16, 1973. Applicant: SHIPPERS DISPATCH, INC., 1216 West Sample Street, South Bend, Ind. 46624. Applicant's representative: Richard L. Andrysiak (same address as applicant). 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), serving the plantsite and warehouse facilities of the Modine Manufacturing Co., Pemberville, Ohio, as an off-route point in connection with applicant's existing authority.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 73165 (sub-No. 320), filed February 20, 1973. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road-building, material handling, earthmoving, construction, mining, and contractors' machinery and equipment*, and *parts thereof*, from the plantsites and warehouse facilities of Koehring Co. at or near Chattanooga, Tenn., to points in the United States (except Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 73165 (sub-No. 322), filed March 15, 1973. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, pipe fittings, meter boxes, manhole frames, manhole covers*, plastic, iron or steel, between the plantsite of Western Foundry Division of Woodward Corp., Tyler, Tex., on the one hand, and, on the other, points in New Mexico, Arizona, California, Nevada, Utah, Colorado, Nebraska, Wyoming, Idaho, Oregon, and Washington.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., Birmingham, Ala., or Washington, D.C.

No. MC 76993 (sub-No. 26), filed March 29, 1973. Applicant: EXPRESS FREIGHT LINES, INC., 4600 West Burnham Street, Milwaukee, Wis. 53246. Applicant's representative: John W. Bryant, 900 Guardian Building, Detroit, Mich. 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), serving the plantsite and facilities of the Ford Motor Co. at Romeo, Macomb County, Mich., as an off-route point in connection with applicant's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 77404 (sub-No. 20), filed March 5, 1973. Applicant: MOHAWK MOTOR, INC., 34200 Mound Road, Sterling Heights, Mich. 48077. Applicant's representative: Robert D. Schuler, One Woodward Avenue—Suite 1700, Detroit, Mich. 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 commodities requiring special equipment), serving the plantsite and facilities of Ford Motor Co. at Romeo, Macomb County, Mich., as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 83217 (sub-No. 61), filed March 23, 1973. Applicant: DAKOTA EXPRESS, INC., 1614 North Cliff, P.O. Box 1252, Sioux Falls, S. Dak. 57101. Applicant's representative: Henry J. Schuette, P.O. Box 1252, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Illinois, Michigan, Ohio, Indiana, Minnesota, North Dakota, Nevada, South Dakota, Nebraska, Iowa, Missouri, Kansas, Oklahoma, Wyoming, and Colorado, restricted to traffic originating at the named origin and destined to the named states; and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment and supplies* (except hides and commodities in bulk), from points in Illinois, Michigan, Ohio, Indiana, Minnesota, North Dakota, South Dakota, Nebraska, Iowa, Missouri, Kansas, and Oklahoma, to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 83835 (sub-No. 104), filed March 22, 1973. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic pipe and fittings, from the plantsite of Kyle-Gifford-Hill, Inc., at Newberry, Fla., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Atlanta, Ga.

No. MC 83835 (sub-No. 105), filed March 23, 1973. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

Iron and steel articles, from the plantsites and warehouse facilities of Armco Steel Corp., at or near Kansas City, Mo., and Sand Springs, Okla., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 93840 (sub-No. 12), filed March 28, 1973. Applicant: W. W. GLESS, doing business as: GLESS BROS., Blue Grass, Iowa 52726. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid feed and liquid feed supplements, in bulk, from the plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Indiana.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 94201 (sub-No. 114), filed March 16, 1973. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street, NW., Atlanta, Ga. 30309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Rough iron castings (tractor and agricultural implement parts), from the plantsite and warehouse facilities of Central Foundry Co., at or near Holt, Ala., to the plantsite and warehouse facilities of John Deere Tractor Co., at or near East Moline and Moline, Ill.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 95540 (sub-No. 864), filed February 26, 1973. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive NE., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Frozen foods, from the plantsite and storage facilities of Lloyd J. Harris Pie Co., at or near Saugatuck or Holland, Mich., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 95540 (sub-No. 864), filed February 26, 1973. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive NE., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from the plantsite and storage facilities of Lloyd J. Harris Pie Co., at or near Saugatuck or Holland, Mich., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 95540 (sub-No. 867), filed March 23, 1973. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive NE., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hagerstown, Md., to points in Oklahoma and Texas.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 97699 (sub-No. 36), filed March 9, 1973. Applicant: BARBER TRANSPORTATION CO., a corporation, Deadwood Avenue, Rapid City, S. Dak. 57701. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Rapid City, S. Dak., and Billings, Mont.: From Rapid City over U.S. Highway 14 and Interstate Highway 90 to Sundance, Wyo., thence westward over Interstate Highway 90 to junction U.S. Highway 14 near Moorcroft, Wyo., thence westward over U.S. Highway 14 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction U.S. Highway 87, thence northward over U.S. Highway 87 and Interstate Highway 90 to Billings, and return over the same route, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests multiple hearing locations at Rapid City, S. Dak., Sheridan, Wyo., and Billings, Mont.

No. MC 99780 (sub-No. 23), filed March 2, 1973. Applicant: CHIPPER CARTAGE CO., INC., 1327 NE. Bond Street, Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Foodstuffs (except hides and commodities in bulk) from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Illinois, Indiana, Iowa, Missouri, Minnesota, Ohio, and Kentucky; and (2) Meat, meat products, meat byproducts, foodstuffs, canning plant materials, and equipment and supplies (except hides and commodities in bulk) from points in Minnesota, Iowa, Illinois, Indiana, Missouri, and Ohio to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted in (1) and (2) above to traffic originating at the named origins and destined to the named destinations.

NOTE.—Duplicating authority may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 100666 (sub-No. 239), filed March 19, 1973. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, room 280, National Foundation Life Building, 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic pipe, from Perla, Ark., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority could technically be tacked with other existing authority but in no instance would it permit service to territory which applicant cannot already serve. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 102567 (sub-No. 163), filed March 26, 1973. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo. E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent acid* (hydrofluoric), in bulk, in tank vehicles, from Gore, Okla., to points in Louisiana, Mississippi and Texas.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La. or Houston, Tex.

No. MC 103051 (sub-No. 273), filed March 8, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Decatur County, Ga., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its sub-Nos. 217 and 230 at Roberston and Lavergne Counties, Tenn., respectively, to provide service to points in Kentucky, Indiana, Michigan, Ohio, Illinois,

and Missouri. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn. or Atlanta, Ga.

No. MC 106398 (sub-No. 653), filed March 16, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe* or *pipe fittings*, from the plantsite of Slocomb Plastic Pipe and Products, Inc. in Slocomb, Ala., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala.

No. MC 106688 (sub-No. 20), filed March 2, 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, D.C. 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. located at or near Falling Waters, W. Va., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, Pennsylvania, Ohio, West Virginia, Kentucky, Tennessee, North Carolina, and the District of Columbia, under contract with E. I. du Pont de Nemours & Co.

NOTE.—Applicant holds common carrier authority under MC 113499 therefore dual operations may be involved. This application is accompanied by a motion to dismiss.

No. MC 106943 (sub-No. 108), filed March 22, 1973. Applicant: EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, Ind. 47808. Applicant's representative: Peter M. Witham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, livestock, grain, petroleum products, in bulk, household goods as defined by the Commission, and commodities requiring special equipment), serving the plantsite of Anaconda Aluminum Co., at or near Sebree, Ky., as an off-route point in connection with carrier's authorized regular-route operations to and from Evansville, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 107012 (sub-No. 178), filed March 14, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial and institutional furniture, fixtures, and equipment*, uncrated, from the plantsite of Educators Division of Hauserman, Inc., at or near Lime Ridge, Pa., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, and the District of Columbia.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107460 (sub-No. 44), filed March 21, 1973. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged bone meal*, from the plantsite of Stauffer Chemical Co., at or near Houston, Tex., to the plantsite of A. H. Hoffman, Inc., located at or near Lancaster, Pa., under contract with A. H. Hoffman, Inc.

NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 107496 (sub-No. 887), filed March 12, 1973. Applicant: RUAN TRANSPORT CORP., Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: H. L. Fabritz, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Louisville, Nebr., to points in Iowa, Nebraska, Kansas, Missouri, South Dakota and Minnesota.

NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existihg authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Des Moines, Iowa.

No. MC 107515 (sub-No. 845), filed March 9, 1973. Applicant: REFRIGERATED TRANSPORT, CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yarn*, from Rome, Ga., to points in Arkansas.

NOTE: Common control and dual operations may be performed. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 108046 (sub-No. 7), filed March 19, 1973. Applicant: CURATOLA BROS. TRUCKING, INC., 180 Atlantic Avenue, Garden City Park, N.Y. 11040. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores, between Paramus, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., under contract with Abraham and Straus, a Division of Federated Department Stores, Inc.

NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 108207 (sub-No. 368), filed March 2, 1973. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co. at or near Beloit, Wis., to points in Arizona, New Mexico, Oklahoma, Texas, Arkansas, California, Louisiana, Missouri, Iowa, Minnesota, and Illinois, restricted to traffic originating at the named origin and destined to the named States; and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, and equipment and supplies* (except hides and commodities in bulk), from points in Oklahoma, Texas, California, Arkansas, Louisiana, Missouri, Iowa, Minnesota, and Illinois, to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co. at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 108341 (sub-No. 32), filed March 9, 1973. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which because of size or weight require the use of special equipment; (2) *commodities* which because of size or weight do not require the use of special equipment, when transported as part of the same shipment with commodities which because of size or weight require the use of special equipment, and (3) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Florida, Georgia, North Carolina, South Carolina, and Virginia, on the one hand, and, on the other,

points in that part of the United States on and east of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Applicant states that tacking may be provided at any point in the 5-State base area. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108393 (sub-No. 70), filed March 29, 1973. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts* of electrical and gas appliances, and *equipment, materials, and supplies*, used in the manufacture, distribution and repair of electrical and gas appliances, (1) between Bellville, Ohio, and Evansville, Ind., and (2) between Oil City, Pa., and Clyde, Ohio, under a continuing contract, or contracts, in (1) and (2) above with Whirlpool Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108449 (sub-No. 350), filed March 21, 1973. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, from Winona, Minn., to points in Iowa, Minnesota, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 108937 (sub-No. 38), filed March 26, 1973. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, Minn. 55113. Applicant's representative: R. L. Stevens (same address as applicant). 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Milwaukee, Wis. to Rhinelander, Wis.: From Milwaukee over Wisconsin Highway 145 to junction U.S. Highway 45, thence over U.S. Highway 45 to Fond du Lac, Wis., thence over Wisconsin Highway 175 to junction U.S. Highway 41, thence over U.S. Highway 41 to Oshkosh, Wis., thence over U.S. Highway 45 to junction U.S. Highway 8, thence over U.S. Highway 8 to Rhinelander, serving the intermediate point of Antigo, Wis., and the intermediate or off-route points within the Milwaukee, Wis., commercial zone.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rhinelander or Milwaukee, Wis.

No. MC 108942 (sub-No. 6), filed February 28, 1973. Applicant: C. G. TODD TRUCKING COMPANY, a corporation, 3312 East Jefferson, Grand Prairie, Tex. 75050. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and pipe for use other than oilfield, between points in Texas; (2) *commodities the transportation of which by reason of their size and weight require the use of special equipment*, between points in Texas; and (3) *iron and steel articles*, between Houston, Tex., on the one hand, and, on the other, points in Texas.

NOTE.—Applicant presently holds intrastate authority to transport substantially all the commodities herein described above in (1), (2), and (3) and various additional commodities, between points in Texas under its certificate of registration MC 108942, which it presently seeks to convert into a certificate of public convenience and necessity, such certificate is to be effective, if granted, so as to conduct a physical interstate service similarly as sought by Arrow Trucking Co. in its lead docket MC 5623 and sub 12, et al. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 109478 (sub-No. 126), filed March 8, 1973. Applicant: WORSTER MOTOR LINES, INC., Gay Road, North East, Pa. 1648. Applicant's representative: Joseph F. MacKrell, 23 West 10th Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Pennsylvania, Michigan, New York, New Jersey, and Minnesota, restricted to traffic originating at the named origin and destined to the named States and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment and supplies* (except hides and commodities in bulk), from points in Pennsylvania, New York, Michigan, New Jersey, and Minnesota to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn. or Washington, D.C.

No. MC 109891 (sub-No. 23), filed March 13, 1973. Applicant: INFINGER TRANSPORTATION COMPANY, INC., 2811 Carner Avenue, Charleston Heights, S.C. 29405. Applicant's representative: Frank Hand, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in containers, between the plantsite of College Park, Ga., on the one hand, and, on the other, points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Charleston, S.C.

No. MC 110420 (sub-No. 676), filed March 26, 1973. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal oils*, in bulk, from Philadelphia, Pa., to points in Illinois, Indiana, Iowa, Michigan, Missouri, Nebraska, Ohio, and Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110525 (sub-No. 1049), filed March 19, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt syrup*, in bulk, in tank vehicles, from Peoria, Ill., to points in Arkansas, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, and (2) *chemicals*, in bulk, in tank vehicles, from Peoria, Ill., to points in Georgia, Louisiana, New York, Oklahoma, North Carolina, and South Carolina.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 110761 (sub-No. 15), filed March 22, 1973. Applicant: CARROLL TRANSPORT, INC., 1249 Adam Street, Pittsburgh, Pa. 15233. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between Aliquippa and Midland, Pa., on the one hand, and, on the other, points in the lower peninsula of Michigan.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 111045 (sub-No. 98), filed March 12, 1973. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Naval stores, tall oil products, chemicals and related products*, (1) Between Cedar Springs, Ga., and Bay Minette, Ala., (2) between points in Alabama, and Pensacola, Fla., (3) between points in Mississippi, and Pensacola, Fla., (4) between points in Mississippi and Bay Minette, Ala., and (5) betwen points in Alabama, and Telogia, Fla.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pensacola, Fla., or Mobile, Ala.

No. MC 111307 (sub-No. 9), filed March 5, 1973. Applicant: OVERLAND WESTERN LIMITED, 5200 Maingate Road, Mississauga, Ontario, Canada. Applicant's representative: Robert D. Schuler, One Woodward Avenue, Suite 1700, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between the plantsite and facilities of Ford Motor Co. at Romeo, Mich., and ports of entry on the international boundary line between the United States and Canada located on the Detroit and St. Clair Rivers, restricted to the transportation of traffic in foreign commerce.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 111375 (sub-No. 68), filed March 1, 1973. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Minnesota, California, Oregon, Washington, Montana, Idaho, and Wyoming, restricted to traffic originating at the named origin and destined to the named States; and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment and supplies* (except hides and commodities in bulk), from points in California, Oregon, Washington, Montana, and Idaho to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 111545 (sub-No. 181), filed March 26, 1973. Applicant: HOME TRANSPORTATION CO., INC., 1425 Franklin Road, Marietta, Ga. 30062. Applicant's representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, Ga. 30062. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cable and wire*, from the plantsite of Kaiser Aluminum & Chemical Corp. at or near Bay Minette, Ala., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (2) *material and supplies used in the manufacture of cable and wire*, from the destinations in (1) above, to the named plantsite facilities in (1) above.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Montgomery, Ala. or Washington, D.C.

No. MC 112582 (sub-No. 40), filed March 9, 1973. Applicant: T. M. ZIMMERMAN CO., a corporation, P.O. Box 380, Chambersburg, Pa. 17201. Applicant's representative: John M. Musselman, 410 North Third Street, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between Erie, Pa., on the one hand, and, on the other, points in Maryland, New Jersey, New York, Ohio, Pennsylvania, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 112696 (sub-No. 47), filed March 16, 1973. Applicant: HARTMANS INC., P.O. Box 898, Harrisonburg, Va. 22801. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour mixes and frosting mixes*, from Chelsea, Mich., to points in New York, New Jersey, and Pennsylvania.

NOTE.— Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112801 (sub-No. 142), filed March 2, 1973. Applicant: TRANSPORT SERVICE CO., P.O. Box 50272, Chicago, Ill. 60650. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the plantsite and/or warehouse facilities of Cargill, Inc., at Dayton, Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112822 (sub-No. 269), filed March 22, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little, Cushing, Okla. 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the manufacture of cheese and specialty item gift packages, from points in the United States (except Alaska and Hawaii) to Marshfield, Wis.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 112822 (sub-No. 270), filed March 22, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little, Cushing, Okla. 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, and inedible foods*, when moving in vehicles equipped with mechanical refrigeration from Bettendorf, Iowa, to points in Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hamsphire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, and Wisconsin, restricted to shipments originating at the facilities of Terminal Ice

& Cold Storage Company located at or near Bettendorf, Iowa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 112908 (sub-No. 7), filed March 29, 1973. Applicant: KINGSWAY TRANSPORTS LTD., 123 Rexdale Boulevard, Rexdale, Ontario, Canada. Applicant's representative: John W. Bryant, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the port of entry on the international boundary line between the United States and Canada at Detroit, Mich., and the plantsite and facilities of Ford Motor Company, at Romeo, Mich., restricted to the transportation of traffic in foreign commerce.

NOTE.—Common control may be involved. Applicant states that the requested authority will not be tacked with its existing authority (except Canadian authorities). If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 113267 (sub-No. 300), filed March 5, 1973. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3385 Airways Boulevard, Suite 115, Memphis, Tenn. 38116. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Arkansas, Louisiana, Tennessee, Alabama, Mississippi, North Carolina, South Carolina, Georgia, Florida, and Minnesota, and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, and equipment and supplies* (except hides or commodities in bulk), from points in Arkansas, Louisiana, Alabama, Mississippi, Georgia, Florida, and Minnesota to the plantsite of Geo. A. Hormel & Co., at Beloit, Wis., restricted in (1) and (2) above to traffic originating at the named origins and destined to the named destinations.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 113267 (sub-No. 301), filed March 26, 1973. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3385 Airways Boulevard, Suite 115, Memphis, Tenn. 38116. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from the plantsite and warehousing facilities of Pet Inc., frozen foods division, at Chickasha, Okla.; to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, restricted to traffic originating at the named plantsite and warehouse facilities and destined to the named destination States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or St. Louis, Mo.

No. MC 113267 (sub-No. 302), filed March 28, 1973. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3385 Airways Boulevard, Suite 115, Memphis, Tenn. 38116. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, and nonedible foods*, when moving in vehicles requiring mechanical units, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, Iowa; to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, West Virginia, Wisconsin, and Virginia, restricted to traffic originating at the named facilities.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at Missouri and Illinois, however, tacking is not intended. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 113267 (sub-No. 303), filed March 29, 1973. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3385 Airways Boulevard, Suite 115, Memphis, Tenn. 38116. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bags, bagging, and wrapping paper*, (1) from New Orleans, La., to points in Texas and Wisconsin, and (2) from Crossett, Ark., to points in Nebraska.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 113434 (sub-No. 57), filed March 19, 1973. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), and *advertising matter, display racks, and premiums* when moving at the same time and in the same vehicle with foodstuffs, from the facilities of American Home Foods Division of American Home Products Corp. at LaPorte, Ind., to points in Kentucky.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Chicago, Ill., or Detroit, Mich.

No. MC 113459 (sub-No. 78), filed March 9, 1973. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 135 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, industrial mowers, scrappers, post hole diggers, and rakes and parts and attachments* for the above described commodities, (a) from Dallas, Tex., and Athens, Tenn., to points in Arkansas, Colorado, California, Florida, Georgia, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Montana, North Carolina, New York, Ohio, Pennsylvania, Tennessee, Utah, and Wisconsin, and (b) between Dallas, Tex., and points in Tennessee.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority under MC 113459 (sub-No. 67), but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 113459 (sub-No. 79), filed March 26, 1973. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial movements, from the plantsite and warehouse facilities of Lufkin Industries, Inc., at or near Lufkin, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 113678 (sub-No. 488), filed March 12, 1973. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hallwood, Va., to points in California, Montana, Oregon, Washington, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Colorado, North Dakota, South Dakota, and Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113678 (sub-No. 489), filed March 28, 1973. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures, plastic light diffusers, and articles used in the installation thereof*, from the plantsite of Litecraft-Luminous Ceilings, division of the Celotex Corp., at or near Scottsboro, Ala., to points in the United States in and west of Wisconsin, Illinois, Missouri, Arkansas, and Louisiana (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Denver, Colo., or Washington, D.C.

No. MC 114004 (sub-No. 125), filed March 12, 1973. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings*, in sections, mounted on wheeled undercarriages, in initial movements, from points in Jackson County, W. Va., to points in the United State (including Alaska but excluding Hawaii).

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va.

No. MC 114273 (sub-No. 136), filed March 12, 1973. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, suite 315, Commerce Exchange Building, P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as defined by sections A and C of appendix 1 to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Wilson & Co., Inc., at Albert Lea, Minn., to points in Kentucky, restricted to the transportation of traffic originating at the named origin and destined to the named destination.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114273 (sub-No. 137), filed March 16, 1973. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, and inedible foods* when moving in vehicles equipped with mechanical refrigeration, from Bettendorf, Iowa, to points in Illinois, Iowa, Missouri, Kansas, Michigan, Nebraska, Minnesota, North Dakota, South Dakota, Wisconsin, Indiana, Ohio, Kentucky, West Virginia, Virginia, Pennsylvania, Maryland, New York, New Jersey, Rhode Island, New Hampshire, Connecticut, Delaware, Massachusetts, Maine, Vermont, and the District of Columbia, restricted to traffic originating at the facilities of Terminal Ice and Cold Storage Co., at or near Bettendorf, Iowa.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant reqeusts it be held at Washington, D.C.

No. MC 114284 (sub-No. 57), filed February 26, 1973. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, P.O. Box 82307, Stockyards Station, Oklahoma City, Okla. 73108. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs, and frozen food products*, between Albuquerque, N. Mex., and points in Arkansas, Kansas, Nebraska, Missouri, Oklahoma, Texas, and South Dakota.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 114457 (sub-No. 140), filed March 23, 1973. Applicant: DART TRANSIT CO., a corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the plantsite and storage facilities of the Simmons Co. at Kansas City, Kans., to points in Iowa and Minnesota, and Grand Forks and Fargo, N. Dak., and Sioux Falls, S. Dak., restricted to traffic originating at the plantsite and storage facilities of Simmons Co. at Kansas City, Kans., and destined to the above-named destination points.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 114457 (sub-No. 141), filed March 19, 1973. Applicant: DART TRANSIT CO., a corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Omaha, Nebr., to points in Missouri, Kansas, Nebraska, Iowa, North Dakota, South Dakota, Minnesota, and Wisconsin, restricted to traffic originating at Omaha, Nebr., and destined to the above-named States.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 115162 (sub-No. 267), filed March 6, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board and moulding and accessories* used in the installation thereof, from Chesapeake, Va., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Tennessee, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Birmingham, Ala.

No. MC 115278 (sub-No. 1), filed March 13, 1973. Applicant: SIEGEL & COHEN EXPRESS, INC., 567 South 11th Street, Newark, N.J. 07103. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by discount or department stores*, between points in the New York, N.Y. commercial zone as defined by the Commission, on the one hand, and, on the other, points in Virginia, restricted to the transportation of traffic for Robert Hall Villages, Inc.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Washington, D.C.

No. MC 115582 (sub-No. 4), filed March 5, 1973. Applicant: KUBACH TRUCKING CO., a corporation, 4800 Wyoming Avenue, Dearborn, Mich. 48126. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, suite 1700, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehile, over irregular routes, transporting: *Parts, assemblies and materials* used in the manufacture of motor vehicles, between the plantsite and facilities of Ford Motor Co., located

at or near Romeo (Macomb County) Mich., on the one hand, and, on the other, Detroit, Mich., under a continuing contract with Ford Motor Co. Restriction: The service authorized herein is subject to the following conditions: No shipments shall be transported to or from the United States-Canada boundary line between Michigan and the Province of Ontario, Canada, which are moving between Michigan and the Province of Ontario, Canada.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 116073 (sub-No. 252), filed February 20, 1973. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorhomes*, between points in Los Angeles, Sutter, Yuba, Riverside, and Tulare Counties, Calif., Polk County, Fla., Thomas and Schley Counties, Ga., Adams County, Ind., Lapeer and Sanilac Counties, Mich., Madison County, N.Y., Marion County, Oreg., Tarrant, Grayson, and Johnson Counties, Tex., Box Elder County, Utah, and Yakima County, Wash.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Kansas City, Kans.

No. MC 116073 (sub-No. 253), filed March 20, 1973. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Martin County, Minn., to points in the United States (excluding Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 116073 (sub-No. 254), filed March 20, 1973. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Wright County, Iowa to points in the United States (except Alaska and Hawaii); (2) *buildings*, complete or in sections, mounted on wheeled undercarriages with hitchball connectors, points in Humboldt County, Iowa, to points in the United States (except Alaska and Hawaii); and (3) *buildings*, complete or in sections, mounted on wheeled undercarriages with hitchball connectors, from points in Waseca County, Minn. to points in North Dakota, South Dakota, Nebraska, Kansas, Iowa, Missouri, Wisconsin, Illinois, Indiana, and Michigan.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Des Moines, Iowa.

No. MC 116073 (sub-No. 255), filed March 20, 1973. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 4th Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Lauderdale County, Miss., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 116254 (sub-No. 135), filed March 19, 1973. Applicant: CHEMHAULERS, INC., P.O. Drawer M, Sheffield, Ala. 35660. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Demopolis, Ala., to points in Texas, Louisiana, Arkansas, Mississippi, Georgia, Florida, North Carolina, South Carolina, Virginia, Kentucky, Indiana, Missouri, Alabama and Tennessee.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Nashville, Tenn.

No. MC 117565 (sub-No. 86), filed February 26, 1973. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, Ohio 43812. Applicant's representative: John R. Hafner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic surfacing, plastic products*, and *equipment, hardware, materials supplies, parts, accessories*, and *tools* used in the installation, operation and maintenance thereof, from Columbus, Ohio to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant has contract carrier authority pending under MC 135701 sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117565 (sub-No. 87), filed February 26, 1973. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, Ohio 43812. Applicant's representative: John R. Hafner (same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except motor homes), in truckaway service, from Lima, Ohio to points in the United States (including Alaska but excluding Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant has contract carrier authority pending under MC 135701 sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio or Toledo, Ohio.

No. MC 117574 (sub-No. 228), filed March 8, 1973. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit*, from New Kensington, Pa., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia.

NOTE.—Common control may be involved. Applicant states that the requested authority will be tacked to any authority it presently holds. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117765 (sub-No. 159), filed March 8, 1973. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Hutchinson, Kanapolis and Lyons, Kans., to points in Kentucky, Louisiana, Mississippi, Tennessee, and Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, White, and Williamson Counties, Ill., and Barry, Bollinger, Butler, Cape Girardeau, Carter, Charleston, Christian, Douglas, Dunkin, Howell, Iron, Madison, McDonald, New Madrid, Newton, Oregon, Ozark, Perry, Reynolds, Ripley, Scott, Shannon, Stoddard, Stone, Taney, and Wayne Counties, Mo.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 117940 (sub-No. 89), filed March 12, 1973. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104,

Maple Plain, Minn. 55359. Applicant's representative: Donald M. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mattresses, box springs, hide-a-beds, studio couches, bed frames, headboards,* and *roll-a-way cots*, crated, from the plantsite and storage facilities of Simmons Co. at Kansas City, Kans., to points in Minnesota and Iowa (except Des Moines), and to Fargo and Grand Forks, N. Dak.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 114789 sub 1 and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 118159 (sub-No. 132), filed March 19, 1973. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Jack R. Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except in bulk, and hides and skins), from Sioux City, Iowa, and Omaha, Nebr., to points in North Carolina, South Carolina, Georgia, Tennessee, and Florida.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Tulsa, Okla.

No. MC 118831 (sub-No. 95), filed March 20, 1973. Applicant: CENTRAL TRANSPORT, INC., Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Norfolk, Va., to points in Alabama, Georgia, Maryland, North Carolina, South Carolina, and Rhode Island.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118831 (sub-No. 99), filed March 29, 1973. Applicant: CENTRAL TRANSPORT, INC., Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry, synthetic plastic granules or pellets*, in bulk, from Hopewell, Va., to points in North Carolina and South Carolina.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C.; Raleigh, N.C.; or Richmond, Va.

No. MC 118989 (sub-No. 95), filed March 28, 1973. Applicant: CONTAINER TRANSIT INC., 5223 South Ninth Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and related parts*, from the plantsite of the Coca Cola Co. at Valparaiso, Ind., to Ortonville, Minn.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 119245 (sub-No. 6), filed March 22, 1973. Applicant: E. J. PAULETTE, doing business as PAULETTE'S DELIVERY SERVICE, 1155 Joseph Street, Shreveport, La. 71166. Applicant's representative: John M. Madison, Jr., P.O. Box 1707, Shreveport, La. 71166. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Home care products*, from Shreveport, La., to points in Marion, Cass, Hopkins, Hunt, Lamar, Fannin, Rains, Wood, Harrison, Gregg, Upshur, Camp, Smith, Van Zandt, Henderson, Rusk, Panola, Bowie, Red River, Franklin, Titus, Morris, Shelby, Delta, and Sabine Counties, Tex.; and (2) *home care products* having a prior out-of-State movement, from Shreveport, La., to Bossier, Caddo, Morehouse, Ouachita, Richland, Grant, Rapides, Avoyelles, Bienville, Caldwell, Catahoula, Claibourne, Concordia, DeSoto, East Carroll, Franklin, Jackson, LaSalle, Lincoln, Madison, Natchitoches, Red River, Sabine, Tensas, Union, Vernon, Webster, West Carroll, and Winn Parishes, La., under contract with Amway Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Tex. New Orleans, La.; or Atlanta, Ga.

No. MC 119543 (sub-No. 9), filed February 27, 1973. Applicant: HENRY N. LANCIANI, Leominster Road, Sterling, Mass. 01564. Applicant's representative: Arthur A. Wentzell, P.O. Box 764, Worcester, Mass. 01613. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke* in bulk, in dump semitrailers, from ports of entry on the international boundary line between the United States and Canada at or near Champlain, and Rouses Point, N.Y., and Highgate Springs and Derby Line, Vt., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston or Worcester, Mass.

No. MC 119641 (sub-No. 111) filed March 15, 1973. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, 711 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209, from Warren, Ohio, to Lincoln and Omaha, Nebr., and points in Illinois, Iowa, Minnesota, Missouri, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio or Washington, D.C.

No. MC 119669 (sub-No. 33), filed March 9, 1973. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, P.O. Box 886, Columbus, Ind. 47201. Applicant's representative: William Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products*, from Worthington, Ind., to points in Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Tennessee, Mississippi, Alabama, North Carolina, South Carolina, Georgia, and Florida.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119669 (sub-No. 34), filed March 9, 1973. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, P.O. Box 886, Columbus, Ind. 47201. Applicant's representative: William Boyd, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products*, from Worthington, Ind., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Pennsylvania, Ohio, Michigan, Indiana, Kentucky, Illinois, Minnesota, Wisconsin, Iowa, Nebraska, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119684 (sub-No. 6), filed March 29, 1973. Applicant: FULLERTON MOTOR TRUCK SERVICE, INC., 1817

West 33d Place, Chicago, Ill. 60608. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Iron and steel articles*, as described in appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (b) *aluminum and aluminum articles;* (c) *brass, bronze or copper articles; cupronickel articles, nickel silver articles;* (d) *alloy or combinations or articles* named in (a), (b) and (c) above, in the rough, partially finished or fabricated; and (e) *commodities* related to the above, materials and supplies used or useful in the sale or distribution of articles named in (a), (b), (c), and (d) when shipped or distributed by the Central Steel & Wire Co., between the warehouse and shipping facilities of Central Steel & Wire Co. at Chicago, Ill., on the one hand, and, on the other, points in Indiana, Michigan (except Detroit, Mich., and its commercial zone as defined by the Commission), Iowa, and Wisconsin (except Milwaukee, Wis.), restricted to single line service.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119777 (sub-No. 251), filed March 28, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Box L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, equipment and supplies*, and *builders scaffolding*, from the plant and warehouse sites of Form-All Co. Division, The Ceco Corp., at or near Knoxville, Ark., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control was approved by the Commission in No. MC-F-8759. Applicant holds motor contract carrier permits in No. MC-126970 (sub-Nos. 1 and 3) which are the subject of a pending conversion application in No. MC-119777 (sub-No. 239), therefore dual operations are presently involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn. or Little Rock, Ark.

No. MC 119789 (sub-No. 155), filed March 12, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. 6188, Dallas, Tex. 75222. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware*, from Columbus and Toledo, Ohio, to points in Arizona, California, Nevada, New Mexico, Oregon and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 119789 (sub-No. 156), filed March 16, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., 1612 East Irving Boulevard, P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Milk products* (except in bulk), from the plantsite and storage facilities of Borden, Inc., at or near Starkville, Miss., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Dallas, Tex.

No. MC 119815 (sub-No. 12), filed March 19, 1973. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., 814 Norton Avenue, Bedford, Ind. 47421. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal pipe, metal sheets and fittings and supplies* for installation thereof, between the plantsite of Hall Signs, Inc., located at or near Bloomington, Ind., and points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Maryland, Michigan, Mississippi, Missouri, New York, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, West Virginia, Wisconsin, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Louisiana, South Carolina, Virginia, Connecticut, Massachusetts, Rhode Island, Vermont, Maine, New Hampshire, and Colorado, under contract with Hall Signs, Inc., Bloomington, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind. or Louisville, Ky.

No. MC 119829 (sub-No. 42), filed March 20, 1973. Applicant: F. J. EGNER & SON, INC., 3969 Congress Parkway, Richfield, Ohio 44286. Applicant's representative: Taylor C. Burneson, 88 East Broad Street, suite 1680, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the plantsite of Columbia Hydrocarbon Corp. located at or near Siloam, Ky., to points in Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123048 (sub-No. 244) (correction), filed January 15, 1973, published in the FEDERAL REGISTER issue of February 23, 1973, and republished as corrected this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements, loaders, platforms, feeders, trailers, wagons, augers, spreaders, buckets, hoists, accessories, attachments and parts*, from Lester Prairie, Minn., to points in the United States (except Alaska and Hawaii), and (2) *Equipment, materials, and supplies*, used in the manufacture or distribution of the above described commodities (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Lester Prairie, Minn.

NOTE: The purpose of this republication is to indicate that *loaders*, which was inadvertently omitted from the previous publication, should be included in the commodity description in (1) above. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., Chicago, Ill., or Washington, D.C.

No. MC 123220 (sub-No. 1), filed March 29, 1973. Applicant: GEORGE MENOR, doing business as, GEORGE MENOR'S SERVICE, 748 Marinette Avenue, Marinette, Wis. 54143. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, disabled, inoperative, stolen, repossessed, used, abandoned vehicles, and replacement vehicles*, and *parts and equipment* for the above items, (1) between points in Wisconsin and points in the Upper Peninsula of Michigan and (2) between points in Wisconsin and points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 123649 (sub-No. 5), filed February 28, 1973. Applicant: MAGILL TRUCK LINES, INC., 6460 North Broadway, Wichita, Kans. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, gypsum and gypsum products, and materials, equipment and supplies* used in the manufacture, distribution, installation and application of

such commodities (except liquid commodities in bulk), between the plantsite or storage facility of the National Gypsum Co. located at or near Medicine Lodge, Kans., and points in Arizona, Arkansas, Colorado, Illinois, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, Wisconsin and Wyoming.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Buffalo, N.Y.

No. MC 124111 (sub-No. 42), filed March 12, 1973. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 West Perkins Avenue, Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and perishable foods*, from Wellston, Ohio, to points in Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Memphis, Tenn.

No. MC 124211 (sub-No. 225), filed March 8, 1973. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Unfrozen bakery products and snack foods*, (1) Regular route: serving Willmar, Minn., and Ripon, Wis., as off-route points in connection with applicant's presently authorized regular route operations; and (2) Irregular route: from Burlington, Iowa, to points in Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Virginia, West Virginia, Oklahoma, Tennessee, and the District of Columbia.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority under MC 124211, and (sub-Nos. 1, 16, 18, 42, 91, 113, 124, 131, 149, 194, 197 and 208) at Burlington, Iowa, to provide through service to destinations sought in instant application. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124236 (sub-No. 57), filed March 22, 1973. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Silica gel catalyst*, and (2) *clay processed for refining*, from the plantsite of American Cyanamid Co. at Fort Worth, Tex., to points in California, Illinois, Indiana, Michigan, Minnesota, Ohio, Washington, and Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 124692 (sub-No. 104), filed March 2, 1973. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 59801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, hardboard and plywood*, finished or unfinished, and *related parts, materials and supplies*, from Chicago, Ill., to points in North Dakota, South Dakota, Montana, Wyoming, Idaho, Utah, Washington, Oregon, and California.

NOTE.—Applicant holds common control authority in No. MC-F 10958. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124692 (sub-No. 106), filed March 5, 1973. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing, and insulation materials* (except iron and steel and commodities in bulk), and *materials used in the manufacture, installation and distribution thereof*, between the plantsites and warehouse facilities of Certain-teed Products Corp. in Scott County, Minn., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, restricted to traffic originating at or destined to the plantsite and warehouse facilities of Certain-teed Products Corp. in Scott County, Minn.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its authority in MC-124692 (sub-No. 41) at Big Horn County, Wyo. but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 124692 (sub-No. 109), filed March 19, 1973. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated iron and steel articles*, from Portland, Oreg., to Mattoon, Ill.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 126588 (sub-No. 1) (amendment), filed January 24, 1973. Published in the FEDERAL REGISTER issue of March 1, 1973, and republished in part, as amended, this issue. Applicant: KERR MOTOR LINES, INC., 1/4 Jackson Street, Binghamton, N.Y. 13901. Applicant's representative: Herbert M. Canter, 315 Seitz Building, 201 East Jefferson Street, Syracuse, N.Y. 13202.

NOTE.—The sole purpose of this partial republication is to broaden the territorial scope by adding "points in Maine" as an origin under (2) in the route description. The rest of the application remains as previously published.

No. MC 126905 (sub-No. 3), filed March 2, 1973. Applicant: TRANS-JERSEY AIRCRAFT SERVICE, INC., First and Baltimore Streets, Phillipsburg, N.J. 18865. Applicant's representative: Albert F. Beitel, 730 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between La Guardia Airport, N.Y., Kennedy International Airport, N.Y., Newark Airport, N.J., and Teterboro Airport, N.J., on the one hand, and, on the other, Hackettstown, N.J., and Washington Township, Morris County, N.J., restricted to shipments having a prior or subsequent movement by air.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Newark, N.J.

No. MC 127047 (sub-No. 15), filed March 19, 1973. Applicant: ED RACETTE & SON, INC., 5409 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Axles, wheels, and hub and drum assemblies*, from Newton, Kans., to points in Nebraska (except York, Tekamah, Falls City, Grand Island, Fremont, Schuyler, and Scottsbluff) and Missouri.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Kansas City, Kans.

No. MC 127278 (sub-No. 2), filed March 14, 1973. Applicant: PACIFIC VAN & STORAGE CO., INC., 1415 West Torrance Boulevard, Torrance, Calif.

90501. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, Calif. 90621. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 128095 (sub-No. 9), filed March 6, 1973. Applicant: PARKER TRUCK LINE, INC., Westmoreland Drive, P.O. Box 1402, Tupelo, Miss. 38801. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty Bank Building, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture* and *furniture parts*, from Franklin, Tenn., to points in Maine, Arizona, Colorado, Connecticut, Delaware, Illinois, Iowa, Kansas, Louisiana, Maryland, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Arkansas, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia, Wisconsin, New Mexico, and the District of Columbia.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at points in Mississippi to serve numerous southeastern States; however, applicant indicates it has no *present* intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Jackson, Miss.

No. MC 128543 (sub-No. 9), filed March 12, 1973. Applicant: CRECO LINES, INC., 13900 South Keeler Avenue, Crestwood, Ill. 60445. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe and fittings, shapes, forms, and strips*, from the plantsite and warehouse facilities of Allied Tube & Conduit Corp. at Baltimore, Md., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia; and (2) *pipe and pipe fittings, and steel*, from points in Maryland, Ohio, Pennsylvania, and West Virginia, to the plantsite and warehouse facilities of Allied Tube & Conduit Corp. at Baltimore, Md., under continuing contracts with Allied Tube & Conduit Corp. and its subsidiary, Allied Rolled Form Products Corp., both of Harvey, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129326 (sub-No. 15), filed March 8, 1973. Applicant: WHITNEY TANK LINES, INC., 5201 Causeway Boulevard, P.O. Box 1091, Tampa, Fla. 33601. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus stripper oil*, in bulk, from points in Florida to Mobile, Ala.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa or Jacksonville, Fla.

No. MC 129417 (sub-No. 2), filed March 22, 1973. Applicant: GUARDIAN VAN LINES, INC., 605 South Second Street, Blytheville, Ark. 72315. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, restricted to traffic having a prior or subsequent movement in containers and further restricted to pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization, between points in Ripley and Carter Counties, Mo.

NOTE.—Applicant states that it presently holds authority to serve points in Ripley County but herein seeks authority to serve points in Carter County tacking it with applicant's existing authority between various counties in Missouri, Arkansas, and Tennessee. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 129529 (sub-No. 4), filed March 13, 1973. Applicant: ADOLPH L. MARCHFELD, doing business as THRU-WAY MESSENGER SERVICE, P.O. Box 11, Pearl River, N.Y. 10965. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, materials, equipment, and supplies*, sold by, dealt in, or used by, the Xerox Corp. in the conduct of its business, between the facilities of the Xerox Corp. located in Rockland and Westchester Counties, N.Y., on the one hand, and, on the other, points in New Jersey, Westchester County, N.Y., and New York, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 129857 (sub-No. 3), filed March 26, 1973. Applicant: G.R.M., INC., doing business as PORT TERMINAL TRANSPORT, INC., 700 Henry Ford Avenue, Long Beach, Calif. 90810. Applicant's representative: Warren N. Grossman, suite 825, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported automobiles*, from points in California, to points in Arizona and Nevada.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 129862 (sub-No. 2), filed March 15, 1973. Applicant: RAJOR, INC., P.O. Box 756, Franklin, Tenn. 37064. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, Calif. 90621. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Dictating machines; electric players; electric recorder; games* (other than coin operated); *loud speakers*, such as dynamic, electromagnet, or permanent magnet; *phonographs; players; radio amplifiers; radio preamplifiers; radio sets; radio tuners; recorders; stands*, phonograph, player, radio recorder, or television; *tables*, phonograph, player, radio recorder, or television; *talking machines; television sets;* and *toys*, (other than coin operated), between Dallas, Tex., Denver, Colo., Greeneville and Jefferson City, Tenn., Nogales, and Phoenix, Ariz., Pasco and Seattle, Wash., Portland, Oreg., Salt Lake City, Utah, San Francisco and Torrance, Calif., and (B) *equipment, materials*, and *supplies* used in the manufacture and production of the above named commodities, from Los Angeles, Long Beach, and cities, towns, and points bordered on the San Francisco Bay, Calif., to Greeneville and Jefferson City, Tenn., and Nogales, Ariz., restricted against the transportation of commodities in bulk, in tank vehicles, under contract with the Magnavox Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 129923 (sub-No. 8), filed February 20, 1973. Applicant: SHIPPERS TRANSPORTS, INC., P.O. Box 147, 5005 Commerce Street, West Memphis, Ark. 72301. Applicant's representative: Edward G. Grogan, 2020 First National Bank Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rice*, clean, whole or broken, including precooked rice, in bags, barrels, boxes, cartons, double bags, paper or otherwise, LTL or truckload, in mixed loads, with *agricultural commodities* otherwise exempt from economic regulations under section 203 (b)(6) of the act when transported in mixed shipments with rice, between Houston, Tex., and Memphis, Tenn., on the one hand, and, on the other, Denver, Colorado Springs, and Pueblo, Colo., and points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts,

Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Memphis, Tenn.

No. MC 133106 (sub-No. 28), filed February 28, 1973. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulated wire, electric plugs, and cord sets, and power supply cords; and related items*, from Rumford, R.I., to points in Nevada, Idaho, Arizona, Washington, Oregon, and California, under continuing contracts with International Telephone & Telegraph Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or New York, N.Y.

No. MC 133106 (sub-No. 29), filed March 12, 1973. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, Liberal, Kans. 67901. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lamps and related advertising and packaging materials*, from the plantsite and storage facilities used by International Telephone & Telegraph Corp. at or near Lynn, Mass., to points in Georgia, Florida, Tennessee, Kansas, and Nevada, under continuing contract with International Telephone & Telegraph Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Kansas City, Kans.

No. MC 133477 (sub-No. 2), filed February 27, 1973. Applicant: ARCHER FREIGHT LINES, INC., P.O. Box 16305, Denver, Colo. 80216. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk and service station equipment*, each article to weigh a maximum of 5,000 pounds, *agricultural commodities, feeds, seeds, feed-lot supplies, building and construction materials and equipment, office and store fixtures* (except those transported as part of a household goods movement), *telephone and power line materials*, and *coal*, between points in Colorado, on the one hand, and on the other, points in Wyoming.

NOTE.—Applicant presently holds the requested authority through a Julesburg, Colo. gateway and the purpose of this application is to eliminate the gateway. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 133656 (sub-No. 3), filed March 2, 1973. Applicant: REA BROTHERS LTD., 322 Queen Street South, Streetsville, Ontario, Canada. Applicant's representative: Robert D. Gunderman, Suite 1708, Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rough and dressed lumber, and veneer*, between ports of entry on the international boundary line between the United States and Canada located at points in New York, Vermont, New Hampshire, Maine, and Michigan, on the one hand, and, on the other, points in Georgia, Illinois, Indiana, Maine, Massachusetts, Michigan, North Carolina, New Hampshire, New York, Ohio, Pennsylvania, South Carolina, Vermont, Virginia, West Virginia, and Wisconsin, restricted to traffic originating at or destined to points in Canada; (2) *saw mill equipment*, between ports of entry on the international boundary line between the United States and Canada on the St. Mary's, St. Clair, and Detroit Rivers, on the one hand, and, on the other, Gladstone, Michigan, and Goodman, Wis., restricted to traffic originating at or destined to the plantsites of Goodman-Staniforth Division Universal Oil Products Co., located at or near Tee Lake, Quebec, Canada.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 133689 (sub-No. 26), filed March 6, 1973. Applicant: OVERLAND EXPRESS, INC., 651 First Street SW., New Brighton, Minn., 55112. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk), from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and the District of Columbia, over irregular routes, restricted to traffic originating at named origin and destined to named States; and (2) *Meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment and supplies* (except hides or commodities in bulk), from points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co. at or near Beloit, Wis., over irregular routes, restricted to traffic originating at named origins and destined to named destinations.

NOTE.—Applicant holds contract carrier authority under MC 76025 Sub 7 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 133796 (sub-No. 15), filed February 23, 1973. Applicant: GEORGE APPEL, 249 Carverton Road, Trucksville, Pa. 18708. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts, supplies and accessories*, between Milford Township (Pike County), Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant also holds contract carrier authority under MC–129239, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 133796 (sub-No. 16), filed March 16, 1973. Applicant: GEORGE APPEL, 249 Carverton Road, Trucksville, Pa. 18708. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings and materials and supplies* used in the installation thereof, from Nazareth, Pa., to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada.

NOTE.—Applicant also holds contract carrier authority under MC 129239, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 133850 (sub-No. 2), filed March 8, 1973. Applicant: SHELDON TRANSPORTATION CO., INC., P. O. Box 81, Watseka, Ill. 60970. Applicant's representative: Donald B. Levine, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Kankakee County, Ill., on the one hand, and, on the other, O'Hare International Airport at Chicago, Ill., restricted to the transportation of shipments having an

immediately prior or subsequent movement by air.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 134057 (sub-No. 1), filed March 5, 1973. Applicant: STAPLE TRUCKING SERVICE, INC., 445 Winding Road, Old Bethpage, N.Y. 11804. Applicant's representative: John L. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dietetic candy, cookies, and foodstuffs, incidental advertising, promotional and display materials, and supplies, equipment, and material* used in the manufacture and distribution thereof, between shipper's facilities at Palisades Park and Parsippany, N.J., and that part of the New York, N.Y., commercial zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), and points in Nassau, Suffolk, Rockland, and Westchester Counties, N.Y., under contract with Estee Candy, Inc., of Parsippany, N.J.

NOTE.—Applicant states that it seeks no duplicating authority. Applicant holds common carrier authority under MC 123601, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134134 (sub-No. 13), filed March 15, 1973. Applicant: MAINLINER MOTOR EXPRESS, INC., 2002 Madison Street, Omaha, Nebr. 68107. Applicant's representative: Robert V. Dwyer, Jr., 1601 Woodmen Tower, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the facilities utilized by Dubuque Packing Co., located at or near Mankato, Kans., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: Restricted to traffic originating at the above-named facilities and destined to the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo. or Wichita, Kans.

No. MC 134300 (sub-No. 10), filed March 12, 1973. Applicant: PELHAM PRODUCE CARRIERS, INC., 9331 East Bloomington Freeway, Minneapolis, Minn. 55420. Applicant's representative: Paul J. Bozonie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk) from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., located at or near Beloit, Wis., to points in Minnesota, Iowa, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, the District of Columbia, Maryland, West Virginia, Virginia, Kentucky, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, and Michigan, restricted to traffic originating at the named origin and destined to the named States; and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment and supplies* (except hides or commodities in bulk) from Minnesota, Iowa, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New York, New Jersey, Georgia, Alabama, Mississippi, and Michigan to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., located at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 134323 (sub-No. 36), filed March 9, 1973. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances, furnaces, air cleaners and conditions, humidifiers, dehumidifiers and related items*, and *materials, parts and supplies* used in the manufacture, production and distribution thereof, between the plantsite and warehouse facilities of Fedders Corp., located at Effingham, Ill., to points in Florida, and Georgia, under contract with Fedders Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 134323 (sub-No. 37), filed March 13, 1973. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laundry equipment, supplies and articles used in the manufacture thereof*, from Herrin, Ill., to points in California, Oregon, Washington, Arizona, Nevada, and Utah, under contract with the Fedders Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 134323 (sub-No. 38), filed March 13, 1973. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laundry equipment, supplies, and articles used in the manufacture thereof*, between Herrin, Ill., on the one hand, and, on the other, points in Connecticut, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, under contract with the Fedders Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 134323 (sub-No. 39), filed March 13, 1973. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Kingsville, Ohio to Effingham, Ill., and Edison, N.J.; under contract with Fedders Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 134388 (sub-No. 7), filed February 8, 1973. Applicant: HOME RUN, INC., 3309 Office Park Drive, Dayton, Ohio 45439. Applicant's representative: David L. Pemberton, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, complete, knocked down, or in sections, and component parts, materials, supplies and fixtures used in the erection or assembly thereof*, between the plantsite of Crest Component Systems, Division of Crest Communities, Inc., located in Whitewater Township at or near Harrison (Hamilton County), Ohio, and points in Kentucky and Indiana, under contract with Crest Component Systems, Division of Crest Communities, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus or Cincinnati, Ohio.

No. MC 134599 (sub-No. 75), filed March 8, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products and equipment, chemicals, materials and supplies*, used in the manufacture and production of rubber products (except commodities in bulk and those that because of size and weight require special handling or special equipment), between Kennett, Mo., on the one hand, and, on the other, points in Wisconsin, Michigan, Illinois, Indiana, Ohio, Kentucky, West Virginia, Virginia, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, North Carolina, Tennessee,

South Carolina, Mississippi, Alabama, Georgia, and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134696 (sub-No. 3), filed February 26, 1973. Applicant: BEAR CAT, INC., 1750 Homedale Road, Klamath Falls, Oreg. 97601. Applicant's representative: Jerry R. Woods, 620 Blue Cross Building, 100 Southwest Market Street, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, from Malin, Oreg., to points in Modoc and Siskiyou Counties, Calif., under contract with Full Circle, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 134718 (sub-No. 4), filed March 6, 1973. Applicant: EDWARD P. HOWELL, INC., R.D. No. 6, Box 17, Elkton, Md. 21921. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water*, in containers, from the facilities of Poland Spring Bottling Corp. at or near Poland, Maine, and at or near Asbury Park, N.J., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and (2) *materials, supplies and equipment* used in the bottling and distribution of water (except in bulk), from points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, to the facilities of Poland Spring Bottling Corp. at or near Poland, Maine, and Asbury Park, N.J., under contract with Poland Spring Bottling Corp., restricted to the transporting of shipments originating at or destined to the facilities of Poland Spring Bottling Corp. at or near Poland, Maine, and Asbury Park, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 134974 (sub-No. 2), filed March 16, 1973. Applicant: BE-WELL FARMS, INC., Two Franklin Street, Medway, Mass. 02053. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, Mass. 01960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and/or developers of adhesives, adhesive application equipment, adhesive application machinery, and *supplies, materials and equipment* used in connection therewith (except commodities in bulk, in tank vehicles or in hopper vehicles), between Rockland, Mass., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Transworld Adhesive & Chemical Corp.

NOTE.—Applicant also holds common carrier authority under MC 87528, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 135052 (sub-No. 4), filed March 13, 1973. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster, Shelbyville, Ind. 46176. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation material* (mineral wool or glass wool) and *bulk sealing cement* when shipped in conjunction with insulation, from Greenfield, Ind., to points in Illinois, Iowa, Michigan, Ohio, and Louisville, Ky.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 135399 (sub-No. 3), filed March 16, 1973. Applicant: HASKINS TRUCKING, INC., 3735 Gouldburn Street, Houston, Tex. 77045. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products and pulpboard and materials, equipment and supplies* used in the manufacture thereof, between points in Jackson Parish, La., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 135421 (sub-No. 2), filed March 14, 1973. Applicant: OSCAR DICKEY, 209 Oak Street, Box 221, Stayner, Ontario, Canada. Applicant's representative William J. Hirsch, suite 444, 35 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain and grain products*, in bulk, between ports of entry on the international boundary line between the United States and Canada located in Michigan and New York, on the one hand, and, on the other, points in Michigan, New York, Ohio, and Pennsylvania at or destined to points in the county of Simco, Province of Ontario, Canada.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 135760 (sub-No. 10), filed March 19, 1973. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, N.C. 28445. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pork products*, in vehicles equipped with mechanical refrigeration, from Detroit and Grand Rapids, Mich., to points in and and east of Michigan, Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi, under continuing contracts with Frederick & Herrud, Inc., and its subsidiaries Herrud and Co., Herrud Smoked Meats, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135889 (sub-No. 5), filed March 23, 1973. Applicant: BOYD TANK LINES, INC., 6600 Sandy Spring Road, Laurel, Md. 20810. Applicant's representative: Walter T. Evans, 615 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, moving on flatbed equipment, from the facilities of Redford Brick Co., Inc., at Richmond, Va., to points in Maryland and the District of Columbia, under a continuing contract or contracts with E. C. Keys & Sons, Inc., restricted to shipments originating at the facilities of Redford Brick Co., Inc., at Richmond, Va.

NOTE.—Applicant states no duplicating authority sought or held. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136008 (sub-No. 8), filed March 21, 1973. Applicant: JOE BROWN CO., INC., 20 Third Street NE., P.O. Box 1669, Oklahoma City, Okla. 73401. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23rd Street, P.O. Box 75124, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed and sized gypsum rock*, in bulk, from the quarry of Texas Gypsum Co., Inc., at or near Fletcher, Okla., to the plantsite of Texas Gypsum Co., Inc., at Irving, Tex.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 136246 (sub-No. 3), filed March 22, 1973. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, Nebr. 68979. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers, fertilizers materials and ammonium nitrate*, in bags or in bulk, from the warehouse facilities of Farmland Industries, Inc., at or near Hastings, Nebr., to points in Colorado, Kansas, South Dakota, and Wyoming.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 136482 (sub-No. 2), filed March 16, 1973. Applicant: GENE DAVIS, doing business as TARHEEL OIL COMPANY OF STATESVILLE, Route 3, Box 15, Statesville, N.C. 28677. Applicant's representative: Bill R. Davis, 1208 Gas Light Tower, Atlanta, Ga. 30303.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, from Morehead City, N.C., to points in South Carolina.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 136496 (sub-No. 2), filed March 26, 1973. Applicant: ALLEN F. SEESHOLTZ, Rural Delivery No. 2, Berwick, Pa. 18603. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lamps, components, parts and accessories* for lamps and *materials, supplies, and equipment* used or useful in the manufacture, distribution, or installation of lamps, between Berwick, Pa., and Miami, Fla., under a continuing contract, or contracts, with Fulton Manufacturing Co., of Berwick, Pa.

NOTE.—Applicant states that the requested authority can be joined at its Berwick, Pa. terminal to provide a through service from and to Long Beach, Calif. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa. or Washington, D.C.

No. MC 136786 (sub-No. 3), filed March 5, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55416. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk), from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co. located at or near Beloit, Wis., to points in Iowa, Missouri, Minnesota, Illinois, Indiana, Michigan, and Ohio, restricted to traffic originating at the named origin and destined to the named States; (2) *meat and meat products, meat byproducts, foodstuffs, canning plant materials, equipment and supplies* (except hides or commodities in bulk), from points in North Dakota, South Dakota, Minnesota, Iowa, Oklahoma, Missouri, Nebraska, Kansas, Ohio, Michigan, Indiana, and Illinois to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co. located at or near Beloit, Wis., restricted to traffic originating at the named origins and destined to the named destination.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 136786 (sub-No. 4), filed March 16, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *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 Wagner, S. Dak., to points in the United States (except Alaska and Hawaii); and (B) *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), and *materials, supplies and equipment used by meat packinghouses* (except commodities in bulk), from points in Montana, North Dakota, Minnesota, Wisconsin, Illinois, Missouri, Arkansas, Oklahoma, Texas, Kansas, Colorado, Nebraska, and Iowa, to Wagner, S. Dak.

Note.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 136848 (sub-No. 4), filed February 26, 1973. Applicant: JAMES BRUCE LEE AND STANLEY LEE, a partnership, doing business as LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, Ill. 61764. Applicant's representative: Edward F. Stanula, 77 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, leather and its byproducts, and materials, supplies, and equipment* used in the manufacture, sale and distribution of pulpboard (except commodities in bulk), between Bridgewater, Mass. and Madison, Ind., on the one hand, and, on the other, Belle and St. Louis, Mo., Bridgewater, Mass., Montgomery, Westfield, Williamsport, Hanover, and Akron, Pa., Columbus and Ashtabula, Ohio, Endicott and Johnson City, N.Y., Nashville, Tenn., Milwaukee, Wis., and Madison, Ind., under contract with George O. Jenkins Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136903 (sub-No. 7), filed March 19, 1973. Applicant: INTERMODAL TRANSPORT, INC., P.O. Box 19022, Louisville, Ky. 40219. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, from the sites of Bulk Distribution Centers, Inc., in Catoosa and Whitfield Counties, Ga., and Hamilton County, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta Ga.

No. MC 136956 (sub-No. 4), filed March 22, 1973. Applicant: ROYAL TRANSPORTS, INC., P.O. Box 1451, Kansas City, Kans. 66117. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except anhydrous ammonia and fertilizer) in bulk, in tank vehicles, between points in Kansas and Missouri, under continuing contract, or contracts, with E. L. Bride Co. and Kansas City Power & Light Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Kansas City, Mo.

No. MC 136981 (sub-No. 1), filed March 16, 1973. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Road, Newbury, Ohio 44065. Applicant's representative: Lewis S. Witherspoon, 1825 The Illuminating Building, Cleveland, Ohio 44113. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and accessories therefor*, from Middlefield, Ohio to Pittsburgh, Pa., under contract with Normandy Industries, Inc.

NOTE.—Applicant holds temporary contract carrier authority under MC 136981 TA, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 136988 (sub-No. 3), filed March 19, 1973. Applicant: SCOTT TRUCKING, INC., 4588 State Route No. 82, Mantua, Ohio 44255. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Reinforced concrete slab and walls*, from Aurora, Ohio, to points in Pennsylvania on and west of U.S. Highway 219; points in New York on and west of New York Highway 14, and points in Jackson, Cabell, Kanawha, Marshall, Mason, Pleasants, Tyler, Wayne, Wetzel, Wood, Hancock, Brook, and Ohio Counties, W. Va.; and (2) *reinforcing wire*, between Aurora, Ohio, on the one hand, and, on the other, Rochester and South Bethlehem, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 138080 (sub-No. 2), filed March 2, 1973. Applicant: EDWARD R. WOLFE, doing business as WOLFE TRUCKING, 6725 Doncaster Drive, Gladstone, Oreg. 97027. Applicant's representative: Philip G. Skofstad, 3076 East Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded shale rock*, in bulk, from points in Washington County, Oreg., to points in Washington, under contract with Empire Building Material Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 138127 (sub-No. 2), filed March 23, 1973. Applicant: TRONAGUN CORP., Route 4, Tunnelton, W. Va. 26444. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, having a prior movement by water, from the facilities of Marine Terminal Co. in Marion County, W. Va., to points in West Virginia, Maryland on or west of Interstate Highway 81, Virginia on and west of the Blue Ridge Parkway, and Pennsylvania south and west of Interstate Highway 70.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138283 (sub-No. 1), filed March 20, 1973. Applicant: DANA CORP., Round Lake, Minn. 56167. Applicant's representative: Earl H. Scudder, Jr., 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, confectionery products, nuts and cookies and related advertising material*, from the facilities used by Sather Cookie Co. at Round Lake, Minn., to points in the United States (except Alaska and Hawaii); and (2) the *commodities named in (1) above* and *materials and supplies* used in the packaging, processing, storage and distribution of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii) to the facilities used by Sather Cookie Co. at Round Lake, Minn., under a continuing contract with Sather Cookie Co., Round Lake, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Salt Lake City, Utah.

No. MC 138303 (sub-No. 1), filed March 26, 1973. Applicant: K.R.L. TRANSIT, INC., 430 South 31st Street, Springfield, Ill. 62705. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated structural steel and component parts thereof*, and *fabri-reinforcing rods*, from the plantsite of Birdco Fabricators, Inc. at Alexander, Ill., to points in Indiana, Iowa, and Missouri, under a continuing contract, or contracts, with Birdco Fabricators, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo. or Chicago, or Springfield, Ill.

No. MC 138318 (amendment), filed January 3, 1973, published in the FEDERAL REGISTER issue of March 1, 1973, and republished, as amended and corrected, this issue. Applicant: FURNESS (MONTREAL) LTD., 500 Place D'Armes, Montreal 126, Province of Quebec Canada. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber, wood pulp and paper products*, from Woodland, Maine, to the port of entry on the international boundary line between the United States and Canada located at or near Calais, Maine, under a continuing contract, or contracts, with Georgia Pacific Corp., of Portland, Oreg.

NOTE.—The purpose of this republication is to add *lumber* as a requested commodity, to correctly indicate the port of entry as Calais, Maine, and to indicate the location of Georgia Pacific Corp. at Portland, Oreg. If a hearing is deemed necessary, applicant requests it be held at Burlington, Vt., Albany, N.Y., or Boston, Mass.

No. MC 138360 (sub-No. 1), filed March 12, 1973. Applicant: PRESTON DOBBS, doing business as PRESTON DOBBS TRUCK SERVICE, P.O. Box 11, Hamilton, Miss. 39746. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Building, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives and commodities in bulk), and *empty trailers*, between Aberdeen and Tupelo, Miss., on the one hand, and, on the other, points in Alcorn, Benton, Chickasaw, Clay, Itawamba, Lee, Lowndes, Monroe, Pontotoc, Prentiss, Tippah, Tishomingo, and Union Counties, Miss., and Lamar County, Ala., restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar service.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tupelo, Miss.

No. MC 138381 (sub-No. 3), filed March 16, 1973. Applicant: CHADDERDON & SONS, INC., Le Center, Minn. 56057. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Le Center, Minn., to points in Iowa, North Dakota, South Dakota and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 138433 (sub-No. 2), filed March 23, 1973. Applicant: ROBERT HUBBARD, doing business as HUBBARD TRANSFER, P.O. Box 151, Mt. Vernon, Ky. 40456. Applicant's representative: George M. Carlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, articles of unusual value, commodities in bulk, and those which because of their size and weight require the use of special equipment), from points in the United States (except Alaska and Hawaii), to Frankfort, Ky., restricted to those declared surplus commodities by an agency of the U.S. Government, under contract with Commonwealth of Kentucky Department of Education Division of Surplus Commodities.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Frankfort or Louisville, Ky.

No. MC 138466 (sub-No. 1), filed March 28, 1973. Applicant: R M K TRUCKING, INC., 53 West Jackson Boulevard, Chicago, Ill. 60604. Applicant's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper articles, and materials and supplies used in the manufacture of paper articles*, between the plantsites of The Mead Corporation at Covington, Ga. and The Mead Corporation, Container Division, at Atlanta, Ga., on the one hand, and, on the other, points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; and (2) *paper, paper articles, and materials and supplies used in the manufacture of paper articles*, from the plantsite of The Mead Corporation, Container Division, at Atlanta, Ga., to points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to the transportation of shipments to be moved in mixed loads with shipments in (1) above, under a continuing contract, or contracts, in (1) and (2) above with The Mead Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. or Washington, D.C.

No. MC 138501, filed February 26, 1973. Applicant: C & W TRUCKING, INC., Halls Air Base Industrial Park, Halls, Tenn. 38040. Applicant's representative: Tim W. Hellen, 1620 First National Bank Building, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings, and plastic pipe accessories*, from the plantsite, warehouses, or other facilities of Hancor, Inc., located at or near Halls, Tenn., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Texas, and South Carolina, and returned shipments of the above commodities, on return, and (2) *plastic pipe, plastic pipe fittings, plastic pipe accessories* and *the materials, equipment and supplies* used in the manufacture of plastic pipe, plastic pipe fittings, and plastic pipe accessories, between the plantsites, warehouses, and facilities of Hancor, Inc., at or near Findlay, Ohio, Mebane, N.C., Halls, Tenn., and Cordele, Ga., under contract with Hancor, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Memphis or Nashville, Tenn.

No. MC 138502, filed February 20, 1973. Applicant: FENDER'S WRECKER

SERVICE, INC., 130 West Eighth Street, Newport, Ky. 41071. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked* or *disabled motor vehicles*, between Cincinnati, Ohio, on the one hand, and, on the other, points in Ohio, Indiana, Kentucky, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Lexington, Ky.

No. MC 138503, filed February 21, 1973. Applicant: JOHN GEORGALLAS BANANA DISTRIBUTORS OF NEW YORK, INC., 420–22 Hunts Point Avenue, Bronx, N.Y. 10474. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* otherwise exempt from economic regulations under section 203(B)(6) of the act when transported in mixed shipments with bananas, from Albany, N.Y., Wilmington, Del., and Philadelphia, Pa., to Ipswich, Mass., and the New York, N.Y. commercial zone as defined by the Commission.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138513 (sub-No. 1), filed March 19, 1973. Applicant: HARRY B. FOREMAN, an individual, R.D. No. 2, Stevens, Pa. 17578. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients* (except in tank or hopper vehicles), between Philadelphia, Pa., on the one hand, and, on the other, points in North Carolina, Virginia, Maryland, New York, Massachusetts, Vermont, Connecticut, and Ohio, under a continuing contract with Amburgo Eastern Manufacturing Co., Inc. of Philadelphia, Pa., restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 138518, filed February 12, 1973. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, P.O. Box 673, Muscatine, Iowa 52761. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed ingredients and feed supplements*, in bulk, in tank vehicles, between Muscatine, Iowa, on the one hand, and, on the other, points in Wisconsin, Illinois, Missouri, Minnesota, and Indiana, under a continuing contract with Kent Feeds, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Chicago, Ill.

No. MC 138544, filed March 9, 1973. Applicant: FLEET LEASING LTD., a corporation, suite 200, 15 Charles Plaza, Baltimore, Md. 21201. Applicant's representative: K. George Christian (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products* (apple sauce), from Winchester, Va., to points in Ohio, West Virginia, Virginia, Pennsylvania, Maryland, New Jersey, New York, Delaware, Connecticut, North Carolina, South Carolina, Georgia, Florida, Massachusetts, Tennessee, and the District of Columbia, and return shipments of *supplies and materials* used in the manufacture of said food products, from the named destination States to the named origin, under a continuing contract, or contracts, with National Fruit Products of Winchester, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md. or Washington, D.C.

No. MC 138560, filed March 21, 1973. Applicant: ACTIVE EXPRESS CO., a corporation, 411 Whiton Street, Jersey City, N.J. 07304. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paradichlorobenzene, insecticides* (other than agricultural), and *Napthalene*, from the facilities of Standard Chlorine of Delaware, Inc., at Delaware City, Del., to points in New York, New Jersey, Pennsylvania, and Connecticut, under contract with Standard Chlorine Chemical Co.

NOTE.—Applicant holds a motor common carrier certificate in No. MC–124316 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 138567, filed March 19, 1973. Applicant: R. L. PAQUETTE, INC., P.O. Box 162, Middlebury, Vt. 05753. Applicant's representative: John R. Barrera, 11 South Pleasant Street, P.O. Box 391, Middlebury, Vt. 05753. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Harvestore silos and related farmstead products, including feeders, forage and feed weighers, roller mills, alternators, conveyors, and grain reconstitutors*, from Kankakee, Ill., to points in Vermont, those in Grafton, Sullivan, Cheshire, and Coos Counties, N.H., and those in Essex, Franklin, Clinton, and St. Lawrence Counties, N.Y., under contract with North Country Harvestore, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Middlebury, Burlington, or Montpelier, Vt.

No. MC 138578, filed March 23, 1973. Applicant: L. C. W. TRUCKING, INC., P.O. Box 718, Edinburg, Tex. 78539. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, scrap paper, and paper waste*, and (2) *equipment, materials, and supplies* (except commodities in bulk) used in the manufacture of the commodities described in (1) above, between the plant and warehouse sites of International Paper Co. located at Edinburg, Tex., and points in Arkansas, Colorado, Louisiana, Mississippi, Missouri, New Mexico, and Oklahoma, under a continuing contract, or contracts, with International Paper Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Antonio or Dallas, Tex.

MOTOR CARRIER OF PASSENGERS

No. MC 2835 (sub-No. 38), filed March 13, 1973. Applicant: ADIRONDACK TRANSIT LINES, INC., 18 Pine Grove Avenue, Kingston, N.Y. 12401. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special operations, in sightseeing or pleasure tours, beginning and ending at points in Hudson and Bergen Counties, N.J.; and New York, Rockland, Orange, Ulster, Greene, Albany, Delaware, Otsego, Schenectady, Montgomery, Fulton, Saratoga, Warren, Essex, Hamilton, St. Lawrence, Franklin, and Clinton Counties, N.Y., and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 138542, filed March 14, 1973. Applicant: EXPRESSWAY AUTO CLINIC, INCORPORATED, 93 Meriden Road, Waterbury, Conn. 06705. Applicant's representative: Richard Goodman, 266 Pearl Street, Hartford, Conn. 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in charter service in nonscheduled door-to-door service limited to the transportation of not more than six passengers in any one vehicle (not including driver), between points in Waterbury, Watertown, Wolcott, Southington, Bristol, Plainville, Thomaston, Woodbury, Naugatuck, Oxford, Middlebury, Beacons Falls, Prospect, Cheshire, Southbury, and Plymouth, Conn., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–7992 Filed 4–25–73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

TEXAS CANE SUGAR PRODUCING AREA

Notice of Hearing on Proportionate Shares for 1974 Crop

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, will conduct a public hearing to receive the views and recommendations of interested persons on the need for establishing proportionate shares for the 1974 sugarcane crop in the Texas Cane Sugar Producing Area. The hearing will be conducted in room 4711, South Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10 a.m. on May 18, 1973.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, (7 U.S.C. 1132(b)) the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in the area will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

Views and recommendations are desired on (a) the need for establishing proportionate shares and, (b) if acreage restrictions are recommended, on all phases of a proportionate share program. Recommendations may be presented orally at the hearing, preferably supported in writing by an original and two copies of the oral statement. Views and recommendations may also be submitted in writing, in triplicate, at the hearing or may be mailed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than June 1, 1973.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. (7 CFR 1.27(b)).

Signed at Washington, D.C., on April 20, 1973.

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

[FR Doc.73-8141 Filed 4-25-73;8:45 am]

Forest Service

CARSON NATIONAL FOREST, TIERRA AMARILLA DIVISION GRAZING ADVISORY BOARD

Notice of Meeting

The Tierra Amarilla Division of Grazing Advisory Board will meet at 1 p.m., May 19, 1973 in the town hall at Chama, N. Mex.

The purpose of this meeting is to consider an appeal of Forest Supervisor W. R. Snyder's decision to suspend the term grazing permits issued to Mr. Enrique Espinosa and Mr. and Mrs. George and Beatrice Espinosa for violation of the terms thereof. Also to be discussed is a proposed change in the management of the Cabresto, Vaqueros, and Bancos Grazing Allotments.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor W. R. Snyder of Taos, N. Mex., phone 758-2238. Written statements may be filed with the Tierra Amarilla Division Grazing Advisory Board before or after the meeting.

W. R. SNYDER,
Forest Supervisor.

APRIL 19, 1973.

[FR Doc. 73-8049 Filed 4-25-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

OVER-THE-COUNTER OPHTHALMIC DRUG PRODUCTS

Safety and Efficacy Review; Request for Data and Information

The FDA is undertaking a review of all over-the-counter (OTC) drug products for human use currently marketed in the United States, to determine that these OTC products are safe and effective for their labeled indications. This review will utilize expert panels working with FDA personnel.

A notice outlining procedures for this review was published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464).

To facilitate this review and a determination as to whether an OTC drug for human use is generally recognized as safe and effective and not misbranded under its recommended conditions of use, and to provide all interested persons an opportunity to present for the consideration of the reviewing experts the best data and information available to support the stated claims for all dosage forms of ophthalmic drug products, the administration invites submission of data, published and unpublished and other information pertinent to all active ingredients utilized in such preparations.

FDA is aware that the following is not a complete list, but only representative of the kinds of active ingredients used in such products. FDA has conducted a literature search on each of them:

Antipyrine.
Benzalkonium chloride.
Benzethonium chloride.
Berberine.
Boric acid solution.
Camphor.
Chlorobutanol.
Edetic acid (EDTA salts).
Ephedrine.
Hydrastine.
Mercuric oxide.
Methylcellulose.
Naphazoline hydrochloride.
Phenylephrine hydrochloride.
Phenylmercuric nitrate.
Polyvinyl alcohol.
Tetrahydrozoline.
Thimerosal.
Tyloxapol.
Zinc Sulfate.

FDA's literature search covered the United States of America literature and other leading English language literature published since 1950 from the following sources:

Medlars (NLM and SUNY).
FDA clinical experience abstracts.
Quarterly cumulative index medicus.
Current list of medical literature.
Index medicus.
JAMA subject index.
DeHaen drugs in use.
RINGDOC.
VETDOC.
International pharmaceutical abstracts.
Excerpta medica.
Abstracts of world medicine.
Biological abstracts.
Chemical abstracts.

The bibliography of the literature search is available to interested persons.

Interested persons are also invited to submit data on any other active ingredients for ophthalmic drug products.

To be considered, eight copies of the data and/or views must be submitted, preferably bound, indexed, and on standard size paper (approximately 8½ by 11 inches). All submissions must be in the format described below:

OTC DRUG REVIEW INFORMATION

I. Label(s) and all labeling (preferably mounted and filed with the other data—facsimile labeling is acceptable in lieu of actual container labeling).

II. A statement setting forth the quantities of active ingredients of the drug.

III. Animal safety data.

A. Individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

B. Combinations of the individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

C. Finished drug product.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

IV. Human safety data.

A. Individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports.

4. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.

5. Pertinent medical and scientific literature.

B. Combinations of the individual active components.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports.

4. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.

5. Pertinent medical and scientific literature.

C. Finished drug product.

1. Controlled studies.

2. Partially controlled or uncontrolled studies.

3. Documented case reports.

4. Pertinent marketing experiences that may influence a determination as to the safety of the finished product.

5. Pertinent medical and scientific literature.
V. Efficacy data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of combinations of the individual active components.
5. Pertinent medical and scientific literature.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of the finished drug product.
5. Pertinent medical and scientific literature.
VI. A summary of the data and views setting forth the medical rationale and purpose (or lack thereof) for the drug and its ingredients and the scientific basis (or lack thereof) for the conclusion that the drug and its ingredients have been proven safe and effective for the intended use. If there is an absence of controlled studies in the material submitted, an explanation as to why such studies are not considered necessary must be included.
VII. If the submission is by a manufacturer, a statement signed by the person responsible for such submission, that to the best of his knowledge it includes unfavorable information, as well as any favorable information, known to him pertinent to an evaluation of the safety, effectiveness, and labeling of such a product. Thus, if any type of scientific data is submitted, a balanced submission of favorable and unfavorable data must be submitted. The same would be true of any other pertinent data or information submitted, such as consumer surveys or marketing results.

In order to avoid duplication, interested persons should not in their submissions include published literature listed in the FDA literature search. An abstract of all such literature will be provided to the panel. Upon request, the panel will be provided with the complete article. Interested persons may, of course, refer to such literature in their submissions by citation.

Submissions or requests for copies of the bibliography of the FDA literature search should be forwarded to:

Food and Drug Administration, Bureau of Drugs, OTC Drug Products Evaluation Staff (BD-109), 5600 Fishers Lane, Rockville, Md. 20852.

Submission of data must be on or before June 25, 1973 (Federal Food, Drug, and Cosmetic Act, sec. 701; 21 U.S.C. 371).

Dated April 18, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-8061 Filed 4-25-73;8:45 am]

OVER-THE-COUNTER HEMORRHOIDAL DRUG PRODUCTS

Safety and Efficacy Review; Request for Data and Information

The FDA is undertaking a review of all over-the-counter (OTC) drug products for human use currently marketed in the United States, to determine that these OTC products are safe and effective for their labeled indications. This review will utilize expert panels working with FDA personnel.

A notice outlining procedures for this review was published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464).

To facilitate this review and a determination as to whether an OTC drug for human use is generally recognized as safe and effective and not misbranded under its recommended conditions of use, and to provide all interested persons an opportunity to present for the consideration of the reviewing experts the best data and information available to support the stated claims for all dosage forms of hemorrhoidal drug products, the administration invites submission of data, published and unpublished, and other information pertinent to all active ingredients utilized in such preparations.

FDA is aware that the following is not a complete list, but only representative of the kinds of active ingredients used in such products. FDA has conducted a literature search on each of them:

Belladonna extract.
Benzethonium chloride.
Benzocaine.
Benzyl benzoate.
Bismuth oxyiodide.
Bismuth subcarbonate.
Bismuth subgallate.
Boric acid.
Cod liver oil.
Diperodon hydrochloride.
Ephedrine sulfate.
Hammamelis water (witch hazel).
Lanolin.
Menthol.
Peruvian balsam.
Petrolatum.
Phenol.
Pramoxine hydrochloride.
Tannic acid.
Vitamin D.
Zinc oxide.

FDA's literature search covered the United States of America literature and other leading English language literature published since 1950 from the following sources:

Medlars (NLM and SUNY).
FDA clinical experience abstracts.
Quarterly cumulative index medicus.
Current list of medical literature.
Index medicus.
DeHaen drugs in use.
JAMA subject index.
RINGDOC.
VETDOC.
International pharmaceutical abstracts.
Excerpta medica.
Abstracts of world medicine.
Biological abstracts.
Chemical abstracts.

The bibliography of the literature search is available to interested persons.

Interested persons are also invited to submit data on any other active ingredients for hemorrhoidal drug products.

To be considered, eight copies of the data and/or views must be submitted, preferably bound, indexed, and on standard size paper (approximately 8½ by 11 inches). All submissions must be in the format described below:

OTC DRUG REVIEW INFORMATION

I. Label(s) and all labeling (preferably mounted and filed with the other data—facsimile labeling is acceptable in lieu of actual container labeling).
II. A statement setting forth the quantities of active ingredients of the drug.
III. Animal safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
IV. Human safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.
5. Pertinent medical and scientific literature.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of the finished product.
5. Pertinent medical and scientific literature.
V. Efficacy data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.

2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of combinations of the individual active components.
5. Pertinent medical and scientific literature.

C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of the finished drug product.
5. Pertinent medical and scientific literature.

VI. A summary of the data and views setting forth the medical rationale and purpose (or lack thereof) for the drug and its ingredients and the scientific basis (or lack thereof) for the conclusion that the drug and its ingredients have been proven safe and effective for the intended use. If there is an absence of controlled studies in the material submitted, an explanation as to why such studies are not considered necessary must be included.

VII. If the submission is by a manufacturer, a statement signed by the person responsible for such submission, that to the best of his knowledge it includes unfavorable information, as well as any favorable information, known to him pertinent to an evaluation of the safety, effectiveness, and labeling of such a product. Thus, if any type of scientific data is submitted, a balanced submission of favorable and unfavorable data must be submitted. The same would be true of any other pertinent data or information submitted, such as consumer surveys or marketing results.

In order to avoid duplication, interested persons should not in their submissions include published literature listed in the FDA literature search. An abstract of all such literature will be provided to the panel. Upon request, the panel will be provided with the complete article. Interested persons may, of course, refer to such literature in their submissions by citation.

Submissions or requests for copies of the bibliography of the FDA literature search should be forwarded to:

Food and Drug Administration, Bureau of Drugs, OTC Drug Products Evaluation Staff (BD-109), 5600 Fishers Lane, Rockville, Md. 20852.

Submission of data must be on or before June 25, 1973 (Federal Food, Drug, and Cosmetic Act, sec. 701; 21 U.S.C. 371).

Dated April 18, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-8062 Filed 4-25-73;8:45 am]

Health Services and Mental Health Administration

ADVISORY COMMITTEES

Notice of Meeting

The Acting Administrator, Health Services and Mental Health Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble.

Committee name	Date/time/place	Type of meeting and/or contact person
Public Health Conference on Records and Statistics Standing Committee.	Apr. 30 to May 2, 9 a.m., Board Room, Sheraton-Silver Spring Motor Inn, 8727 Colesville Rd., Silver Spring, Md.	Open—Contact Mrs. Mary Lou Dundon, Parklawn Bldg., room 9A-19, 5600 Fishers Lane, Rockville, Md. Code 301-443-1470.

Purpose.—Advises, consults with, and makes recommendations on the Public Health Conference on Records and Statistics, a planned study program administered by the National Center for Health Statistics, which fosters the development of improved techniques and concepts in vital records and health statistics in the United States. This program is carried out through biennial national meetings and small technical studies to investigate current and future problems and develop recommendations for practical solutions, with a view to improved services to health programs, to the public in general, and to the nation.

Agenda.—Items will cover report to the Director, National Center for Health Statistics; Progress report on the Implementation of the Evaluation Committee Recommendations; Recent Developments in the Cooperative Federal-State-Local Health Statistics System: Data Implications of the Development and Relationships to Existing Systems; Report on the Second Boistatistics Conference; Discussion of the 1972, 1974, and 1976 Meetings of the Conference; technical studies on (1) Model State Vital Statistics Act and Regulations, (2) Revision of Standard Certificates; and Reassessment of the Conference.

Committee name	Date, time, place	Type of committee and/or contact person
Immunization Practices Advisory Committee.	May 1 and 2, 8:30 a.m., Center for Disease Control, Bldg. 1, room 207, Atlanta, Ga.	Open—Contact Dr. H. Bruce Dull, Center for Disease Control, Atlanta, Ga. Code 404-633-3296.

Purpose.—The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.

Agenda.—The Committee will consider the status of selected immunizable diseases and begin its annual review of recommendations on the use of vaccines in public health practice.

Committee name	Date, time, place	Type of meeting and/or contact person
Safety and Occupational Health Study Section.	May 3 and 4, 9 a.m., Appalachian Center for Safety and Health Bldg., Morgantown, W. Va.	Open—May 3, 9 a.m. to 12 noon, Closed—remainder of meeting. Contact Dr. John Bester, Parklawn Bldg., room 9A-16, 5600 Fishers Lane, Rockville, Md. Code 301-443-4493.

Purpose.—The Committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda.—Agenda items will cover administrative and staff reports; survey of manpower development plans; reports on research activities and tour of Appalachian Laboratory for Occupational Respiratory Diseases facilities. Review of research and demonstration grant applications.

Committee name	Date, time, place	Type of meeting and/or contact person
Maternal and Child Health Service Research Grants Review Committee.	May 16-18, 9 a.m., Parklawn Bldg., Conference Room K, 5600 Fishers Lane, Rockville, Md.	Closed—Contact Gloria Wackernah, Room 12A-11, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-2190.

Purpose.—The Committee is charged with the review of all research grant applications in the program areas administered by the Maternal and Child Health Service.

Agenda.—The Committee will be performing review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Acting Administrator, Health Services and Mental Health Administration, pursuant to Public Law 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open/closed sessions may be obtained from the contact persons listed above.

Dated April 19, 1973.

ANDREW J. CARDINAL,
Acting Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.73-8057 Filed 4-25-73;8:45 am]

National Institutes of Health

DIVISION OF RESEARCH RESOURCES

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Primate Research Centers Advisory Committee, Division of Research Resources, May 18, 1973, from 9 a.m. to 12 noon, San Geronimo Hotel, San Juan, Puerto Rico. This meeting will be open to the public from 9 a.m. to 9:30 a.m. for opening remarks and closed to the public from 9:30 a.m. to 12 noon to review grant applications in accordance with the provisions set forth in section 552(b)4 of title 5 United States Code for grants and 10(d) of Public Law 92-463. Attendance by the public will be limited to space available.

The information officer who will furnish summaries of the meeting and rosters of Committee members is Mr. James

Augustine, Division of Research Resources, building 31, room 4B03, Bethesda, Md. 20014, 496-5545.

The executive secretary from whom substantive program information may be obtained is Dr. William J. Goodwin, building 31, room 5B30, Bethesda, Md. 20014, 469-5451.

Dated April 19, 1973.

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

[FR Doc.73-8092 Filed 4-25-73;8:45 am]

Social Security Administration

ADVISORY COMMITTEE ON MEDICARE ADMINISTRATION, CONTRACTING, AND SUBCONTRACTING

Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the Advisory Committee on Medicare Administration, Contracting, and Subcontracting, established pursuant to section 1114(f) of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on medicare matters, will meet on Friday, May 4, 1973, at 9 a.m., in room 2705, 26 Federal Plaza, New York, N.Y. The meeting is open to the public. The Committee will consider matters relating to administration, contracting, and subcontracting.

Further information on the Committee may be obtained from Mr. Max Perlman, Executive Secretary of the Committee, room 585, East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

Dated April 20, 1973.

MAX PERLMAN,
Executive Secretary, Advisory Committee on Medicare Administration, Contracting, and Subcontracting.

[FR Doc.73-8121 Filed 4-25-73;8:45 am]

HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the Health Insurance Benefits Advisory Council, established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on medicare and medicaid matters, will meet on Friday, May 11, 1973, and Saturday, May 12, 1973, at 9 a.m. in room G-10, East Building, Social Security Administration, Woodlawn, Baltimore County, Md. The meeting is open to the public. The Council will consider matters relating to the medicare and medicaid programs.

Further information on the Council may be obtained from Mr. Max Perlman, Executive Secretary, Health Insurance Benefits Advisory Council, Room 585, East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

Dated April 20, 1973.

MAX PERLMAN,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.73-8122 Filed 4-25-73;8:45 am]

PHYSICIANS' REIMBURSEMENT METHODS STUDY COMMITTEE OF THE HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the Physicians' Reimbursement Methods Study Committee of the Health Insurance Benefits Advisory Council, which is studying the methods of reimbursement for physicians' services under the medicare program, will meet on Thursday, May 10, 1973, at 9 a.m., in room 732, East Building, Social Security Administration, Woodlawn, Baltimore County, Md. The meeting is open to the public. The Committee will consider matters relating to the study.

Further information on the Council may be obtained from Mr. Max Perlman, Executive Secretary, Health Insurance Benefits Advisory Council, room 585, East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

Dated April 20, 1973.

MAX PERLMAN,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.73-8123 Filed 4-25-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-73-230]

CERTAIN HUD EMPLOYEES IN REGION VI (FORT WORTH)

Redelegation of Authority To Administer Oaths

Each of the following incumbent employees and their successors in the Department of Housing and Urban Development, Region VI (Fort Worth, Tex.), is hereby authorized to administer oaths under section 811(a) of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a), and to verify complaints filed under the Civil Rights Act of 1968:

1. Directors, Equal Opportunity Divisions, Area Offices.

2. Equal Opportunity Specialists, Area Offices.

3. Equal Opportunity Specialists, Insuring Offices.

(Redelegation of authority by Assistant Secretary for Equal Opportunity effective Apr. 30, 1970 (35 FR 6877, Apr. 30, 1970).)

Effective date.—This redelegation of authority shall be effective April 26, 1973.

RICHARD L. MORGAN,
Regional Administrator,
Region VI, Fort Worth.

[FR Doc.73-8073 Filed 4-25-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

COAST GUARD

[CGD 73-81N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from February 6, 1973, to February 27, 1973 (list No. 7-73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

NOTE.—Approved for use on all vessels and motorboats.

Approval No. 160.002/67/0, model 3, adult kapok life preserver, USCG specification subpart 160.002, manufactured by Elvin Salow Co., 273-285 Congress Street, Boston, Mass. 02210, effective February 6, 1973. (It is an extension of approval No. 160.002/67/0 dated Feb. 13, 1968.)

Approval No. 160.002/68/0, model 5, child kapok life preserver, USCG specification subpart 160.002, manufactured by Elvin Salow Co., 273-285 Congress Street, Boston, Mass. 02210, effective February 6, 1973. (It is an extension of approval No. 160.002/68/0 dated Feb. 13, 1968.)

MECHANICAL DISENGAGING APPARATUS LIFEBOAT, FOR MERCHANT VESSELS

Approval No. 160.033/28/7, Rottmer type, size 299 releasing gear, approved for maximum working load of 15,720 pounds per set (7860 pounds per hook), identified by arrangement drawing No. WBA 7005, Rev. C dated January 26, 1973, manufactured by Welin Davit and Boat Division, Lake Shore, Inc., Iron Mountain, Mich. 49801, formerly manufactured by Welin Davit and Boat Division of Continental Copper and Steel Industries, Inc., and Lane Lifeboat Division of Lane Marine Technology, Inc., effective February 14, 1973. (It supersedes approval No. 160.033/28/7 dated Nov. 20, 1972, to show change in drawing numbers).

LIFEBOATS

Approval No. 160.035/470/0, 26.0 feet by 9.0 feet by 3.83 feet fibrous glass reinforced plastic (FRP), hand-propelled lifeboat, 53-person capacity, identified by general arrangement drawing No. WBA-9010 Rev. A dated December 20, 1972, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=3,600 pounds; Condition "B"=13,450 pounds, manufactured by Welin Davit and Boat Division, Lake Shore, Inc., 3614 Kennedy Road, South Plainfield, N.J. 07080, effective February 7, 1973.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

Approval No. 160.049/262/0, group approval, unicellular plastic foam buoyant cushion, manufactured in accordance with USCG specification subpart 160.049 and UL/MD report file No. MQ 70, manufactured by Farber Brothers, Inc., 1324 Farmville Road, Memphis, Tenn. 38101, effective February 23, 1973.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.052/295/0, type II, model PVAII-3180, adult, vinyl-dipped unicellular plastic foam buoyant vest, Ero drawing No. 1000 dated January 19, 1962, manufactured by Ero Manufacturign Co., Hazlehurst, Ga. 31539, for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective February 22, 1973. (It reinstates approval No. 160.052/295/0 terminated Jan. 2, 1973.)

Approval No. 160.052/296/0, type II, model PVCMII-3185, child, vinyl-dipped unicellular plastic foam buoyant vest, Ero drawing No. 1001 dated January 19, 1962, manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, for Sears, Roebuck & Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective February 22, 1973. (It reinstates approval No. 160.052/296/0 terminated Jan. 2, 1973.)

Approval No. 160.052/297/0, type II, model PVCSII-3190, child, vinyl-dipped unicellular plastic foam buoyant vest, Ero drawing No. 1002 dated January 19, 1962, manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, for Sears, Roebuck & Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective February 22, 1973. (It reinstates approval No. 160.052/297/0 terminated Jan. 2, 1973.)

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES FOR DESIGNATED USE ON ALL MOTORBOATS AND FOR GENERAL USE ON MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

Approval No. 160.064/67/0, model No. 8427, cloth covered unicellular plastic foam "Horseshoe Life Buoy", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 7, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective February 9, 1973.

Approval No. 160.064/209/0, child small, model No. CGXS, vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/209/0, dated Aug. 9, 1972, to show change of name of distributor.)

Approval No. 160.064/210/0, child small, model No. CGXS/S vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. 31, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/210/0, dated Aug. 9, 1972, to show change of name of distributor.)

Approval No. 160.064/211/0, adult, model No. CGM/L, vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/211/0, dated Aug. 9, 1972, to show change of name of distributor.)

Approval No. 160.064/212/0, adult, model No. CGL/XL, vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/212/0 dated Aug. 9, 1972 to show change of name of distributor.)

Approval No. 160.064/240/0, child medium, model No. PS-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes Approval No. 160.064/240/0 dated Aug. 9, 1972 to show change of name of distributor.)

Approval No. 160.064/241/0, adult, model No. PM-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/241/0 dated Aug. 9, 1972 to show change of name of distributor.)

Approval No. 160.064/242/0, adult, model No. PM-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ31, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, effective February 22, 1973. (It supersedes approval No. 160.064/24/0 dated Aug. 9, 1972 to show change of name of distributor.)

Approval No. 160.064/243/0, adult, model No. PXL-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/243/0 dated Aug. 9, 1972 to show change of name of distributor.)

Approval No. 160.064/244/0, adult, model No. PXXL-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/244/0 dated Aug. 9, 1972 to show change of name of distributor.)

Approval No. 160.064/245/0, ladies adult, model No. LP-G, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL report file No. MQ 31, type III device, manufactured by Cut 'N' Jump Corp.,

11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperflex of America, 558 Library Street, San Fernando, Calif. 91341, formerly Superior Sports Specialties, effective February 22, 1973. (It supersedes approval No. 160.064/245/0 dated Aug. 9, 1972 to show change of name of distributor.)

Approval No. 160.064/356/0, child medium, model No. TSG, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperpro USA, 558 Library Street, San Fernando, Calif. 91341, effective February 27, 1973.

Approval No. 160.064/357/0, adult, model No. TMG, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperpro USA, 558 Library Street, San Fernando, Calif. 91341, effective February 27, 1973.

Approval No. 160.064/358/0, adult, model No. TLG, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperpro USA, 558 Library Street, San Fernando, Calif. 91341, effective February 27, 1973.

Approval No. 160.064/359/0, adult, model No. TXLG, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Taperpro USA, 558 Library Street, San Fernando, Calif. 91341, effective February 27, 1973.

Approval No. 160.064/360/0, adult, model No. TXXLG, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif., 92121, for Taperpro USA, 558 Library Street, San Fernando, Calif. 91341, effective February 27, 1973.

Approval No. 160.064/361/0, adult ladies, model No. TLZG, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif., 92121, for Taperpro USA, 558 Library Street, San Fernando, Calif. 91341, effective February 27, 1973.

Approval No. 160.064/379/0, child medium, model No. TDV–4, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Thompson Skiis, Inc., Crivitz, Wis. 54114, effective February 26, 1973.

Approval No. 160.064/380/0, adult, model No. TDV–5, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Thompson Skiis, Inc., Crivitz, Wis. 54114, effective February 26, 1973.

Approval No. 160.064/381/0, adult, model No. TDV–6, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Thompson Skiis, Inc., Crivitz, Wis. 54114, effective February 26, 1973.

Approval No. 160.064/382/0, adult, model No. TDV–7, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Thompson Skiis, Inc., Crivitz, Wis. 54114, effective February 26, 1973.

Approval No. 160.064/383/0, adult, model No. TDV–8, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Thompson Skiis, Inc., Crivitz, Wis. 54114, effective February 26, 1973.

Approval No. 160.064/384/0, adult ladies, model TLV–5, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Thompson Skiis, Inc., Crivitz, Wis. 54114, effective February 26, 1973.

Approval No. 160.064/406/0, child medium, cat. No. 63215, cloth covered unicellular plastic foam "Yachtsman's Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 38, type III device, manufactured by Ero Industries, Inc., 1924–34 North Washtenaw Avenue, Chicago, Ill. 60647, for Sears, Roebuck & Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective February 27, 1973.

Approval No. 160.064/407/0, adult X-large, cat. No. 63215, cloth covered unicellular plastic foam "Yachtsman's Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 38, type III device, manufactured by Ero Industries, Inc., 1924–34 North Washtenaw Avenue, Chicago, Ill. 60647, for Sears Roebuck & Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective February 27, 1973.

Approval No. 160.064/451/0, child XX-small, model No. CGSV–P, vinyl dipped unicellular plastic foam "Life Jacket and Swim Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, effective February 9, 1973.

Approval No. 160.064/452/0, child X-small, model No. CGSV–J, vinyl dipped unicelluiar plastic foam "Life Jacket and Swim Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 47, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, effective February 9, 1973.

Approval No. 160.064/453/0, child small, model No. CGSV–P, vinyl dipped unicellular plastic foam "Life Jacket and Swim Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 32, type III device, manufactured by Cut 'N' Jump San Diego, Calif. 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, Calif. 92121, effective February 26, 1973.

Approval No. 160.064/454/0, child small, model No. CGSV–J, vinyl dipped unicellular plastic foam "Life Jacket and Swim Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 32, type III device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, Calif. 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, Calif. 92121, effective February 26, 1973.

Approval No. 160.064/461/0, child small, model No. 86, vinyl dipped uncellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 63, type III device, manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Oreg. 97034, effective February 23, 1973.

Approval No. 160.064/462/0, child large, model No. 87, vinyl dipped uncellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 63, type III device, manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Ore. 97034, effective February 23, 1973.

Approval No. 160.064/463/0, adult small, model No. 88, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 63, type III device,

manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Oreg. 97034, effective February 23, 1973.

Approval No. 160.064/464/0, adult medium, model No. 89, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 63, type III device, manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Oreg. 97034, effective February 23, 1973.

Approval No. 160.064/465/0, adult large, model No. 90, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 63, type III device, manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Oreg. 97034, effective February 23, 1973.

Approval No. 160.064/466/0, adult X-large, model No. 91, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 63, type III device, manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Oreg. 97034, effective February 23, 1973.

Approval No. 160.064/467/0, adult ladies, model No. 92, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specfication subpart 160.064 and UL/MD report file No. MQ 63, type III device, manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Oreg. 97034, effective February 23, 1973.

Approval No. 160.064/468/0, adult ladies, model No. 93, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 63, type III device, manufactured by Western Wood Manufacturing Co., 6077 Southwest Lakeview Boulevard, Lake Oswego, Oreg. 97034, effective February 23, 1973.

Approval No. 160.064/469/0, child small, model No. S9757, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106, type III device, manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective February 23, 1973.

Approval No. 160.064/470/0, child medium, model No. S9758, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106, type III device, manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective February 23, 1973.

Approval No. 160.064/471/0, adult medium, model No. S9759, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106, type III device, manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective February 23, 1973.

Approval No. 160.064/472/0, adult large, model No. S9760, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106, type III device, manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective February 23, 1973.

Approval No. 160.064/473/0, adult X-large, model No. S9761, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Jacket", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106, type III device, manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective February 23, 1973.

Approval No. 160.064/474/0, child medium, model No. 100S, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 164, type III device, manufactured by O'Brien Manufacturing Corp. 14615 Northeast 91st Street, Redmond, Wash. 98052, effective February 23, 1973.

Approval No. 160.064/505/0, child small, model No. CGJ-700, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 18, type III device, manufactured by Cypress Gardens Skis, Inc., Hoover Road, P.O. Box 8, Cypress Gardens, Fla. 33880, effective February 23, 1973.

Approval No. 160.064/506/0, child medium, model No. CGJ-700, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 18, type III device, manufactured by Cypress Gardens Skis, Inc., Hoover Road, P.O. Box 8, Cypress Gardens, Fla. 33880, effective February 23, 1973.

Lights (Water); Electric Floating (With Bracket for Mounting); for Merchant Vessels

Approval No. 161.010/4/0, Guest manoverboard light model No. 325, international orange polypropylene case, overall height 9½ inches, Nylon Captive Screws to Retain Globe, manufactured by the Guest Corp., 17 Culbro Drive, West Hartford, Conn. 06110, effective February 16, 1973.

Safety Valves (Power Boilers)

Approval No. 162.001/283/0, style HNP-MS-75 ASTM A-216 GR-WCB carbon steel body drum safety valve, nozzle type, exposed spring fitted with spring cover, 2,500 lb/in² primary service pressure rating, 650° F. maximum temperature, approved for size 2 inches, orifice G, same as 162.001/259/1 with 2500# flanges, fitted for discharge of pilot actuated steam, manufactured by Crosby Valve & Gage Co., Wrentham, Mass. 02093, effective February 8, 1973. (It supersedes approval No. 162.001/283/0 dated Feb. 23, 1968.)

Approval No. 162.001/284/0, style HNP-MS-76 ASTM A-216 GR-WCB carbon steel body drum safety valve, nozzle type, exposed spring fitted with spring cover, 2,500 lb/in² primary service pressure rating, 750° F. maximum tempertaure, approved for size 2 inches, orifice G, same as 162.001/260/1 with 2500# flanges, fitted for discharge of pilot actuated steam, manufactured by Crosby Valve & Gage Co., Wrentham, Mass. 02093, effective February 8, 1973. (It supersedes approval No. 162.001/284/0 dated Feb. 23, 1968.)

Pressure Vacuum Relief Valves and Spill Valves for Tank Vessels

Approval No. 162.017/113/2, Midland pressure vacuum relief and spill valves Nos. A-825, A-830, A-840, A-850, A-860, and A-880, brass (ASTM B62) or stainless (CF-8, CF-8M) body, "Atmospheric Pattern with Flame Screen", outlet may have cast flange (A-825F, etc.), approval includes sizes 2½, 3, 4, 5, 6, and 8 inches, approval covers modified dimensions in Huddle Chamber Area, manufactured by Midland Manufacturing Corporation, 7733 Gross Point Road, Skokie, Ill. 60076, effective February 9, 1973. (It supersedes approval No. 162.017/113/1 dated Oct. 5, 1972.)

Incombustible Materials for Merchant Vessels

Approval No. 164.009/21/2, "Fiberglas Insulation Types PF-3340 through PF-3360", glass wool insulation type incombustible materials identical to those described in National Bureau of Standards Test Report No. TG10210-1624:FP2806 dated August 9, 1949, approved in a density of one-half to 1 lb/ft³, manufactured by Owens-Corning Fiberglas Corp., Toledo, Ohio 43601, effective February 22, 1973. (It supersedes approval No. 164.009/21/2 dated May 7, 1970 to show minor changes.)

Approval No. 164.009/51/0, "Glasweld" and "Qasal" cement-asbestos board type incombustible materials as described in National Bureau of Standards Report No. TG10210-2023:FP3450 dated May 20, 1958, and U.S. Plywoods letter of January 22, 1973, formerly known as "Glasal", manufactured by United States Plywood Corp., 777 Third Avenue, New York, N.Y. 10017, effective February 12, 1973. (It supersedes approval No. 164.009/51/0 dated Aug. 1, 1972 to show minor change.)

Approval No. 164.009/114/0, "Owens-Corning Fiberglas Incombustible Marine Board (unfaced)", fibrous glass type incombustible material identical to that described in Owens-Corning letter dated February 14, 1968, approved for 1" through 2" thickness in a density of 3.25

lb/ft³, manufactured by Owens-Corning Fiberglas Corp., Toledo, Ohio 43601, effective February 9, 1973. (It is an extension of approval No. 164.009/114/0 dated Feb. 19, 1968.)

Dated April 20, 1973.

G. H. READ,
Captain, U.S. Coast Guard, Deputy Chief, Office of Merchant Marine Safety.

[FR Doc.73-8107 Filed 4-25-73;8:45 am]

[CGD 73-82 N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from February 28, 1973, to March 8, 1973 (list No. 8-73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

NOTE.—Approved for use on all vessels and motorboats.

Approval No. 160.002/94/0, model 3, adult kapok life preserver, U.S.C.G. specification subpart 160.002, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.002/94/0 dated May 3, 1968.)

Approval No. 160.002/95/0, model 5, child kapok life preserver, U.S.C.G. specification subpart 160.002, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.002/95/0 dated May 3, 1968.)

LIFE PRESERVERS, FIBROUS GLASS, ADULT AND CHILD (JACKET TYPE) MODELS 52 AND 56

NOTE.—Approved for use on all vessels and motorboats.

Approval No. 160.005/17/0, model 52, adult fibrous glass life preserver, U.S.C.G. specification subpart 160.005, manufactured by Style-Crafters, Inc., Box 8277, Station A, Greenville, S.C. 29604, effective March 6, 1973. (It is an extension of approval No. 160.005/17/0 dated May 13, 1968.)

Approval No. 160.005/18/0, model 56, child fibrous glass life preserver, U.S.C.G. specification subpart 160.005, manufactured by Style-Crafters, Inc., Box 8277, Station A, Greenville, S.C. 29604, effective March 6, 1973. (It is an extension of approval No. 160.005/18/0 dated Mar. 13, 1968.)

BUOYS, LIFE, RING, CORK, OR BALSA WOOD, FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 160.009/45/0, 30-inch cork ring life buoy, U.S.C.G. specification subpart 160.009, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.009/45/0 dated May 3, 1968.)

SEA ANCHORS, LIFEBOAT

Approval No. 160.019/1/1, type A sea anchor, U.S.C.G. drawing No. MMI-562 1943, revision No. 1 dated February 28, 1973, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective February 28, 1973. (It supersedes approval No. 160.019/1/0 dated December 13, 1971, to show use of alternate material.)

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/174/0, mechanical davit, aluminum straight boom-sheath screw, type 24-40A; approved for a maximum working load of 12,000 pounds per set (6,000 pounds per arm), identified by general assembly drawing D2-F-004, revision D dated April 17, 1968, and drawing list DL-D1-F-008 dated April 24, 1968, galvanic protection of aluminum davit requires micarta gasket between davit base and deck, stainless steel bolts, washers, and nuts to be used to secure davit to foundation, manufactured by Marine Safety Equipment Corp., foot of Wycoff Road, Farmingdale, N.J. 07727, effective March 6, 1973. (It is an extension of approval No. 160.032/174/0 dated May 13, 1968, and change of address of manufacturer.)

LIFEBOATS

Approval No. 160.035/472/0, 30 feet by 10 feet by 4.33 feet fibrous glass reinforced plastic (FRP), totally enclosed (covered) class 1 motor-propelled, lifeboat, 64-person capacity, identified by general arrangement drawing No. P-30-2M, revision A dated February 14, 1973, 46 CFR 160.035-13(c) marking, weights: Condition "A" - 7,947 pounds; condition "B" - 19,800 pounds, manufactured by Marine Safety Equipment Corp., foot of Wycoff Road, Farmingdale, N.J. 07727, effective March 6, 1973.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/33/0, 30-inch uniellular plastic ring life buoy, USCG specification subpart 160.050 and B. F. Goodrich drawing 12874, dated March 6, 1959, revised July 15, 1959, buoy bodies made by B. F. Goodrich Co., Sponge Products Division, Shelton, Conn., manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.050/33/0 dated May 6, 1968.)

Approval No. 160.050/34/0, 24-inch unicellular plastic ring life buoy, USCG specification subpart 160.050 and B. F. Goodrich Co. drawing 12874, dated March 6, 1959, revised July 15, 1959, buoy bodies made by B. F. Goodrich Co., Sponge Products Division, Shelton, Conn., manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.050/34/0 dated May 6, 1968.)

Approval No. 160.050/35/0, 20-inch unicellular plastic ring life buoy, USCG specification subpart 160.050 and B. F. Goodrich Co. drawing 12874, dated March 6, 1959, revised July 15, 1959, buoy bodies made by B. F. Goodrich Co., Sponge Products Division, Shelton, Conn., manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.050/35/0 dated May 6, 1968.)

Approval No. 160.050/36/1, 30-inch unicellular plastic ring life buoy, USCG specification subpart 160.050 and B. F. Goodrich drawing No. 12988, revision 4 dated September 24, 1963, buoy bodies made by B. F. Goodrich Co., Sponge Products Division, Shelton, Conn., manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.050/36/1 dated May 6, 1968.)

Approval No. 160.050/37/1, 24-inch unicellular plastic ring life buoy, USCG specification subpart 160.050 and B. F. Goodrich drawing No. 12988, revised 4 dated September 24, 1963, buoy bodies made by B. F. Goodrich Co., Sponge

Products Division, Shelton, Conn., manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.050/37/1 dated May 6, 1968.)

Approval No. 160.050/38/1, 20-inch unicellular plastic ring life buoy, USCG specification subpart 160.050 and B. F. Goodrich drawing No. 12988, revised 4 dated September 24, 1963, buoy bodies made by B. F. Goodrich Co., Sponge Products Division, Shelton, Conn., manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.050/38/1 dated May 6, 1968.)

Approval No. 160.050/52/0, 30-inch unicellular plastic ring life buoy, USCG specification subpart 160.050 and Atlantic-Pacific Manufacturing Corp. drawing No. 8431-1-68 dated January 30, 1968, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, N.Y. 11201, effective March 8, 1973. (It is an extension of approval No. 160.050/52/0 dated May 6, 1968.)

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/20/1, unicellular plastic foam work vest, as per drawing No. APV-MOD-1 dated May 1968, manufactured by Taylortec, Inc., 2549 Hickory Street, Metairie, La. 70003, office: 12 Fairlane Drive, effective March 6, 1973. (It is an extension of approval No. 160.053/20/1 dated May 8, 1968.)

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES FOR DESIGNATED USE ON ALL MOTORBOATS AND FOR GENERAL USE ON MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

Approval No. 160.064/419/0, adult small/medium, model No. 5020, cloth covered unicellular plastic foam "Sailing Vest," manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 26, type III device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, Calif. 90015, effective March 7, 1973.

Approval No. 160.064/420/0, adult large/X-large, model No. 5020, cloth covered unicellular plastic foam "Sailing Vest," manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 26, type III device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, Calif. 90015, effective March 7, 1973.

Dated April 20, 1973.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.73-8108 Filed 4-25-73;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the regular quarterly meeting of the Advisory Council on Historic Preservation, May 2-3, 1973, at 9:30 a.m., in the conference room, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, D.C. The meeting will be open to the public. Agenda and further information are available from the Executive Secretary, Advisory Council on Historic Preservation, suite 430, 1522 K Street NW, Washington, D.C. 20005. (202-254-3974)

Dated April 20, 1973.

JOHN D. MCDERMOTT,
Acting Executive Secretary.

[FR Doc.73-8135 Filed 4-25-73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REACTOR PRESSURE VESSELS

Notice of Meeting

APRIL 23, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Reactor Pressure Vessels will hold a meeting on May 7-8, 1973, in room 1062, 1717 H Street NW., Washington, D.C. The subject scheduled for discussion is a draft report to the full Committee on light water reactor pressure vessel integrity.

The Subcommittee is meeting to formulate recommendations in the form of a report to the full ACRS regarding the above subject.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the meeting will be to discuss a document which falls within exemption (5) of 5 U.S.C. 552(b) and will consist of an exchange of opinions, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

JOHN V. VINCIGUERRA,
Advisory Committee Management Officer.

[FR Doc.73-8147 Filed 4-25-73;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON SAFETY GUIDES

Notice of Meeting

APRIL 23, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Safety Guides will hold a meeting on May 9, 1973, in room 1062, at 1717 H Street NW., Washington, D.C. The subjects scheduled for discussion are proposed regulatory guides.

The subcommittee is meeting to formulate recommendations to the full ACRS regarding the above subjects.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the meeting will be to discuss documents which fall within exemption (5) of 5 U.S.C. 552(b) and will consist of an exchange of opinions, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

JOHN V. VINCIGUERRA,
Advisory Committee Management Officer.

[FR Doc.73-8148 Filed 4-25-73;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued amendment No. 1 to facility operating license No. DPR-26 to Consolidated Edison Co. of New York, Inc. (Consolidated Edison). The amendment amends the license in its entirety. The amendment authorizes Consolidated Edison to operate the Indian Point Nuclear Generating Unit No. 2 (facility), a pressurized water nuclear reactor located at Consolidated Edison's site near Buchanan in Westchester County, N.Y., at power levels not in excess of 551 thml MW for testing purposes (20 percent of the rated power level of the facility). The facility is designed for operation at approximately 2758 thmlMW, but in accordance with the provisions of amendment No. 1 to facility operating license No. DPR-26 and the technical specifications appended thereto, activities under the license are restricted to power levels not in excess of 551 thmlMW for testing purposes.

On October 6, 1970, Consolidated Edison requested a public hearing on its application for a license to operate the facility at full power. Pursuant to a Commission order, a public hearing before an Atomic Safety and Licensing Board (Board) commenced on December 17, 1970, in Buchanan, N.Y. On June 18, 1971, Consolidated Edison requested the Board, pursuant to 10 CFR section 50.57 of the Commission's regulations to issue an order authorizing the Director of Regulation to make the necessary findings and issue a license permitting fuel loading and subcritical testing. The Board issued such an order on July 20, 1971. On October 19, 1971, the Commission issued facility operating license No. DPR-26 to Consolidated Edison, permitting fuel loading and subcritical testing of the facility. On October 19, 1971, Consolidated Edison in a supplement to a motion of September 24, 1971, requested

authority to conduct testing operations of the Indian Point Nuclear Generating Unit No. 2 up to 50 percent of rated power or 1,379 thml MW. The Board issued an initial decision on July 14, 1972, authorizing the Director of Regulation to issue an amendment to operating license No. DPR-26 authorizing operation at power levels not to exceed 551 thml MW (for testing purposes) in accordance with section 50.57(c) and appendix D, section D.2 of 10 CFR part 50. On October 27, 1972, the Atomic Safety and Licensing Appeal Board affirmed the initial decision of July 14, 1972, with respect to testing at power levels up to 20 percent of maximum rated power, and held in abeyance a decision with respect to testing at power levels above 20 percent.

The Commission's regulatory staff has inspected the facility and has determined that, for testing purposes the facility has been constructed in accordance with the application, as amended, and the provisions of provisional construction permit No. CPPR-21, as amended.

The Director of Regulation has made the findings set forth in the amendment, and has concluded that the application for construction permit and facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR chapter 1, that the issuance of the amendment will not have a significant adverse impact on the quality of the environment, and will not be inimical to the common defense and security or to the health and safety of the public.

The license is effective as of the date of issuance and shall expire 9 months from said date unless extended for good cause shown, or upon the earlier issuance of a subsequent licensing action.

A copy of (1) the Board's initial decision of July 14, 1972, and the Appeal Board's decision of October 27, 1972, (2) amendment No. 1 to facility operating license No. DPR-26, complete with technical specifications, (3) the safety evaluation for the Indian Point Nuclear Generating Unit No. 2, dated November 16, 1970, and supplements 1, 2, and 3 thereto, dated November 20, 1970, July 1971, and September 3, 1971, respectively, (4) the report of the Advisory Committee on Reactor Safeguards on the Indian Point Nuclear Generating Unit No. 2, dated September 23, 1970, (5) Discussion and conclusions by the Division of Reactor Licensing, U.S. Atomic Energy Commission, pursuant to appendix D of 10 CFR part 50, supporting the issuance of a license to Consolidated Edison Co. of New York, Inc., authorizing the loading of fuel and subcritical testing of Indian Point Unit No. 2, docket No. 50-247, dated October 6, 1971, and (6) Discussion and conclusions by the Division of Reactor Licensing, U.S. Atomic Energy Commission pursuant to appendix D of 10 CFR part 50, supporting the issuance of a license to Consolidated Edison Co. of New York, Inc., authorizing limited operation of the Indian Point Unit No. 2, docket No. 50-247, dated December 30, 1971, are available for public inspection at the Commission's public document room, 1717 H Street NW., Washington, D.C., and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, N.Y. 10548. Copies of the amendment, complete with technical specifications, and items (3), (5), and (6) above may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 20th day of April 1973.

For the Atomic Energy Commission.

KARL KNIEL,
Chief, Pressurized Water Reactors, Branch No. 2, Directorate of Licensing.

[FR Doc. 73-8130 Filed 4-25-73;8:45 am]

[Docket No. 50-352, 50-353]

PHILADELPHIA ELECTRIC CO.

Notice of Special Prehearing Conference On Environmental Issues

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), Dockets Nos. 50-352, 50-353.

The Atomic Energy Commission on March 27, 1973, issued in this proceeding a supplementary notice of hearing on application for construction permits, which notice was given general public distribution, including publication in the FEDERAL REGISTER on March 30, 1973 (38 FR 8293), and provided for a hearing on environmental issues in accordance with the National Environmental Policy Act and the rules of practice of the Commission. The supplementary notice also provided for a special prehearing conference to be convened in accordance with § 2.751(a) of the Commission's rules of practice.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, the rules of practice of the Commission, including § 2.751(a) thereof, and the aforesaid supplementary notice of hearing issued on March 27, 1973, that a special prehearing conference on environmental issues shall be convened at 10 a.m. on Wednesday, May 23, 1973, in the Pott's room, Holiday Inn, West King Street at Route 100, Pottstown, Pa.

Issued April 20, 1973, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.73-8129 Filed 4-25-73;8:45 am]

[Dockets Nos. 50-354, 50-355]

PUBLIC SERVICE ELECTRIC & GAS CO.

Notice of Special Prehearing Conference On Environmental Issues

Public Service Electric & Gas Co. (Newbold Island Nuclear Generating Station Units 1 and 2), Dockets Nos. 50-354, 50-355.

The Atomic Energy Commission on March 27, 1973, issued in this proceeding a supplementary notice of hearing on application for construction permits, which notice was given general public distribution, including publication in the FEDERAL REGISTER on March 30, 1973 (38 FR 8294), and provided for a hearing on environmental issues in accordance with the National Environmental Policy Act and the rules of practice of the Commission. The supplementary notice also provided for a special prehearing conference to be convened in accordance with § 2.751(a) of the Commission's rules of practice.

Wherefore, it is Ordered, in accordance with the Atomic Energy Act, as amended, the rules of practice of the Commission, including § 2.751(a) thereof, and the aforesaid supplementary notice of hearing issued on March 27, 1973, that a special prehearing conference on environmental issues shall be convened at 10 a.m. on Tuesday, May 22, 1973, in the Trenton room of the Holiday Inn, 240 West State Street, Trenton, N.J. 08608.

Issued April 20, 1973, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.73-8128 Filed 4-25-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25152]

ALASKA AIRLINES

Notice of Proposed Approval

Application of Alaska Airlines, Inc. for approval of aircraft lease pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Docket 25152.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded until May 11, 1973, to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., April 23, 1973.

[SEAL] WILLIAM B. CALDWELL, Jr.
Acting Director, Bureau of Operating Rights.

ORDER OF APPROVAL

Alaska Airlines, Inc. (Alaska) requests approval without hearing pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended (the Act), of an aircraft transaction under which it will sublease one Boeing 727-81 aircraft to Cia. Mexicana de Aviacion, S.A. (CMA) for the period November 29, 1972, to May 10, 1973.[1] The rental rate is $71,000

[1] The aircraft is leased by Alaska from Jet Air Domestic Leasing, Inc. under a lease agreement filed with the Board pursuant to part 299 of the Board's economic regulations.

per month plus increments for engine and airframe use.

In support of the request, applicant states that it was deemed economically desirable as well as operationally feasible to sublease one of its five B–727 aircraft because of the seasonal traffic requirements on Alaska's routes and because of the urgent need to conserve and restrict cash flow during the winter period. The applicant further states that approval of the agreement will not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, will not result in creating a monopoly and will not tend to restrain competition. Alaska believes that it is in the public interest to approve the agreement for all of the above reasons. Moreover, such approval would facilitate and improve Alaska's financial situation during the seasonally low traffic period.

No comments relative to the application have been received.

Upon consideration of the foregoing it is concluded that the sublease of one B–727 aircraft by Alaska to CMA involves a substantial part of the properties of Alaska within the meaning of section 408 of the Act and is therefore subject to the requirements of that section.[2] However the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and thereby tend to restrain competition, nor does it jeopardize another air carrier not a party thereto. Furthermore no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is found that the public interest does not require a hearing. The Board has previously approved leases involving aircraft temporarily available for such purpose because of the seasonal nature of a particular carrier's operations.[3] Under the circumstances, it does not appear that the transaction will be inconsistent with the public interest or that the requirements of section 408 will be otherwise unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the foregoing lease transaction should be approved without a hearing under the third proviso of section 408(b) of the Act.

Accordingly, it is ordered, That the lease of one Boeing 727 aircraft by Alaska Airlines, Inc. to Cia. Mexicana de Aviacion, S.A. as described herein be and it hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[FR Doc.73–8136 Filed 4–25–73;8:45 am]

[Docket No. 24488; Order 73–4–75]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fares Development Programs

Issued under delegated authority, April 18, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and part 261 of the Board's economic regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the Mid Atlantic Currency Conference held in March 1973, in London.

The agreement would adopt a new resolution establishing a Mid Atlantic Fare Development Program for the purpose of reviewing the Mid Atlantic fare structure. The aim of the program is to establish a basis for reaching prompt agreement at the North and Mid Atlantic Traffic Conference to be held in October 1973. We will herein approve the resolution, and condition it so as to require that copies of pertinent reports or other documents be submitted to the Board at the same time they are circulated to the carrier members of IATA.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the following resolution, which is incorporated in Agreement C.A.B. 23606, is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter stated:

IATA No.	Title	Application
016a	Mid-Atlantic Fare Development Program (NEW).	1/

Accordingly, it is ordered, That: Agreement C.A.B. 23606 be and hereby is approved, provided that copies of reports or other documents developed pursuant to the resolution and circulated to members shall be filed with the Board at the time of their circulation.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73–8140 Filed 4–25–73;8:45 am]

[Docket No. 24488; Order 73–4–74]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares and Rates Matters

Issued under delegated authority April 18, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and part 261 of the Board's economic regulations, between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above designated C.A.B. agreement number.

The agreement would revalidate and readopt an existing resolution which governs the filing of Government requirements and authorizations in order to reinstate the resolution on a worldwide basis.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the following resolution, which is incorporated in Agreement C.A.B. 23597, is adverse to the public interest or in violation of the Act:

200(Mail 174)200g, 300(Mail 398)200g, JT23 (Mail 315)200g, JT31(Mail 239)200g, JT123 Mail 709)200g.

Accordingly, it is ordered, That: Agreement C.A.B. 23597 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73–8139 Filed 4–25–73;8:45 am]

[Docket No. 24419]

SOCIETA' AEREA MEDITERRANEA SAM S.p.A.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on May 22, 1973, at 10 a.m. (local

[2] It has been further concluded that exceptional circumstances exist within the meaning of the Sherman Doctrine, 15 CAB 876 (1952) and that there is no impediment to processing the application on its merits.

[3] Order 72–8–117, Aug. 28, 1972, docket 24639.

time), in room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues and other details involved in this proceeding, interested persons are referred to the prehearing conference report, served July 13, 1972, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 23, 1973.

[SEAL] ROBERT L. PARK,
Associate Chief
Administrative Law Judge.

[FR Doc.73-8137 Filed 4-25-73;8:45 am]

COMMISSION ON CIVIL RIGHTS

COLORADO STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado State Advisory Committee to this Commission will convene at 9 a.m. on April 28, 1973, at the Regional Office, U.S. Commission on Civil Rights, suite 216, Ross Building, 1726 Champa Street, Denver, Colo. 80202.

Persons wishing to attend this meeting should contact the chairman, or the Mountain States Regional Office, suite 216, Ross Building, 1726 Champa Street, Denver, Colo. 80202.

The purpose of this meeting is to complete the outline and assign Prison Subcommittee staff to prepare a preliminary report on the Colorado Prison project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., April 18, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-8197 Filed 4-25-73;8:45 am]

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

PROCUREMENT LIST

Additions to Procurement List 1973

Notice of proposed additions to the Initial Procurement List, August 26, 1971 (36 FR 16982), were published in the FEDERAL REGISTER on October 19, 1971 (36 FR 20260), December 16, 1971 (36 FR 23943), July 26, 1972 (37 FR 14902).

Pursuant to the above notices the following commodities are added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

Class 7530

Folder, file (IB):	Hundred
7530-889-3555	$3.32
7530-559-4512	3.78
7530-926-8978	4.09
7530-926-8980	5.34
7530-281-5907	3.55
7530-281-5908	4.08
7530-273-9845	3.15
Folder set, file (IB):	
7530-281-5905	4.06

Class 8345

Signal pennants (IB):	Each
8345-935-0420	$7.87
8345-935-0517	7.87
8345-935-4755	8.87
8345-825-1847	8.87
8345-935-3201	8.87
8345-935-4756	8.87
8345-935-0522	8.87
8345-914-6086	8.87
8345-935-4753	9.90
8345-935-4754	9.90
8345-935-0404	9.90
8345-935-0514	9.90
8345-825-1868	10.52
8345-935-0406	$10.52
8345-935-0509	10.52
8345-926-5988	10.52
8345-935-0512	10.52
8345-921-4497	10.52
8345-935-3199	10.93
8345-825-1839	10.93
8345-935-0526	10.93
8345-914-6078	11.87
8345-914-6080	11.87
8345-914-6083	11.87
8345-935-0524	5.01
8345-926-5987	5.01
8345-926-5989	5.66
8345-935-0539	5.66
8345-926-5991	5.66
8345-825-1840	5.66
8345-935-0521	5.66
8345-914-6087	5.66
8345-926-6026	6.29
8345-935-0403	6.29
8345-935-0536	6.29
8345-926-9210	6.29
8345-926-9213	6.69
8345-926-6028	6.69
8345-935-0508	6.69
8345-935-0519	6.69
8345-914-6085	6.69
8345-926-9215	6.95
8345-935-0411	6.95
8345-926-9212	6.95
8345-914-7411	7.55
8345-914-6079	7.55
8345-914-6082	7.55
8345-935-0523	3.58
8345-935-0417	3.58
8345-926-5990	4.03
8345-935-0421	4.03
8345-926-9207	4.03
8345-935-0542	4.03
8345-935-0520	4.03
8345-935-0492	4.49
8345-935-0493	4.49
8345-926-9214	4.49
8345-935-0415	6.69
8345-935-0513	$4.49
8345-935-0490	4.78
8345-935-0495	4.78
8345-926-9208	4.78
8345-935-0518	4.78
8345-935-0511	4.78
8345-914-6084	4.78
8345-935-0405	4.95
8345-935-0410	4.95

Class 8345—Continued

Signal pennants (IB)—Continued	Each
8345-935-0525	4.95
8345-914-6075	5.38
8345-914-6077	5.38
8345-914-6081	5.38
8345-935-0419	2.86
8345-935-0416	2.86
8345-935-0537	3.23
8345-935-0538	3.23
8345-935-0540	3.23
8345-935-0541	3.23
8345-926-9211	3.23
8345-935-0499	3.60
8345-935-0500	3.60
8345-935-0501	3.60
8345-825-1818	3.60
8345-935-0497	3.83
8345-935-0504	3.83
8345-935-1841	3.83
8345-935-0418	3.83
8345-825-1819	3.83
8345-926-1551	3.83
8345-935-0503	3.98
8345-935-0534	3.98
8345-935-1843	3.98
8345-926-1548	4.32
8345-926-1549	4.32
8345-926-1552	4.32

Class 8465

Bag, soiled clothes, submarine (IB):	
8465-762-7671	1.83

CORRECTIONS TO PROCUREMENT LIST 1973

Notice is hereby given of the following corrections to Procurement List 1973, March 12, 1973 (38 FR 6742). The corrections are in italics.

COMMODITY

Class 6530

Wrapper, Sterilization (IB):

	Dozen	
	East	*West*
6530-850-8613	$35.88	$36.42
6530-926-4912	44.02	44.02

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-8106 Filed 4-25-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE POLLUTION CONTROL SUSPENSION GRANTED

Decision of Administrator

On February 10, 1973, the U.S. Court of Appeals for the District of Columbia Circuit remanded for further proceedings the May 12, 1972, decision by the Administrator of the U.S. Environmental Protection Agency to deny applications by General Motors Corp., Ford Motor Co., Chrysler Corp., and International Harvester Co., for 1 year suspension of the effective date of the 1975 motor vehicle emissions standards. On March 5, 1973, American Motors Corp. applied for suspension, and its application, along with those of the four appellants, was considered in a public hearing held during the period March 12 to 28, 1973. On April 11, 1973, the Administrator granted a 1-year suspension to the five applicants and simultaneously prescribed interim standards. The text of the Administrator's decision follows.

Before the Administrator, Environmental Protection Agency, Washington, D.C., in relation to applications for suspension of 1975 motor vehicle exhaust emission standards.

American Motors Corp., Chrysler Corp., Ford Motor Co., General Motors Corp., and International Harvester Co., applicants.

Decision of the Administrator on remand from the U.S. Court of Appeals for the District of Columbia Circuit.

APRIL 11, 1973.

DECISION OF THE ADMINISTRATOR

I. *Introduction.*—Section 202 of the Clean Air Act, 42 U.S.C. 1857f–1, requires that emissions of carbon monoxide and hydrocarbons from automobiles sold in this country during the 1975 model year be reduced by at least 90 percent from their 1970 levels. The only authority which I as Administrator have been given to affect the application of these standards is set forth in section 202(b)(5) of the act. That section allows me to suspend the effective date of these reductions for 1 year only, provided the following conditions are met:

> The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

The first application for a suspension under this provision was filed with EPA on March 13, 1972, by A. B. Volvo Ltd. of Sweden. Shortly thereafter, applications were also received from Chrysler, Ford, General Motors, and International Harvester. After 3 weeks of public hearings, I denied all five applications in a decision issued May 12, 1972.

The four American applicants appealed this decision to the courts, and on February 10, 1973, the U.S. Court of Appeals for the District of Columbia Circuit, in a lengthy and detailed opinion, remanded the applications of the four appellants to me for reconsideration. *International Harvester Co.* v. *Ruckelshaus* (Slip Opinion No. 72–1517, Feb. 10, 1973).

Following this remand by the court, over 2 weeks of public hearings were held commencing March 12, 1973, to consider both the remanded applications and the application of American Motors Corp., which was filed on March 2, 1973. In the course of these remand proceedings, a great mass of oral and written material has been furnished, both voluntarily and in response to EPA subpenas, by the applicants, other auto manufacturers, suppliers of catalysts and catalyst components, oil companies, and representatives of public interest groups.

Substantial testimony was taken both before and after the remand concerning emission and other characteristics of engines different from the conventional internal combustion engine. It remains clear that some alternate engine systems can achieve the reductions required by the act, and certain alternate engine systems may well constitute preferred technology for the long term. However, no participant in the proceeding seriously contends that basic new car demand in 1975, as defined by the court, can be met if the industry cannot continue to produce and use conventional internal combustion engines in numbers roughly equivalent to current production of these engines. Because catalysts are generally necessary to control emissions from conventional engines to levels approaching the statutory standards, the principal questions before me on this remand are whether conventional engines equipped with catalysts can meet applicable emission standards and can be produced in 1975 in sufficient numbers to satisfy basic demand in a manner consistent with the public interest.

Without exception, all automobile manufacturers contend that catalyst technology is not presently available and effective to achieve the emission reductions required by the act. The manufacturers also contend that, even if prototype vehicles for sufficient numbers of models could be certified at the statutory levels in time for 1975 production severe production problems are likely to occur the first year catalysts are used and will result in recurrent and widespread production stoppages. Chrysler and some other manufacturers further contend that, even if catalyst-equipped vehicles can be successfully certified and mass produced in 1975 without difficulty, a large percentage of these devices will fail in actual customer use, thereby subjecting the manufacturer to extraordinary liabilities under the act's recall and warranty provisions. Most foreign manufacturers share Chrysler's reluctance to use catalysts on any 1975 models.

Ford and General Motors are decidedly less pessimistic about the effectiveness of presently available catalyst technology. As I understand the positions of these two manufacturers, as developed during these proceedings on remand, they believe that a limited introduction of catalyst-equipped cars in 1975 is feasible and desirable as an initial step toward nationwide use of catalysts on all models. Ford and General Motors have accordingly proposed interim standards for California vehicles which they contend will require the use of catalysts on all California models.

Since the early 1960's the State of California has been the leader in automobile emission control. In general, Federal standards have followed California standards by at least 1 full model year. This historical pattern of regulation has permitted manufacturers to scale up their production processes as improved emission control technology is developed and employed. Initial introduction of new emission control technology in California, followed by nationwide use in a later model year, has been made possible by provisions in the act for waiver of Federal preemption of California requirements for controlling emissions of new vehicles.

Acting under these provisions of the act, I have waived Federal preemption with respect to emission standards prescribed by California for vehicles built and sold during the 1974 model year. While California's 1974 standards for hydrocarbons and carbon monoxide are only marginally more stringent than Federal standards applicable to 1974 automobiles, California's 1974 standard for nitrogen oxide emissions is substantially stricter than the Federal standard. In addition, under California law 90 percent of production vehicles are required to meet applicable certification standards, a requirement which makes a California certification standard significantly more stringent than an equivalent Federal standard. California has requested waiver of Federal preemption for a new set of standards applicable to 1975 automobiles which requires a substantial further reduction in emissions of all three pollutants. This request is now pending before me for decision.

The following table compares these various standards and proposals for California and indicates the approximate degree of emissions from uncontrolled automobiles: [1]

	HC	CO	NO_x
	(grams per mile)		
Uncontrolled cars	8.7	87.0	3.1
Federal 1974 standards	3.0	28.0	3.1
California 1974 standards	2.8	28.0	2.0
Proposed Ford standards	1.2	17.0	2.0
Proposed California 1975 standards	.9	17.0	1.5
Statutory 1975 standards	.41	3.4	(3.1)

Bearing in mind the additional stringency created by the California requirement that 90 percent of production vehicles meet the certification standard and by the requirement that California vehicles control nitrogen oxide emissions to levels substantially below Federal standards, the proposed California 1975 standard for hydrocarbons of 0.9 grams per mile approaches in stringency the congressionally mandated standard which these applicants seek to have suspended.

The National Academy of Sciences has prepared and submitted three reports that are pertinent to this matter. The

[1] General Motors' proposed California standards for the three pollutants are .76, 5.7, and 3.1, respectively. However, General Motors has premised this proposal on a significant relaxation of the federal certification procedure. Hence, it is difficult to compare the General Motors' proposal with other proposals.

All standards for HC and CO are expressed in terms of the 1975 Federal CVS test procedure. The 1975 Federal NOx standard has been prescribed pursuant to section 202(a) of the act.

first two reports, issued in January and April of 1972, respectively, predated my earlier decision. The third report, dated February 15, 1973, was submitted 5 days after the court issued its opinion and order remanding the proceeding to me.

In remanding this matter to me for reconsideration, the court of appeals weighed the "grave economic consequences" that might result from denial of a suspension against the environmental costs that might result from granting of a suspension. The court concluded that "the risk of an 'erroneous' denial of suspension outweigh(s) the risk of an 'erroneous' grant of suspension," even if no interim standard for 1975 is prescribed. As I read the court's opinion, the court believes that these risk-balancing considerations should be taken into account in determining whether effective control technology will be available in 1975. On that basis, the court has required a high degree of confidence that 1975 standards can be achieved and has cautioned that a decision to deny suspension, to the extent it is based on predictions of technological availability as opposed to direct evidence of such availability, must be supported by a detailed showing that the methodology underlying the prediction is reasonable and reliable.

The court's discussion of factors pertinent to this decision includes a broad range of "public interest" considerations, including "the impact on jobs and the economy" from any decision resulting in decreased levels of production during 1975. In my view, the court's opinion correctly emphasizes that my decision should be designed to bring about ultimate achievement of the statutory standards by 1976. The court has also emphasized that the statutory authority to suspend the standards and to set interim standards during 1975 should be used as a "safety valve" to minimize the risk of serious economic consequences when the necessary technology is first introduced.

II. *Summary of decision.*—As I view this decision, the issue before me is essentially the most reasonable method by which necessary technology will be installed on automobiles to meet the statutory standards. In resolving this issue, on this record, I believe that I have three basic choices.

First, by denying these applications or by establishing national interim standards similar to those proposed for 1975 by California, I can in effect require the automobile industry to install catalytic converters on all conventional 1975 automobiles. Second, by establishing interim standards which do not require use of catalysts, I can allow the industry an additional year to further test and improve catalyst or other technology, while requiring substantial additional reductions in emissions through engine modifications. Third, I can require use of catalysts on a substantial portion of 1975 vehicles, thereby attempting to minimize initial production problems and their potential impact on the public while requiring each manufacturer to gain production experience preliminary to use of catalysts on all conventional engines during the 1976 model year.

It is my judgment that the third option best serves the total public interest and the mandate of the statute. It promotes continued momentum toward installation of control systems meeting the statutory standards, while minimizing risks incident to national introduction of a new technology. This option also offers the opportunity to gain experience with production of catalyst systems for a full range of automobiles by requiring catalysts on a portion of each model introduced by each manufacturer in the State of California.

I am accordingly waiving Federal preemption for California's 1975 hydrocarbon standard of 0.9 gram per mile (as measured on the 1975 Federal test procedure), except to the extent that such California standard applies to multipurpose vehicles as later defined in this decision. I am also waiving Federal preemption for continued application during the 1975 model year of California's nitrogen oxide emission standard of 2 grams per mile (as measured on the 1975 Federal test procedure), except to the extent that such California standard applies to multipurpose vehicles. This waiver of Federal preemption shall include California's assembly line test requirement. In order to insure that catalysts are used in California, I am denying waiver of preemption for California's 1975 carbon monoxide standard and I am prescribing a more stringent Federal interim standard for 1975 light duty vehicles shipped to California, other than multipurpose vehicles, limiting emissions of carbon monoxide to 9 grams per mile, as measured by the 1975 Federal test procedure.

Thus, under my decision the Federal and State standards applicable to 1975 cars sold in California will be: 0.9 grams per mile of hydrocarbons; 9.0 grams per mile of carbon monoxide; and 2.0 grams per mile of nitrogen oxides. These standards in my judgment will require use of catalytic converters on all 1975 passenger cars shipped to California. California sales of such vehicles constitute approximately 10 percent of total United States new car sales.

Except to the extent that a vehicle is subject to a more stringent carbon monoxide standard applicable to vehicles shipped to California, all 1975 light duty vehicles, other than multipurpose vehicles, shall be subject to the following federal interim standards, as measured by the 1975 Federal test procedure: 1.5 grams per mile hydrocarbons; 15 grams per mile carbon monoxide; 3.1 grams per mile nitrogen oxides. These standards can, in my judgment, be achieved by manufacturers generally on most models without use of catalytic devices. In my judgment these standards will not require use of catalysts on more vehicles sold outside California than manufacturers are capable of producing without the possibility of severe production difficulties.

Multipurpose vehicles shipped and sold during the model year 1975 shall for the most part be subject to emission standards applicable to 1975 light trucks.

The most compelling factor in my decision to require phasein of catalysts in 1975 has been the possibility raised by the evidence that if the automobile industry attempts to install catalytic converters on its entire product line, without a scaleup period of limited mass production in which to gain experience, difficulties such as a shortage of vital parts or materials, inaccurate machining tolerances, or defects in assembly techniques will arise, and may well be severe enough to cause significant economic disruption. These problems will be more fully discussed later in this decision. I believe that the requirement to install catalytic converters on all 1975 automobiles shipped to California and on a portion of 1975 cars sold outside California will minimize adverse economic effects which could be caused by production difficulties associated with initial use of new technology, will require all manufacturers to gain experience in the mass production of catalyst-equipped cars under conditions of careful quality control, and will maintain the accelerating momentum of technological progress which has so clearly characterized catalyst development for automotive applications during the past 2 years. In requiring a limited introduction of catalysts in 1975 I am holding the two major U.S. manufacturers to their commitments to use the additional year to gain essential experience in production techniques by equipping all California models with catalytic converters.

My decision will have other important effects.

New 1975 cars sold in the Los Angeles basin, where automobile-related pollution is most severe, will have the highest degree of emission control that is technically achievable in 1975 on a broad range of cars. In addition, two Japanese manufacturers (Toyo Kogyo and Honda) plan to market significant numbers of automobiles powered by innovative engine systems which do not require catalytic treatment to achieve emission reductions even lower than appears to be possible with conventional engines. These companies sell a disproportionately high number of their vehicles in California. Hence, the advantages which these alternate engine systems may offer, in emission control and in other areas of performance, will have an early test in the marketplace. Where regulatory requirements for emission control challenge conventional technology to its limits, the marketplace will in my judgment provide a strong lever for causing a shift into any superior technology.

The selection of California for initial introduction of catalytic converters has other advantages as well. Because of California's history of leadership in emission control, that State has in existence a legal and regulatory framework for implementing and enforcing a set of standards different from those applicable outside California. Because of its size, and

because its major cities are geographically distant from other States, regulation of out-of-State traffic is less essential, and enforcement of requirements applicable to California residents is less difficult.

At the same time, I believe that the national interim standards I am prescribing will obviate or minimize the need for additional transportation controls in urban areas outside of California. These interim standards, while they are achievable for the most part without catalysts, require a reduction in emissions from uncontrolled levels of over 80 percent and a reduction from 1974 levels of about 50 percent. To the extent that additional transportation controls are needed outside California, vehicles designed for California can be purchased in 1975 by fleet operators, such as taxicab companies. Although evidence was presented that failure to deny suspension would adversely affect the attainment of ambient air quality in some areas, notably New York City, this evidence was based on a continuation of the 1974 automobile emission standards. The national interim standards which I am establishing will not, in my judgment, unduly inhibit control programs in urban areas outside California.

III. *Discussion*—1. *Encouraging progress in development of technology.*—In my decision of May 12, 1972, I found that, although no manufacturer had yet succeeded in running a car that met the 1975 standards for the required 50,000 miles, promising new technology was available to the manufacturers which in view of the time that then still remained for development and testing, made it reasonable to conclude that compliance could be achieved within the statutory deadline May–December, pp. 8, 13).[2] It is clear that during the 11 months since last year's decision impressive strides of progress have been made by some companies toward development of technology capable of meeting the 1975 emission control standards at reasonable cost, even though the constraints of time appear to make it not feasible to apply those standards for 1975 model year cars.

The evidence available indicates that questions previously raised as to whether use of catalysts might create safety hazards can now be largely set aside. It also appears that the cost of emission control systems will be less than previously anticipated. Finally, concerns over the fuel penalty which might result from use of catalysts have been reduced significantly.

Certain data presented by General Motors provides considerable support for optimism that the industry is on the brink of success in meeting the 1975 standards. Six cars from GM's latest test fleet have completed the 50,000-mile test runs which the law requires. Three of these met the standards at the end. GM App. VI–11. Two more almost met the standards. This fleet was built and started running almost a year ago. Given the rate of progress in this field, it is reasonable to expect that its performance would be significantly better today. As Mr. Starkman of GM testified, "We are on a very steep learning curve." Tr. 2990.

Test data on durability cars run by other auto manufacturers for 50,000 miles also show a number of other examples where systems have achieved compliance with the 1975 standards or have come very close to doing so. Results for cars driven substantial mileage (for example, in the range of 20,000/30,000 miles) contain a sizable number of other cases where the 1975 Federal standards were being met. It must be recognized that other test cars have performed unfavorably and produced data considerably above the 1975 standards. In many of these latter cases the poor results are attributable to identifiable and correctable problems; in other cases, however, it is unclear whether such an explanation applies. It is also apparent from other data submitted on the basis of dynamometer and laboratory testing that significant improvements in catalysts have been made, making it reasonable to assume that future test results will be better than past test results. Tr. 917; 1322–24; 1356–60; 1423–25; 1496. On balance, I believe that an overall review of test data supports the judgment that solutions are close at hand to overcome any remaining obstacles which might interfere with achievement of the 1975 standards by the auto manufacturers.

The applicants contend that their test results show that, if catalysts are installed on all cars in 1975, a high proportion can be expected to fail in customer use. Indeed, this expectation of catalyst failure constitutes one of the principal arguments that technology is not "available" to meet the 1975 standards. The applicants further argue that ruinous legal liabilities could be imposed on them under provisions of the Clean Air Act that force the manufacturer to warrant the catalyst and provide for the recall of models of vehicles when a significant number are found to exceed standards. Some have also sought to raise a fear that the catalyst will pose a danger to the vehicle and its occupants.

Such arguments deserve careful consideration.

It is clear to begin with that a catalyst "failure" will neither harm the driver nor damage the vehicle. The term is used to describe a situation in which the catalyst for some reason deteriorates and therefore fails to burn the pollutants passing through it. The catalyst then sits inert on the tail pipe of a vehicle which performs in all other respects exactly the same way it did before.

Ford, when questioned on this point, said that the danger it feared from the nationwide installation of catalysts was simply that they would not control pollution as they should, and that Ford Motor Co. would be exposed to legal liability in consequence. Tr. 2191–93. General Motors was even more emphatic. Tr. 2431–2437. Similarly, the National Academy of Sciences testified that in expressing reservations about the use of catalysts it did not mean in any way to imply that vehicles in which the catalyst failed would not be safe and would not operate properly. Tr. 1605–06.

The only form of catalyst failure that any manufacturer suggested might be dangerous was melting. This can occur when the catalyst is supplied with an overdose of unburned hydrocarbons or carbon monoxide (caused, for example, by a failed spark plug) which overheats the catalyst due to higher temperature of combustion going on inside it. However, the only manufacturer of catalyst containers who testified stated that his company was willing to warrant that any such melting failure would not burn through the outside can if his company had supplied it, and that the outside of the can would not even get dangerously hot. Tr. 1541, 1550–51 (Walker Manufacturing Co.). Similarly, Ford testified that their catalyst containers had an adequate margin of safety against such failures. Tr. 286–87.

In my view such a record is clearly enough to outweigh a few recitals of testing mishaps, Tr. 384, 875, an asserted lack of sufficient knowledge by American Motors, Tr. 2363–64, and the perpetual fears of Chrysler, Tr. 2289–93. (Chrysler's expressed fears are contradicted by its own submission, which states: "When ['catastrophic failure'] occurs, there is no indication to the driver of the failure, except that in some cases the vehicle actually drives better and fuel economy may improve." C. App. p. I–34.)

It is difficult if not impossible to determine now what frequency of catalyst failure should be anticipated when catalysts are put into mass production and installed on cars for regular use. A substantial incidence of catalyst "failure" has been experienced by auto manufacturers in various testing programs. Claimed failure rates in the range of 10 to 20 percent have been made and Chrysler says it experienced failure rates "up to 40 percent."

In many cases, however, it appears that the auto companies have attempted

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[2] In this decision, the following abbreviated citations are used:

Tr.—The transcript of the March 1973 hearings.

May Dec.—My prior decision of May 12, 1972.

Dec.—The slip opinion issued by the Court of Appeals on Feb. 10, 1973.

C. App.—The Supplemental Statement of Chrysler Corp. dated March 1973.

F. App.—The Submission Upon Remand of Ford Motor Co. dated Mar. 5, 1973.

GM App.—The Statement of General Motors Corp. on Remand dated Mar. 5, 1973.

NAS Rept.—The Report by the Committee on Motor Vehicle Emissions of the National Academy of Sciences dated Feb. 12, 1973.

Ford Mem.—The Post-Hearing Memorandum of Ford Motor Co.

C. Mem.—The Post-Hearing Memorandum of Chrysler Corp. dated March 1973.

C. Doc., Vols. I–VI—The six volumes of documents submitted by Chrysler Corp. in response to Mr. Allen's requests made on Mar. 15 and 21, 1973, and set forth at Tr. 1143 and 2355–57.

EPR Minutes—Minutes of the Emissions Policy and Review Committee of Chrysler. These are contained in C. Doc., Vol. II and are cited by date.

to represent any physical damage to the catalyst as a "failure." In fact, a comparison of five melted or cracked catalysts from Riverside West (all claimed as "failures" by Ford, see F. App. table 4-6) with 14 unfailed catalysts that is made in the "Failure Analysis" section of the technical appendix indicates that the physical damage had no statistically significant effect on catalytic activity.

Chrysler data were not sufficient for such a comparison. It may be noted, however, that the dramatically "failed" catalyst portrayed (C. App. app. G., pp. 19-20) was tested after the extensive melting depicted had occurred and found to have conversion efficiencies of 70 percent for HC and 90 percent for CO.

The technical appendix also gives a detailed breakdown of the number of emissions failures due to engine malfunctions of a type that can be expected not to occur in production cars, and of the number of catalytic failures that appear to have been cured by technical advances (for example the "clamshell" mounting Chrysler has developed) or to have resulted from failure to use the most advanced system (for example, the lack of heat resistant ignition wires in Ford's Riverside West program).

It appears that the test cycles on which Chrysler ran catalysts are designed to overstress engine components so they will show their weak points quickly, and that in the past vehicles run on these cycles have had component failure rates about 10 times higher than in the field (Tr. 368, 418-19, 229, 2301, 2306-07). Many of these failures, moreover, have been associated with engine malfunctions of a type which the manufacturers generally admit will not occur often in normal use (Tr. 76-77, 416. See also Tr. 2959). Future experience with catalyst failure is also likely to be reduced as a result of improvements in heat resistance properties of catalysts, and progress in developing overtemperature protection devices. Consequently, it now appears probable that the overall effectiveness of catalysts installed in production vehicles will be reduced only within relatively narrow limits as a result of catalyst failure.

Overall, catalysts are highly effective pollution-control devices. Even a mediocre catalyst can be expected to destroy 80 percent of the carbon monoxide and about 50 percent of the hydrocarbons that pass through it.

Nor do the costs for the degree of emission control appear excessive. According to estimates in the 1973 NAS Report, with which my staff generally agrees, a 1975 model catalyst equipped car can be expected to cost about $160 more than the emission control system on a 1973 model. About $57 of this cost will be accounted for by the catalyst (NAS Report Table 5.2, pps. 90-93). Although additional costs to the consumer will result from the need to use unleaded fuel to avoid catalyst poisoning, unleaded fuel also is expected to create savings in maintenance costs which will be approximately equal to the costs resulting from removal of lead from fuel.

In summary, the development of technology to date, as reflected in the testimony and documents presented in these proceedings, holds promise for meeting the 1975 standards. In particular, catalyst devices now clearly appear to be effective, durable, and reasonably inexpensive.

2. *Evaluation of whether technology is available to meet the 1975 standards.*— The initial question raised by these applications is whether effective control technology is available to achieve compliance with the Federal 1975 standards with respect to 1975 model year vehicles. As previously indicated, a positive determination of this question must rest upon three separate subsidiary findings, namely:

(a) Enough models of vehicles to meet the 1975 basic demand for cars must be certified prior to commencement of production;

(b) It must be feasible to mass produce these cars in sufficient quantity to meet that demand; and

(c) The emissions control systems on these cars must function acceptably in actual use by customers.

(a) *Certification.*—The first question is whether technology has been developed to the point that manufacturers can meet requirements for certification of their 1975 models if tested by the 1975 standards. The certification procedures are based upon tests of prototype and preproduction vehicles. Therefore, examination of the probabilities for certification does not include consideration of any of the problems of mass production. What it does focus upon is the capability of a manufacturer to build a limited number of cars for each model line that it intends to sell which can meet the applicable standards. Since all of the test data are derived from cars which are in essence individually equipped prototypes, the test data bears directly upon this question. Because of the preliminary state of development a year ago, the question of certification was virtually the sole issue seriously discussed at the public hearings last spring.

The methodology used for analysis of test data submitted in these proceedings is discussed in greater detail below. My examination of the fundamental technical issue whether technology is adequate to make it feasible for auto manufacturers to meet the 1975 standards has included extensive analysis of test data utilizing this methodology. It has also included a review of the raw data to evaluate the significance that may properly be attached to test results without making adjustments as required by a system of methodology. It has also included a general review of the overall status of development as reflected in the evaluation of the NAS Report and testimony and other statements of persons having expertise in this field.

On the basis of my examination I find it extremely difficult to predict that enough models of vehicles to meet the 1975 basic demand for cars could be certified under the 1975 standards. I find that the 1975 standards can be met by technology utilizing a rotary engine, a stratified charge engine or a light-duty diesel engine. It is clear, however, that a shift over to such technology cannot be accomplished within time to meet more than a fraction of the 1975 basic demand. With respect to conventional internal combustion engines, I find that technology has developed to the point that many models (66 percent of sales) almost certainly would meet certification requirements under the 1975 standards. It is less certain that other models would be able to meet those requirements.

As indicated previously, the Court of Appeals in its decision has directed me to weigh the evidence and make my decision "by taking into account that the risk of an 'erroneous' denial of suspension outweigh[s] the risk of an 'erroneous' grant of suspension," Dec. p. 58. It cautioned me against holding the "safety valve" of suspension "too rigidly," Dec. p. 44, and advised me that these risk-balancing considerations, though they may seem to speak only to the "public interest test," must also be taken into account in determining whether technology is available, Dec. p. 47.

Weighing all of these considerations, I believe that presently available technology is probably effective to achieve compliance with the 1975 standards insofar as the certification requirements are concerned. However, I also believe that there is a significant risk that this determination would prove to be erroneous and that manufacturers would not be able to successfully certify vehicles at the statutory levels in sufficient numbers to meet basic demand for 1975 cars, either in California or throughout the Nation. My decision requiring California cars to meet slightly less stringent standards minimizes these risks without any significant adverse effect on air quality in California and assures that a full line of 1975 cars with catalysts will be certified for California. I believe this decision is in the public interest and is fully consistent with the Court's opinion.

(b) *Production.*—The second basic issue pertinent to my decision in this case is whether it is feasible to produce cars utilizing the best available technology, which in the case of conventional internal combustion engines includes use of catalysts, on a mass production basis in sufficient quantity to meet the 1975 basic demand.

At least 10 million automobiles are expected to be produced and sold in this country during the 1975 model year. If Federal emissions standards in that year require the use of catalysts on all conventional engines, somewhat more than 10 million catalysts will have to be produced and the automobile assesmbly lines will have to be adapted to provide for catalyst installation.

At present neither the auto industry nor the catalyst industry has any significant experience with the mass production or handling of the type of catalysts that will be required. Furthermore,

the evidence before me indicates that the auto industry has drastically abbreviated many of its normal procedures in order to stand ready to put catalysts on all 1975 vehicles. Construction and tool-up commitments have been made while the final design of the component that will be produced in these facilities is still under development. The normal procedure of phasing in new technology across a portion of the model line, which allows major unforeseen problems to be discovered and dealt with, has been dropped. Even the normal shakedown time used to correct minor defects in new assembly lines has been greatly abbreviated.

The elimination of these procedures has allowed the industry to preserve capacity to put catalysts on all its 1975 cars. By that I mean that the applicants have made all the necessary long term commitments for plant construction, tool-up, release of designs, and the like, which have had to be made up to now, and have thus been able to adhere to a schedule which, if all went well, would allow sufficient numbers of catalysts to be produced and installed.

There remains, however, the possibility that all may not go well. The company which has laid the most stress on this point is General Motors.

In its opening statement, GM testified that it had drastically compressed "the normal procedures for procuring and testing machinery," and had pushed its manufacturing plans "in parallel with the development program." They added, "Since neither component development nor process development will have had the benefit of the usual testing procedure, our experience tells us serious unforeseen production problems are very probable." (Tr. 24; see also Tr. 29.)

GM reiterated these points in subsequent testimony (Tr. 129–30, 222–23), which included a detailed description of the complexities of starting a new production line (Tr. 159–62, 166–68). Although GM's main emphasis was quite frankly on unknown problems that their business judgment told them were to be anticipated, the witnesses presented both specific examples of areas where problems might arise (Tr. 162, 171–72, 222–23, 2450–51), and a paper outlining instances where this had happened in the past (Tr. 2395–98, 2429–30, 2453–54).

Ford also made these points (F. App. pp. 4–50, 4–53, 4–62, Tr. 284, 2195–96). However, they laid relatively more stress on problems in producing the catalysts themselves.[3] F. App. pp. 4–28–32; Tr. 263–65). Ford claims that "failure mode analysis" which it has carried out on the catalyst production process shows there are two to three times as many ways for that process to fail as is the case for other new components (Tr. p. 265; see F. App. pp. 4–29–30).

American Motors also raised the possibility of production difficulties (Tr. 2367–68).

[3] This may be because the task of quality control is more difficult for a monolithic catalyst (which Ford proposes to use) than for the pebble catalyst GM has chosen (Tr. 1396–97).

If the only statements forecasting such problems came from auto manufacturers, I might well discount that testimony, for the applicants for extensions have an obvious interest in painting a dark picture of what will happen if catalysts are required nationwide 15 months from now.

One manufacturer of catalyst components, however, echoed these fears in the strongest terms. (Tr. 1544–48, 1552–53, 1558, 1565–66) (Walker Manufacturing Co.). Another testified less emphatically, but to the same effect. (Tr. 1421–22, 1429–30) (W. R. Grace & Co.). The remaining four manufacturers were more optimistic about their own capacities, but none disputed the auto companies' statement that there might well be problems with the process as a whole. (Tr. 1449, 1462 (American Lava Corporation); 1507–1510 (Corning Glass Works); 918–19 (Engelhard Industries); 1312 (Matthey-Bishop, Inc.); 1381–82, 1390–92, 1396 (Universal Oil Products Company)). Since it was against the financial interest of the catalyst companies to give testimony that might lead to delaying the nationwide use of catalysts by a year, this evidence has had weight with me.

I have also noted that the desirability of a gradual phase-in of new production facilities was endorsed by the State of California (Tr. 2729), and the machine tool industry (Tr. 1964, 1973, 1976–79, 2011–12).

I find that it is feasible to mass produce catalyst-equipped cars in 1975 but that the use of catalysts on all cars sold in this country in 1975 would entail a significant risk of economic dislocation arising from the inability to acquire a supply of acceptable catalysts, problems on the assembly line, or both. These risks could materialize abruptly, and force the unplanned cessation of production, with attendant layoffs of employees and possibly serious disruption of the national economy. While these risks cannot be quantified, I believe, as did the court of appeals, that they must be considered to outweigh the slight gain in air quality that might result from requiring catalysts on all 1975 cars. This conclusion is fully consistent with the overall objectives of the Act, and it is the decisive consideration underlying my decision to phase-in catalysts technology, rather than to require its use on all automobiles in 1975.

(c) *Warranty and recall.*—For reasons already stated, I believe that catalytic converters will reduce automobile emissions in actual use and may well constitute a more efficient means of controlling pollution from conventional automobiles than engine modification even when the catalyst operates at a fraction of its potential. I do not believe that catalyst failure in use will occur to such an extent as to subject manufacturers to extraordinary warranty or recall liabilities.

Manufacturers can protect themselves from liabilities in various ways. As my earlier decision points out,

> There is no question but that some systems will fail. This does not necessarily mean that repairs will be required at the manufacturer's expense, for the performance warranty and recall provisions are conditioned on proper use and maintenance by the owner. In the case of recall, a "substantial number" of a class or category of vehicles must be found to exceed applicable standards. Where a manufacturer is required to pay for necessary repairs, the data indicates that relatively simple adjustments to air and fuel inputs to the engine or exhaust treatment components may be effective in many cases to remedy nonconformity with the standards. (May Dec. p. 12)

Manufacturers of catalyst-equipped vehicles should, of course, instruct purchasers not to use leaded fuel. Reduced catalyst efficiency caused by lead "poisoning" will therefore result from violation of the manufacturer's instructions for maintenance and operation of the vehicle and will not subject manufacturers to liability under the Act's warranty or recall provisions.

My earlier decision also points out that

> It is the manufacturer's obligation to design the vehicle so that operations which may impair emission control are difficult to perform where this is possible, and to caution purchasers against using vehicles in ways or for purposes that can be expected to cause failure of the emission control system. Wherever possible, systems should be built into the vehicle which warn the operator of component failure or impending failure. (Id. fn.)

Catalyst failures caused by continued operation of a vehicle after a warning signal is given to the driver or by operations likely to cause catalyst failure would not result in liability if reasonable and necessary instructions by the manufacturer clearly prescribe such operations.

In addition, the evidence indicates that catalysts retain a substantial conversion efficiency even after severe thermal or mechanical stress. For example, data submitted indicates that in some cases catalysts which had melted as a result of severe thermal stress continued to oxidize more than 70 percent of the hydrocarbon and more than 90 percent of the carbon monoxide emissions from the engine. In other cases, visibly broken or extruded catalysts evidence a similar effectiveness. In such cases, emissions from the vehicle may exceed the certification standard but would not necessarily cause the vehicle to fail an appropriate inuse test.[4]

Finally, my decision requiring limited introduction of catalysts during the 1975

[4] It is inevitable that some production vehicles will exceed the certification standard during their useful life even where the vehicle is in all material respects of substantially the same construction as the successfully certified prototype. For this reason, I do not believe that the act requires that the certification standard govern warranty and recall. If that were so, manufacturers would be required to repair vehicles which differ from the certification prototype only in manufacturing tolerances essential to a mass production system. These vehicles would on the average reflect the same degree of emission reduction as the successfully certified prototype and would, in most cases, have no repairable defect.

model year should permit manufacturers to exercise a high degree of quality control over catalytic units produced in that year. While deficiencies may occur during initial production, the limited scale of 1975 catalyst production should permit manufacturers to correct these deficiencies without undue hardship. The experience gained will, in my judgment, further minimize inuse failures in subsequent production years.

3. *Methodology and interim standards.*—a. *1975 standards.*—(1) *Background to methodology.*—The most germane and relevant information for determining what lies within the technological reach of each manufacturer would be raw test data on the most effective emission control systems, generated according to the strict procedures of the certification durability test procedures. It is understandable, however, that the development programs of manufacturers vary from this ideal in two respects: They have investigated some components and systems which proved not to be as successful as others; and they have accumulated mileage by procedures other than the Federal certification procedures. Consequently, it is often inappropriate to take the raw data from these development programs as indicative of whether a manufacturer can or cannot achieve a specified level of emissions under applicable certification procedures.

To avoid the dilemma of relying either on no data or on somewhat irrelevant data, it is necessary to develop a methodology that does three things: first, it selects some data, excluding those data which cannot be made germane; second, it makes adjustments to the selected data where appropriate to make their emission levels germane; third, using the selected and adjusted data, it determines which are the best systems.

The court of appeals recognized the validity of using a methodology to make predictions, but insisted that a showing be made of the reliability of the methodology. This my staff has attempted to do, striving to avoid the features criticized by the court in last year's decision and in no case relying on assumptions which were not supported by data or reasoned analysis.

Numerous and diverse methodologies were offered by the manufacturers for predicting their ability to meet the 1975 Federal standards. In many instances, these methodologies had salutary features. In others, they had flaws such as relying upon raw data which was not generated by, or converted to, the Federal certification procedures, or relying upon technological halfway houses rather than upon the best systems which had been developed.

An extensive proposed methodology was issued by the Agency to the manufacturers on March 9. Members of my staff and their staffs met for informal discussions on March 17. The manufacturers submitted critiques the following week, with more supplemental material thereafter. Many of the disputed features of the proposed methodology and of last year's methodology have consequently been eliminated or changed. It is unavoidable, of course, that disagreements will remain on some points.

(2) *Description of methodology.*—The methodology employed herein assesses the state of technology for each engine family being produced by each manufacturer. This significantly expands the data base for each manufacturer from considering a single overall best system to considering many. The methodology uses each of these systems in its analysis.

Within each engine family, every effort has been made to distinguish between different systems without mistakenly drawing lines between different vehicles within the same system whose different emissions were due only to test-to-test, car-to-car, or deterioration factor variability. In other words, a "best car" analysis has been avoided and a "best systems" analysis has been pursued.

Where engine families were not the subject of adequate testing on which to perform this rigorous analysis, the emission levels have been assumed to be equal to those of similar engine families. Where no similar engines were tested, the engine family has not been considered to represent either success or failure in meeting the 1975 standards; the results from other engine families have been taken to represent the ability of the manufacturer. These procedures are more reliable than either the "average system" recommendation of Ford or the method contained in the proposed EPA methodology.

Since catalyst failure has been stressed by each applicant, a "failure analysis" has been conducted to determine the relevance of the reported failures to the overall technology of the applicant. In the majority of instances, the "failures" were more apparent than real.

The most controversial aspects of the methodology are likely to be the "adjustment factors." It is in the nature of development programs that not all vehicles will represent the best systems available to a manufacturer. But it would be absurd to give the less-than-the-best systems the same weight in an assessment of the state-of-the-art that is rightfully due to the best systems. On the other hand, to consider only the few instances in which the manufacturer has reached the pinnacle of technology would be to constrict the data base to a practically unusable degree. Consequently, the methodology applies a few carefully selected, conservative "adjustment factors" to estimate what the less-than-the-best systems would have done had they contained state-of-the-art components, been run on the proper fuel, and so forth. The Court of Appeals opinion clearly endorsed the use of such adjustments if they could be supported by relevant data. EPA has excluded several factors which might be justified and included only those in which the level of confidence is extremely high.

Finally, a statistical correction has been applied to take account of the problems of test-to-test, car-to-car, and deterioration factor variability. The court of appeals required me to have a high degree of confidence in any conclusions which might lead to a denial of suspension. This high degree of confidence has been assured by the use of a "Monte Carlo" statistical technique (similar to that used by General Motors) which generated the emission level distributions expected to occur when the durability tests are repeated during the "official" certification effort. A quarter of a million calculations were performed, and the predictions contained herein are only those which can be said to represent a 95 percent confidence level in their accuracy. In short, the odds are 20 to 1 that any vehicle will do better than I have predicted rather than worse.

(3) *Results.*—The result of this conservative analysis has been a conclusion that although General Motors could meet the 1975 standards with at least 93 percent of its sales, Ford could be assured of meeting them only with 55 percent, American Motors and International Harvester only with 26 percent, and Chrysler with none. The overall percentage for the industry would be at least 66 percent. I do not consider that sufficient to satisfy basic demand. It is likely that even better results could be achieved, but these are confident minimums.

b. *Interim standards.*—Since the Clean Air Act requires that interim standards be set if a suspension is granted, I have established the standards described earlier. The law requires that such standards

> reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers. Section 202(b)(5)(C).

Catalyst technology is generally available. But possible production problems could constitute too high a cost in terms of lost production and unemployment if catalysts were required on 100-percent production. These problems will be mitigated to the extent that manufacturers are able to meet the national interim standards without catalysts. Consequently, I have decided upon interim standards for California (including approval of waivers for California) which reflect the levels achievable with catalysts and national interim standards which will not require catalysts on most models. I have given appropriate consideration to the cost of applying such technology within the period of time available to the manufacturers.

(1) *California.*—The levels achievable by a portion of the national production capacity are 0.9 grams per mile HC, 9.0 grams per mile CO, and 2.0 grams per mile NOx (1975 FTP). At these levels, I expect the manufacturers to market a full range of vehicles in California, although there may well be a few models of some manufacturers which do not meet these standards. Any unmarketed models would be expected to be replaced

by other models of the same manufacturer, or by vehicles sold by other manufacturers. In this way, competitive pressure is likely to be a strong force for clean air.

(2) *National.*—The national interim standards are based on a judgment that substantial progress has been made in emission control since the manufacturer's 1973 certification program. To a large extent, the technology is available to allow manufacturers to meet the 1975 standards of 0.41 HC, 3.4 CO, and 3.1 NOx. This technology is based on use of catalytic converters, quick heat intake manifolds, air injection, fast release chokes, and improved ignition systems. The national interim standards of 1.5 HC, 15.0 CO, and 3.1 NOx could be met by all applicants using this catalyst technology. In addition, most manufacturers are expected to be able to meet these standards without catalysts, using recalibrations and other components of their best systems.

In addition, items such as superquick heat intake manifolds, variable ratio air pump drives, large capacity exhaust manifolds, and proportional exhaust gas recirculation systems which were not generally planned for use with catalyst systems could lower emissions further without use of a catalyst. Currently available engine-modifications and components have resulted in impressive emission reductions, as discussed in the technical appendix to this decision.

While the amount of available data does not lend itself to a quantitative methodology in predicting levels achievable by using the most promising systems without catalysts, the interim standards represent my best judgment of the achievable levels.

4. *California phasein of catalyst technology.*—I have discussed above my conclusion that catalytic converters have been demonstrated to be effective and safe. Catalysts promise a dramatic gain in automobile emission control and will be required to achieve compliance with the 1975 statutory standards in cars having a conventional internal combustion engine. Although I have determined that installation of catalysts on all 1975 cars carries with it the possibility of serious production problems and that consequently it is in the public interest to provide an additional 1-year period before commencing nationwide use of catalysts on all models, I have also found that it is feasible and in the public interest for catalysts to be used on a substantial portion of 1975 vehicles. A phase-in of catalysts during the 1975 model year will lay the necessary foundation for full-scale use of catalysts in 1976.

I have considered a number of options to implement a phase-in approach to catalysts during 1975. Of these, the two basic choices involve: (1) Setting a single nationwide set of interim standards at a level which would permit certification of most vehicles without use of catalysts but would require use of catalysts on a larger number of models than the national interim standards prescribed in this decision will require, or (2) selecting a geographical area in which to require catalysts on all cars, while establishing a national standard for cars to be sold in other areas which can be met without catalysts on most models. For a number of reasons I have chosen to adopt the latter approach by requiring catalysts on all 1975 models sold in the State of California.

A number of disadvantages could result from any decision to rely wholly on a single set of national interim standards to force partial introduction of catalysts. The major deficiency is that the requirement to install catalysts probably would fall quite unevenly on the different auto manufacturers. Whatever the level of control that was required, a high risk would exist that the standards would force one or more auto manufacturers to use catalysts on a large part or even all of its vehicles while permitting other auto manufacturers who may enjoy at this time a slight lead in emission control technology to use few catalysts or perhaps none at all. Because such a result would cause most of the experience with catalysts to be developed by those manufacturers least advanced in emissions control technology, the full benefits of phasing-in catalysts might well be lost. In such a case, the financial burdens of the phase-in would also fall unevenly upon the different auto manufacturers and the risks of possible sever dislocations would not be avoided.

By imposing catalyst-forcing requirements on essentially all vehicles to be sold in the State of California, the benefits of an across-the-board partial phase-in of catalysts will be assured. All manufacturers will be required to use catalysts on a significant fraction of cars in each model line, but none will be subjected to the possibly overpowering burdens of placing catalysts on all of its cars.

A number of factors support the advisability of conducting the needed phase-in in California. As I have already noted, there is a well-established pattern that emission control advances have been phased in through use in California before their use nationwide. This pattern grew out of early recogniton that auto-caused air pollution problems are unusually serious in California. In response to the need to control auto pollution, California led the Nation in development of regulations to require control of emissions. This unique leadership was recognized by Congress in enacting Federal air pollution legislation both in 1967 and in 1970 by providing a special provision to permit California to continue to impose more stringent emission control requirements than applicable in the rest of the Nation. California has regularly applied for and received waivers under this provision from the Federal preemption of State regulatory authority to control emissions from new vehicles, and California has an existing regulatory structure for implementing and enforcing requirements applicable only to cars sold in California.

The experience of Federal and State officials as well as the industry itself in meeting such standards for California will facilitate an orderly implementation of the more stringent, catalyst-forcing standards for California in this case. That experience will be buttressed by the capability of California State officials to apply the established State enforcement authorities to implement these requirements. While my decision does not grant fully California's pending request for a waiver for 1975 cars, it grants California's request in substantial part. I have no reason to believe that California will not participate fully in the implementation of this decision. Informal and preliminary discussions with representatives of California, and testimony by California in these proceedings, indicates that California's response will be positive.

I believe that my decision represents a fair and legally proper application of the statutory directive that I set interim standards reflecting "the greatest degree of emission control which is achievable by application of technology which * * * is available." Under the facts which I have found to exist, maximum utilization of available technology can be achieved only through some approach requiring a phase-in of catalysts. I am sensitive to the emphasis placed by the court of appeals on applying the statutory requirements in the manner that best serves the public interest. In my judgment, this approach is clearly the best available alternative to serve the public interest.

In setting interim standards for the rest of the country, I have not felt constrained to avoid any reliance upon catalysts to enable auto manufacturers to meet the certification requirements. I anticipate that for certain model lines catalysts may be required. The likelihood that a significant number of cars will be distributed across the country equipped with catalysts will supplement the experience derived in California in a beneficial way.

If the new technology is largly restricted to California vehicles in 1975, it is the testimony of both General Motors and Ford that all the processes needed to mass produce catalyst cars can be tested out on a limited scale that makes tighter quality control possible and allows extra energy to be applied to the cure of any problems that may arise (Tr. 30, 130–31, 141–42, 158, 163–64, 167–68, 2403 (GM); F. App. I–14–15, Ford Mem. pp. 63–64, Tr. 271, 276–77, 285–86, 288–89, 2032–33).

Both companies also stated that they would be able to focus their energies to deal more effectively with such in use failures as did occur if the first introduction of catalysts were in a limited geographical area (Tr. 135 (GM) Ford Mem. p. 64, Tr. 2034, 2194–95, 2972 (Ford)).

Finally, both companies urged the desirability of getting field experience with a large number of catalysts before shifting to full national production, though Ford stressed this more than GM (GM App. pp. I–8–9, Tr. 87, 2400 (GM); F. App. p. I–17, Tr. 271, 286, 2131–32, 2195 (Ford)). In my view the likely gains on this score are significant, though less important than the gains in production experience. Both GM and Ford are presently starting field tests of large fleets of

catalyst-equipped cars from which they hope to learn the major problems such vehicles will encounter in use (Tr. 130-31, 142-46 (GM); Tr. 282-83 (Ford)). There should be time for at least one more such test fleet before 1976 certification begins.

Still, some tangible benefits for 1976 vehicles can be expected to flow from field experience with catalysts on some 1975 cars, even though there will not be much more than a few months between the time such vehicles go on sale in the late summer of 1974 and the start of 1976 certification testing in the fall of that year. Experience can be gathered on how to service these cars and correct any problems they may have in use. In addition, some corrections thought desirable in the light of phase-in experience may be incorporated on 1976 vehicles as "running changes," even after certification testing has begun (Tr. 158).

Of the other two auto companies, American Motors has somewhat reluctantly recognized the desirability of introducing catalysts on a limited basis in 1975 (Tr. 3005-06). Only Chrysler remains unalternably opposed (Tr. 381, 399-400, 3051), though it has accepted the desirability of such an approach in principle (Tr. 451).

Concern was expressed that limited introduction of catalysts a year before their nationwide use would lead to a significant price increase in certain components. This fear was expressed by Engelhard (Tr. 1016-18, Matthey Bishop, Tr. 1313-15, UOP, Tr. 1398-1401, W. R. Grace, 1430-31, and Corning, Tr. 1498-1500). These witnesses foresaw a price increase for the substrate and its coating due to inability to realize full economies of scale. No price increase is foreseen for the can (Tr. 1547).

For a number of reasons, I conclude that this fear is not of overriding importance. Each of the witnesses indicated that it might well be possible to reduce or even eliminate such price increases if capital costs were reduced by the use of smaller or existing facilities (Tr. 917-18 (Engelhard); 1314-15 (Matthey Bishop); 1402-03 (UOP); 1431 (W. R. Grace); 1484-85 (American Lava); 1500-01 (Corning)).

The two major auto companies each indicated that even if any likely cost increase were passed through to the consumer, the resulting rise in sticker price would not exceed $45 (Tr. 2819-90, Ford Mem. p. 66 (Ford); Tr. 2419-20 (GM)).

Finally, competitive pressures will be at work to hold California prices down. If even one major company finds that the prices of its catalysts do not rise very much, all others in the market will be pressed to match the prices the first company can offer. Even in the very unlikely event that no American company finds itself in such a position, competition from Honda and Mazda (each of which makes a disproportionate percentage of its U.S. sales in California) can be expected to hold prices down.

5. *The 1973 Report of the National Academy of Sciences.*—Under section 202 (b) (5) of the Clean Air Act, I may only grant a suspension if a study of auto pollution controls which the Clean Air Act requires to be made by the National Academy of Sciences "has not indicated that technology, processes, or other alternatives are available to meet such standards." The court of appeals placed particular emphasis on this test, stating that:

> Congress called on NAS, with presumed reliance on the knowledge and objectivity of that prestigious body, to make an independent judgment. The statute makes the NAS conclusion a necessary but not sufficient condition of suspension (December p. 59.)

The court also said:

> While in consideration of the other conditions of suspension, EPA was not necessarily bound by NAS's approach, particularly as to matters interlaced with policy and legal aspects, we do not think that it was contemplated that EPA could alter the conclusion of NAS by revising the NAS assumptions, or by injecting new ones, unless it states its reasons * * * possibly by challenging the NAS approach in terms of later-acquired research and experience. (December pp. 59-60.)

In its most recent report, and in its testimony at the hearings, the NAS addressed each of the three components of a conclusion that technology is "available" and "effective" to achieve compliance, namely: (i) Ability to certify, (ii) ability to produce the vehicles certified, and (iii) ability of these vehicles to comply in use.

The Academy concluded that conventional engines equipped with catalysts "will meet the prescribed emissions standards during certification testing." (NAS Rept. p. 2.) Under questioning at the hearing, it was explained that this statement meant that "a substantial number of vehicles will qualify." It did not exclude the possibility that a smaller, but still significant number of vehicles would not qualify (Tr. 1602, 1604, 1625). This is wholly consistent with my finding. (P. 15, above.) Nor does the Academy expect that a manufacturer would be able to predict which of his vehicles would certify and which would not in advance of the completion of certification testing (Tr. 1604-05).

The Academy further concluded that vehicles incorporating certified systems "can be mass-produced in great enough volume to satisfy, in aggregate, the expected demand for vehicles in model year 1975" (NAS Rept. p. 2). The NAS adhered to this position at the hearing (Tr. 1581-82; 1599; 1624-28), although it refused to speculate on the extent to which production problems might result. I do not disagree that it is physically possible to equip 1975 cars with catalysts. The question remains whether to force catalysts on all cars in 1975 is in the public interest. My finding on the feasibility of mass production (p. 10322, above) was based on evidence indicating a significant risk that production problems could materialize and could have substantial effects on the national economy.

Finally, the NAS stated that there were good reasons to doubt whether vehicles in actual use would meet the standards under which they were certified (NAS Rept. 69-72, 85-86, 115-116, 124-125). NAS stated at the hearing that these fears were based mostly on a lack of sufficient field data concerning more stressful conditions that might be encountered by catalyst-equipped cars in actual use (Tr. 1615-17).

The NAS findings read in the light of the court's opinion do not appear to constitute a legally sufficient conclusion that technology is available to meet the statutory standards. The NAS itself admitted that there is a chance that a significant number of engine families would not certify and did not deny that production problems were a significant possibility. The NAS did not have the benefit of the court's opinion, and in addressing the issue of technical feasibility of compliance with the standards the NAS apparently did not believe that these risk-balancing considerations were relevant. However, in addressing these and other considerations elsewhere in its report, a majority of the NAS Committee expressed the view that suspension of the standards for 1 year would be "prudent" (NAS Rep., p. 126); and the report presents data which indicates that the effect of a 1-year delay on national air quality would be relatively slight. (Id. pp. 119-124.)

For these reasons, I believe that the several NAS reports, including the most recent report, are consistent with my conclusion that a phase-in of catalysts in 1975 is in the public interest.

6. *The public interest.*—The compelling reasons which cause me to find that the public interest requires a suspension of the 1975 standards have already been discussed. The other reasons urged on me for finding that suspension would be in the public interest are in my judgment insubstantial. The reasons most commonly cited are that increased fuel economy and better performance and driveability would result from a suspension, and that the grant of an extra year would give the industry "breathing room" to switch over to a means of emissions control superior to catalysts. I will discuss these claims and certain considerations urged upon me for denying suspension in this section of the decision.

a. *Fuel economy.*—Testimony on the impact that achieving the 1975 standards through use of a catalyst would have on fuel economy varied over a narrow range. GM stated there would be no loss in fuel economy over present levels, and might even be a slight gain (Tr. 176-78).

Ford's submission also contained data to show that its most representative durability fleet of 1975 type vehicles had approximately the same fuel economy as 1973 certification vehicles (F. app. p. 4-46). Another group of vehicles which aimed at greater NOX control than will be required in 1975 had demonstrated a 6 percent fuel penalty. After questioning by the hearing panel regarding this apparent inconsistency, Tr. 309-14, Ford submitted new data comparing the 1975 durability fleet with 1973 production vehicles that showed a 3.9-percent fuel economy loss (Tr. 2048-60). Since Ford

has traditionally calibrated both its test and its certification cars with significantly different air/fuel ratios from its production models, limited weight can be given here to such a comparison.

Chrysler introduced no miles-per-gallon data at all, but under questioning by the panel stated that its estimate of the penalty was 3 percent, which was described as "negligible" (Tr. 423–25). An internal Chrysler status report dated last fall indicated there would be no mileage penalty associated with the 1975 catalyst system, EPR minutes September 8, 1972, but Mr. Heinen testified that studies received thereafter had led to a correction of that figure (Tr. 3228–29).

American Motors testified that there would be "essentially no fuel penalties" associated with the use of a catalyst (Tr. 905). This was also the testimony of Engelhard (Tr. 1018), UOP (Tr. 1326–27), American Lava (Tr. 1469), Nissan (Tr. 1890), Mobil Oil (Tr. 1695), and New York City (Tr. 2232). Volkswagen estimated the penalty at "zero to 5 percent" (Tr. 1859).

On this record, I conclude that there is no significant evidence that more than a 3 or 4 percent mileage penalty will be associated with the use of catalysts in 1975, and that the great weight of the evidence suggests that there will be little or no penalty at all in comparison to emission control systems on 1973 vehicles.

The best data available indicates that a 2-percent increase in petroleum consumption will be required to refine gasoline to required octane levels without use of lead additives to prevent catalyst "poisoning" by leaded gasoline (Tr. 1655). Chyrsler estimates that a 4-cent per-gallon price increase will result from this refining penalty (Tr. 430–31). However, the Bonner and Moore study[5] (which seems supported by more persuasive documentation) indicates that less than a quarter of a cent increase in production cost will result.

b. *Performance and driveability.*—The only one of the applicants to suggest that 1975 cars with catalysts may show a decrease in either performance or driveability, as compared to current cars, was Ford Motor Co. (F. app. 1–15, 2–87).

However, in a letter to Dr. N. D. Shutler of EPA, dated March 28, 1973, Ford supplied driveability data for a "representative sample" of its 1973 production vehicles. Comparison of these figures with the driveability ratings supplied for Ford's Riverside West fleet (F. app. pp. II–180–89), reveals no significant differences.

In a March 28 letter to Dr. Shutler, General Motors indicates that the driveability of 1975 vehicles is expected to be at least equal to that of the 1973 models.

c. *Development of alternative technologies.*—Both the court of appeals and the NAS have suggested that a suspension might be in the public interest because it would give manufacturers time to adopt alternative emissions control technologies superior to the catalytic converter. In response to this concern, EPA has carefully investigated the development status of such technologies, chiefly the rotary, the diesel, and the Honda CVCC engine.

It does not yet seem clear that either the rotary or the diesel can be confidently regarded as markedly superior to the present engine. Though Toyo Kogyo has achieved the 1975 standards with a rotary engine (Tr. 1786), their engines suffer a fuel penalty of between 15 to 17 percent compared to conventional engines (Tr. 1792). GM, which claims to be on the way to solving the fuel economy problems of the rotary (Tr. 219–20), has not yet been able to achieve the standards (Tr. 27).

The diesel, though superior in fuel economy and in emissions control, has found only limited customer acceptance, though this may change if the price of gasoline continues to rise (Tr. 208–10, 1902–03, 1919–23). The major problem with widespread use of diesel engines in passenger cars concerns particulate emissions and odor. While these are not a problem now, with only a few diesel-powered cars on the road, an increase in the number of diesels could create a serious problem.

The Honda CVCC engine is a different case. All Honda vehicles tested by EPA have met the 1975 standards with ease. Honda has reported that a Vega modified to the use of their system also met the 1975 standards, and its fuel economy improved. At the hearings, Honda presented the first data points from a standard-sized Chevrolet that had been adapted to meet the standards, and has since issued a press release, unverified by EPA, stating that another such car has been successfully modified. Since the Honda system rests on changes in the actual structure of the combustion chamber, there seems no reason to expect that its performance will deteriorate with use anymore than present systems.

It is true, nevertheless, that not much is known about the Honda engine. GM, the American manufacturer whose negotiations with Honda appear to be furthest advanced, has not yet been told exactly how the system works (Tr. 2994). As yet there is no clear assurance that the same approach will work for larger vehicles, though the preliminary reports are encouraging. Nor is there a sufficient data base to predict with confidence what the fuel economy performance of the CVCC really is. Finally, although the CVCC system is said to be inexpensive, NAS report page 101, definitive information on that point is not yet available.

Although these potential difficulties should be noted, I do not dispute the NAS judgment that the CVCC system appears to constitute superior technology, particularly as regards durable emission control. The record is clear, however, that even if the other manufacturers elected today to employ the CVCC system on their vehicles as rapidly as possible, it would take considerably more than 5 years to modify existing production equipment.[6] Control of emissions to anything like the statutory 1975 levels will therefore almost certainly depend on the use of a catalytic converter on large numbers of vehicles for a substantial period of time.

In addition, I am convinced that the best way to accelerate development and use of a superior technology is to put strict emissions control requirements into effect as soon as they are technologically feasible. The merit of the Honda appears to lie in its ability to achieve low emissions levels without some of the difficulties that are associated with other approaches. If that is indeed the case, the sooner strict standards are adopted the sooner the Honda engine will be able to show its true strength in the marketplace. When this happens, other companies will be spurred by competitive forces to adopt it.

Honda itself plans to put CVCC engines into production this summer on its 1974 cars for the Japanese market (NAS Rept. p. 97). Honda plans to sell cars with CVCC engines in the United States during the 1975 model year (Tr. 1758).

d. *Consideration supporting denial of suspension.*—Under the heading of "public interest" it is also necessary, of course, to discuss any reasons why a suspension might not be in the public interest. Clearly the overriding consideration here is the urgent need to clean up this country's air, and particularly the air of our major cities.

The possibility that any decision to suspend may have the effect of delaying the necessary improvement in our air must be addressed.

On the record before it last February, the court of appeals found that the environmental effects of a 1-year suspension would be "relatively modest," even if no interim standards more stringent than the 1974 standards were established.

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[5] "An Economic Analysis of Proposed Regulations for Removal of Lead Additives from Gasoline," Bonner & Moore Assocs., Inc. (March 1972).

[6] Not even Honda thought it would be possible to produce any American cars with their system by 1975 (Tr. 1774), though GM may be exploring the possibility of doing just that for the Vega with parts imported from Japan (Tr. 2992–94). One GM witness had testified previously that if granted an extension, GM would "consider" use of the CVCC for the Vega in 1976 (Tr. 198). Another seemed to say that not even this much would be done (Tr. 197–98). Ford, Chrysler, and American Motors all claimed it would be impossible to install the Honda engine on any of their cars by 1976 (Tr. 322 (Ford); Tr. 391 (Chrysler); Tr. 2392 (American Motors)). Two machine-tool manufacturers expressed their opinion that it would take 12 years to convert the auto industry to produce a completely new type of engine, such as the Wankel (Tr. 1938–39; 2013). While the CVCC system may not require such extensive changes (Tr. 1764–65), Ford has claimed that widespread introduction of the Honda engine is not possible until 1978. (F. App. 4–77–78), and that the complete changeover will take a decade (Ford Mem. p. 65). Chrysler made the same estimates (C. App. p. IV–E–4). (See also Tr. 197–98 (GM); Tr. 3031–32 (Chrysler)).

and directed me to weigh adverse effects on air quality lightly against the risk of economic harm. This judgment of the court relating to air quality impact was challenged by some witnesses at the public hearing.

The two sets of interim standards I am promulgating today will help to ensure that the environmental impact of suspension is in fact "modest." The high degree of pollution control these standards represent has already been presented. It is the best judgment of my staff that if cars sold in the 1975 model year meet these interim standards, rather than the 1975 requirements, no measurable difference in carbon monoxide concentrations will result in 7 of the 25 air quality control regions that currently will require transportation controls, and no measurable difference in concentrations of hydrocarbon products (oxidants) will result in 21 of the 26 air quality control regions needing transportation controls for hydrocarbon emissions.[7] This analysis assumes, of course, that cars sold in 1976 and thereafter will meet the statutory 1975 standards for hydrocarbons and carbon monoxide.

In addition, there is some possibility that the introduction of catalysts nationwide in a single model year might lead to reduced car sales in that year and thereby offset any gain in new car emission reduction by slowing down the rate at which older, high-polluting vehicles are retired from service. I find it highly unlikely that such a result would stem from customer rejection of the 1975 models, since they are expected to have essentially the same performance, driveability and fuel economy as the 1973 models which are currently selling at a record rate. However, production difficulties that could lead to a reduction in the number of cars reaching the market might have this effect. It appears that losses in production due to nationwide catalyst use could be enough to offset any increase in air quality due to gains in emissions control performance (F. App. pp. 5–103–113, esp. p. 112).

Finally, where additional transportation controls are needed, local jurisdictions outside California may require fleet vehicles to be fitted with catalysts as a condition of licensing for commercial operations. My decision to require catalysts on all California models in 1975 will assure that a representative range of new 1975 vehicles with catalysts will be available for fleet purchases in major cities.

e. *Lead-free gasoline.*—Catalyst-equipped vehicles require gasoline with a very low lead content in order to avoid lead "poisoning"[8] of the catalyst. Since the interim standards established by this decision will require catalysts on all vehicles sold in California, many of which will undoubtedly travel to other parts of the country, and on a significant number of vehicles sold in the other 49 States, lead-free gasoline must be generally available nationwide by the beginning of the 1975 model year. This will be accomplished by regulations that have already been promulgated (38 Fed. Reg. 1254, Jan. 10, 1973).

The regulations require a maximum trace lead content of 0.05 g/gal with the goal of achieving 0.03 g/gal on the average. Although some skepticism has been expressed as to whether an average lead content of approximately 0.03 g/gal will actually be achieved in the field, the information available to me reveals no substantial doubt on that score (Amoco (letter of May 9, 1972, from B. J. Yarrington to Deputy Assistant Administrator for Air Programs, EPA), Texaco (letter of March 19, 1973, from W. J. Coppoc to Dr. N. D. Shutler, EPA), Exxon (letter of March 26, 1973, from D. F. Dickey to Dr. N. D. Shutler, EPA), and Mobile, Tr. 1745–46).

7. *Good faith.*—The act requires that, before I grant an extension of time to any auto manufacturer, I must find that "all good faith efforts have been made to meet the (1975) standards." Serious questions have arisen in these proceedings as to whether such a finding would be proper in the case of Chrysler Corp. These questions arose as a result of testimony by a representative of Engelhard Industries that Chrysler had refused to purchase catalysts from Engelhard for reasons materially influenced by the aggressive testimony of Engelhard at the EPA hearings last year. Because of these charges, six volumes of additional documents were subpenaed from Chrysler, and 2 additional days of hearings were held. All this evidence has been carefully examined, along with what was already in the record, and my conclusions based on it are set out below.

The central question focused on in the hearings was why Chrysler awarded a catalyst supply contract to Universal Oil Products Co., and not to Engelhard Industries, in September 1972. A secondary question concerns the award of a 100 percent catalyst requirements contract to UOP in March of this year. To answer these questions, detailed inquiry into events at Chrysler between May 1972 and the present was necessary. Before briefly summarizing the results of that inquiry, however, it is appropriate to make two points by way of background.

First, according to figures supplied by Chrysler and other auto manufacturers (C. Mem. p. 49), Chrysler's spending on emissions control has varied between a sixth and a tenth that of Ford and General Motors in each of the 3 years since the Clean Air Act was passed. These figures indicate that Chrysler has been spending about a third as much for this purpose per dollar of sales volume as General Motors and Ford. In addition, both Ford and General Motors are presently preparing test fleets of catalyst cars to operate in the field. Chrysler testified that it had no firm plans to do anything similar (Tr. p. 3073–74, 401–02).

Though these comparisons are not favorable to Chrysler, they are by themselves not necessarily decisive. Chrysler's emissions research expenditures, on a market share basis, have been about equal to American Motors', while the percentage of Chrysler research dollars going to emissions control compares with the percentage for the other members of the Big Three. It may be that in the auto industry there is a minimum company size or market share below which the capacity to fund research falls off noticeably. Nevertheless, I am seriously troubled by the level of Chrysler's expenditures on emission control research, particularly when this fact is considered with other questions that have been raised concerning Chrysler's emission control development program.

The low level of Chrysler expenditures does make it disturbing to turn to the record of Chrysler's pollution control activities in the first half of 1972 and find that in that period criticism was expressed within the Chrysler organization that the Chrysler efforts were not adequately concentrated on meeting the 1975 requirements. One member of the Emission Policy and Review Committee, H. R. Steding, protested against a diffusion of energies on two separate occasions. EPR Minutes for March 7, 1972, and May 2–4, 1972. (See also Tr. 3091–93.)

A full review of the history of Chrysler's catalyst development efforts during the period at issue here is not possible within the confines of this decision. In brief outline the salient features are as follows.[9]

During the spring of 1972 it appears clear that Chrysler regarded a noble metal monolithic catalyst as far more promising in performance than pebble type catalysts and that Engelhard was the first choice among catalyst suppliers furnishing monolithic catalysts to Chrysler. Following my decision announced last May, Chrysler officials exhibited a considerable sense of urgency to finalize selection of their first choice system and make commitments for production. Nonetheless, the decision was deferred, and during the summer of 1972 Chrysler devoted considerable efforts to evaluation of pebble catalysts, motivated in part by the expectation that they would be cheaper than monoliths. In the course of these efforts UOP emerged as a promising possible vendor of pebble catalysts.

In September 1972 Chrysler decided to use a monolithic catalyst and entered into an arrangement with UOP to develop and produce such catalysts. At

[7] Five of these 26 regions are in California and will benefit from the stringent 1975 California standards promulgated today.

[8] "Poisoning" is a dramatic name for a simple phenomenon, namely, the loss of catalytic activity when lead in the gasoline settles on the catalytic surface and, by coating it, prevents it from reacting with the exhaust gases.

[9] Supporting details are contained in appendix A, which is a part of my findings in this matter.

that time Chrysler had no vehicle test experience with UOP monolithic catalysts. All its vehicle durability tests of monoliths had been with Engelhard monoliths.

The vexing technical question raised by this Chrysler decision is the extent to which it returned the Chrysler catalyst program to a more preliminary state of development. It would seem apparent that considerable problems and lost development time would necessarily result from choosing a manufacturer with little experience in monolithic catalysts over one which had long been a leader in the field. The record indicates that such problems and lost time have in fact occurred. Indeed considerable evidence was presented that during the 6 months following their initial agreement Chrysler and UOP have been attempting, with a degree of success that remains unclear, to catch up to the technical capability developed by Engelhard.

It is apparent that in both the September 1972 decision to begin cooperative work with UOP and the March 1973 decision to deal exclusively with UOP for acquisition of catalysts, Chrysler was strongly influenced by considerations of cost savings. The lack of clarity on the extent to which performance of catalysts and speed in the development of technology may have been sacrificed as a trade-off against anticipated cost savings presents disturbing questions with respect to the good faith efforts of Chrysler. I find that certain sacrifices in the progress of its technology were made by Chrysler to achieve cost savings.

The initial question which triggered this inquiry likewise remains in doubt. The record does not support a determination as to whether or not Chrysler's decision against purchasing catalysts from Engelhard was materially influenced by antagonisms aroused by the testimony of Engelhard at last year's EPA hearings. I am particularly disturbed by this question because of a possible conflict in the testimony under oath by representatives of Engelhard and Chrysler.

It is possible that the difference between the versions of the September 22 meeting given by Engelhard and Chrysler representatives reflect different recollections of the same statement. If I were forced to choose between one or the other of those versions, the one put forward by Mr. Leventhal of Engelhard would seem more probable. One salient fact inclining me to that view is that the handwritten notes from which the official Chrysler minutes of the meeting were prepared indicate that Mr. Bright of Chrysler made a statement similar to the one which both Engelhard representatives present at the meeting testified he made.

On such a record, the gravest questions as to Chrysler's compliance with the statutory requirements must arise. But a determination that they have not been met cannot be lightly made. UOP is a well-established company with a past and present reputation for excellence, and there is evidence that this was a major influence in Chrysler's choice. (Tr. 3149–50.) In addition, the Court of Appeals has directed me, in weighing the proof applicable to determinations in this proceedings, to take account of the consequences of a wrong decision either way.

With regard to Chrysler, I conclude with serious reservations that the statutory requirements concerning good faith have been met. In reaching this conclusion, I am placing decisive reliance upon the consideration that the sanction that arises from a negative finding on this issue with respect to a particular manufacturer could force that manufacturer to close down in 1975. Such a result would not only create extreme hardship for large numbers of innocent employees of the manufacturer concerned but would also severely impact numerous suppliers of the manufacturer and ultimately the public at large. Thus, despite the very serious questions I have concerning the record as it relates to Chrysler on this point, I do not believe that Congress intended me to make a finding of bad faith in the absence of a very high degree of certainty that the acts of a particular manufacturer require such a finding. On this record, Chrysler's defense of its procurement decisions and of its acts with respect to Engelhard have raised sufficient doubt to preclude a positive finding of bad faith.

No such substantial questions arise as to the good faith efforts of the other applicants. I found last year that, as far as financial commitments in this field were concerned, "efforts of the automobile industry as a whole would appear to meet the test of good faith." May–Dec. pp. 23–23. In the last year, those expenditures have substantially increased.

I also found last year that a coherent program aimed at timely compliance with the statuory standards was an ingredient of "good faith." The success of General Motors' program in generating the test results that have been discussed is evidence that the program has been so organized.

Ford has also carried on an ambitious testing program and in recent years has increased its spending on emissions control more than any other manufacturer. In addition, Ford was the first manufacturer to enter into formal financial arrangements with a catalyst manufacturer.

Although the smaller two applicants, American Motors and International Harvester, appear to be limited by their size in the degree of independent emissions control research they can carry on, their efforts appear to meet the statutory standards when that fact is considered.

All of the applicants have evidenced a slowness to pursue alternate technologies that I have found both disturbing and frustrating. It seems fairly clear now, that if these companies had begun early in 1971 to develop a capability to produce other kinds of engines, and particularly the stratified charge type engine developed by Honda, large numbers of 1975 automobiles could probably achieve the statutory standards. I recognize, however, that in making this criticism of the manufacturers development programs I am aided by hindsight. For I cannot be certain that the low emission potential of alternate engine systems such as the stratified charge engine, and the adaptability of alternate engines to a wide range of automobiles, could have been foreseen 2 years ago. Indeed, as I have stated above, we know relatively little about the stratified charge engine at this time.

The manufacturers generally may have demonstrated undue conservatism and a lack of foresight in not pursuing alternate systems more vigorously. However, I cannot conclude that their present state of progress in these areas is a result of bad faith on their part.

8. *Multipurpose vehicles.*—In the same section of its opinion that excluded light weight trucks from the category of "light duty vehicles" subject to the 1975 emissions standards, the court of appeals raised a serious question as to whether "multipurpose vehicles," such as those made by International Harvester, differed at all from such trucks in their ability to control emissions (Dec. pp. 38–42). The court left open the question of whether multipurpose vehicles should continue to be classed as "light duty vehicles" and whether, even if so classed, should be entitled to suspension as a subclass.

The information available to me indicates that the design of multipurpose vehicles is such that the great majority more closely resemble light duty trucks than light duty vehicles. Accordingly, I am today determining that all vehicles under 6,000 pounds g.v.w. which are designed primarily for the transportation of property or are available with special features enabling off-street or off-highway operation and use shall be considered as light duty trucks. The standards to be applied to these vehicles will be determined as a result of the proposed rulemaking issued for light duty trucks on March 14, 1973 (38 FR 6906).

IV. *Administrative finality.*—The decision issued today is final for purposes of judicial review, and no formal agency proceedings for its reconsideration are presently contemplated. The court of appeals has emphasized, however, that even such a "final" decision remains open to a petition for reconsideration or modification, and that such petitions, if found meritorious, should be acted on.

WILLIAM D. RUCKELSHAUS,
Administrator.

APRIL 11, 1973.

APPENDIX A

This appendix contains a more detailed narrative of Chrysler's dealings with catalyst suppliers in the period May 1972 to the present than is set forth in the main body of the opinion. It is part of the findings of fact in this proceeding. Much of the data is drawn from minutes of the Emissions Policy and Review Committee (cited "EPR"), the group charged with overseeing Chrysler's emission control program.

It is clear that in late May and early June of 1972, Chrysler regarded the necessity to

choose very quickly between the use of a pellet or a monolith catalyst as pressing. On May 30, Mr. Bright, the man in charge of Chrysler's emission control effort, said in an EPR meeting that the choice would have to be made "within 10 days." EPR minutes May 30, 1972, and Mr. Steding, an EPR member, reemphasized the point 2 weeks later. EPR Minutes June 13, 1972. (See also C. Doc. Vol. V, Sec. 1, p. 3.)

It is also clear that if the choice had been made then, a monolithic catalyst would have been chosen, and it appears that the choice would most likely have been Engelhard. At the EPR meeting of May 30, Engelhard was listed as the first choice of the three monolithic catalysts mentioned, while use of a pebble at all was stated to be "contingent on satisfactory car tests." A technical report prepared for that meeting by Dr. Teague, the head of Chrysler's catalyst research, stated that the tests of Engelhard catalysts had given "good results" (C. Doc. Vol. VI; Tr. 3119). At the EPR meeting on June 13, Mr. Steding said the choice between pebble and monolith had to be made, and that he had "no alternative" to assuming that the monolith would be chosen.

But the choice was put off, apparently to allow intensive testing of pebble catalysts over the summer. Chrysler has claimed that the heat resistance properties of the new pelleted catalysts that became available in the late spring of 1972 motivated this choice (Tr. 2907, 3127, 3121). Though I do not question that this was a factor, the evidence does not indicate that pebbles tested in that period proved to have heat resistance superior to the Engelhard monolith. Compare EPR minutes May 30, 1972, research report and figures 3 and 4, EPR minutes June 13, 1972 ("platinum on monolith was the most heat-resistant catalyst"), and attached research report; research report attached to minutes of August 22, 1972 EPR meeting with EPR minutes June 13, 1972 ("early tests show [two pebble catalysts] to be as good or better than the Engelhard platinum monolith"); chart attached to EPR minutes of August 8, 1972.

I therefore conclude that Chrysler explored the possibility of substituting pebbles for the monolith not primarily to gain in heat resistance, but to realize other advantages of the pellet such as greater ease of servicing, EPR minutes July 25, 1972 (C. Mem. p. 54), and potentially lower costs, EPR minutes September 21, 1972 (research report) (C. Doc. vol. V, sec. 2, pp. 7–8).

When the results of vehicle testing became available in the late summer of 1972, the monolith came out ahead (Tr. 3132–33).

Accordingly, the decision was made to use a monolith in the 1975 first-choice system, and it was on that basis that a letter of intent was entered into with UOP on September 15, 1972 (Tr. 2932, 3136).

At the time this letter was executed, Chrysler had no vehicle test experience with UOP monolithic catalysts (Tr. 2921). The first such tests began in December, and two of the first three catalysts tested suffered "catastrophic failure" (C. Doc. vol. V, sec. 2, p. 30). Chrysler attributes this to engine failure not associated with the catalysts.

At the time of the September decision, all of Chrysler's nine durability test vehicles for monolith catalysts had been run equipped with Engelhard monoliths. Six of these cars had completed their runs and three were still running (Tr. 2916–17). Chrysler testified that the results from these tests were "in the ball park of meeting 1975 standards" (Tr. 2926).

Such a record, in my view, makes it most unlikely that the choice of UOP over Engelhard was based on an assessment of the relative technical capacity of the two companies, and places a heavy burden on Chrysler if it seeks to show that that was in fact the case. In response, Chrysler has offered four separate explanations, none of which I find fully convincing.

The first is that Chrysler thought UOP would be able to use the process by which they had made a more heat resistant pellet of gamma alumina to make a more heat resistant gamma alumina washcoat for the monolith (Tr. 2882, 2922, 3123, 3149–50).

Although I cannot say that such a hope was unrealistic, the record indicates that Chrysler must have known there would be difficulties in achieving it. In a pellet the catalytic material is applied directly to little pebbles of gamma alumina, while in a monolith the alumina must first be spread on, and firmly attached to, a two-dimensional surface [10] (Tr. 3163–69). In fact, the research report attached to the EPR minutes of October 3, 1972 indicates substantial uncertainty over whether the technology could be transferred. "Very tentatively, it appears that U.O.P. may have more to contribute on the primer [washcoat] application process." The same uncertainty to a lesser extent was indicated by UOP in a letter discussed at Tr. 3066–68. The research report for the EPR meeting of January 10, 1973, indicates that a washcoat to substitute for UOP's was being tested in the Chrysler laboratory.

Chrysler also argues that UOP was more willing than Engelhard to cooperate and share its knowledge with Chrysler (C. Mem. 56, Tr. 2883, 3057, 3059–60). However, a December 27, 1972 letter agreement between Chrysler and UOP indicates that UOP gave Chrysler permission to analyze the UOP monolith, but not the pellet with which UOP has worked considerably more intensively (C. Doc. vol. IV). A letter of May 19, 1972 (C. Doc. vol. III, sec. 2), shows that even without a supply contract Engelhard had agreed to let Chrysler make analysis of its catalysts to determine how "poisoning" occurs.

A third and closely related point is that until the fall of 1972 Chrysler had experienced considerable difficulty in getting samples of Engelhard's new catalyst, the II–B, to test (C. Doc. vol. V, sec. 2, pp. 10–11). There does appear to be validity to this argument (Tr. 3071–72), although the EPR minutes contain no record that any such problem was ever brought to the Committee's attention. However, even the old Engelhard monolith, for which there is no record of supply difficulties, had by far the best record of any catalyst tested.

Finally, Chrysler claims that Engelhard insisted rigidly on becoming the supplier for 65 percent of their catalyst requirements, while UOP was willing to settle for as little as 40 percent, and to include an escape clause binding UOP to match the performance of any other catalyst maker (C. Mem. pp. 55–57, Tr. 2934–35, 3060, 3144, 3155). Nevertheless, the commitment to UOP was necessary, as Chrysler itself admits, because lead time for the 1975 model year was getting very short, and it was necessary at that time to make commitments to catalyst makers that would allow them to start construction of the necessary facilities (C. Mem. pp. 55, 57, Tr. 2883). In such circumstances it would appear that the claimed "flexibility" existed more on paper than in reality. Since every passing month would make it harder for any potential Chrysler commitment to another company to bear fruit in time for 1975, the September commitment as a practical matter probably locked Chrysler into relying on UOP for at least a substantial portion of its requirements.

It appears that much was surrendered to gain these four claimed advantages. It would seem clear that considerable problems and lost development time would necessarily result from choosing a manufacturer with little experience in monolithic catalysts [11] over one which had extensive experience in the field. The record indicates that such problems and lost time have in fact occurred.

In its submission dated this March, Chrysler said that 6 months after its commitment to UOP, "the Engelhard catalyst is the most active and durable of all the catalysts tested" (C. App. IV–A–25). Faced with this statement, one Chrysler representative indicated that the data available as of March 1973, did not entirely support the wisdom of the September commitment (Tr. 1115).

The Chrysler documents from September 1972 to the present bear out that judgment. They show that Engelhard catalysts were constanty used as a standard of reference, to be equalled if possible. EPR Minutes January 10, 1973 (research report); EPR Minutes January 23, 1973; EPR Minutes January 23, 1973 (research report). ("In all of these laboratory tests [of other catalysts], as well as car and dynamometer tests, the Engelhard catalyst has served as a standard of excellence.") [12] EPR Minutes February 20, 1973 (research report).

I do not regard the severely limited test data (at C. Mem. pp. 1b–7b) as proving the contrary. Even if test results at 500° only are taken as representative of catalyst activity over the entire tempertaure range (which they are not), the problem that Chrysler has laid almost all its stress on, both in discussing the washcoat and in its emphasis on catastrophic failure is durability in use. The activity tests do nothing to prove the durability of the UOP catalyst.

Chrysler has also submitted two recent dynamometer comparisons of the endurance of Engelhard and UOP catalysts, which appear to show marginally better performance by UOP (C. Mem. pp. 8b–9b). It is not clear how much importance can be attached to such severely limited data, and Chrysler itself appears to place limited significance on it. At the most, it would indicate some probability that UOP has caught Engelhard in the laboratory, and that nothing can be said about whether this will still be true for vehicle tests. The Chrysler submission states that car tests to date indicate "poor durability for [UOP] catalysts, far below that needed to meet the 1975 standards" (C. App. p. IV–F–18). The two examples cited to support this point seems to be the same catalysts whose melting was attributed to engine failure in the passage (from C. Doc. Vol. V) quoted above.

On balance, I therefore conclude that although some of the technical explanations for UOP's selection have merit, they would themselves have been far from enough to

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[10] Some idea of the technical complexity involved in making monolithic catalysts can be obtained by examining the patents at the back of C. Doc. vol. III, sec. 1.

[11] C. Mem. p. 57 states that UOP indicated at a meeting on July 25, 1972, that they had "extensive experience" in monoliths. An examination of the document cited as support for this assertion does not appear to bear it out.

[12] Chrysler argues that test results from this period showing Engelhard superior to UOP are misleading, since all the UOP catalysts were tested, but only those Engelhard catalysts were tested that passed Engelhard's quality control. There is some force to this point. But the minutes quoted here note that all UOP catalysts were tested, say that some portion of their poor performance can be attributed to that, and on balance still recognize Engelhard as clearly superior.

cause Chrysler to select UOP over Engelhard, particularly in view of the great disparity in test data available from the two companies.

A reason for UOP's selection that seems more persuasive than any of the above is price. Mr. Heinen testified that the September contract was made by submitting a list of four acceptable companies to the Chrysler purchasing department and letting them pick the lowest bidder (Tr. 3148, 3152. See also Tr. 1121, 1123, 1135). The August work sheets (in C. Doc. Vol. I) are entirely consistent with this testimony, for they are set up to compare four companies on the basis of price alone. Mr. Bright testified that price was an important factor (Tr. 1134, 1140), as did others (Tr. 1101, 1105, 1114). I find that a price comparison among companies was in fact a dominant influence in the decision.

The difference in the ultimate price of the car that would have resulted from accepting the Engelhard September quote rather than the one made by UOP appears to be $5 (Tr. 2946).

It is even clearer that price was a primary motive for the choice made in March of 1973, to place 100 percent of Chrysler's catalyst requirements with UOP. The documents provided us for the period September 1972 to March 1973, place some stress on the fact that UOP catalysts are cheaper than Engelhard, although they may not perform as well. The difference is variously attributed to a lower UOP precious metal loading, EPR Minutes January 23, 1973 (research report), and Engelhard's tighter quality control, EPR Minutes January 10, 1973, and January 23, 1973.

Catalyst quality aside, there are certain advantages to any manufacturer in having more than one source for such a vital part as a catalyst. A variety of sources spreads the risk of shutdowns and other production difficulties. The Chrysler testimony indicates this was realized (Tr. 3216).

The record is plain, however, that the risk of having only one source was taken because that was the cheaper course. EPR Minutes November 28, 1972 ("Mr. Bright commented that from an economic standpoint, Corning-UOP may be the best single source combination. . . . All things considered, we could decide to risk the single source situation.") (emphasis supplied). He testified to the same effect at the hearing (Tr. 1163).

The amount saved per car by this choice (on the basis of two catalysts to a car) was apparently about $7 a car on the 40 percent of Chrysler production for which the choice of a supplier other than UOP was still considered open at that time (Tr. 3213, Ex. P-52, C. Doc. Vol. I).

[FR Doc.73-8145 Filed 4-25-73;8:45 am]

GREAT LAKES WATER QUALITY BOARD

Federal Support Committee

Memorandum for: Hon. Elliot L. Richardson, Secretary of Defense; Hon. Rogers C. B. Morton, Secretary of the Interior; Hon. Earl L. Butz, Secretary of Agriculture; Hon. Frederick B. Dent, Secretary of Commerce; Hon. Claude S. Brinegar, Secretary of Transportation; Hon. Dixy Lee Ray, Chairman, Atomic Energy Commission.

APRIL 20, 1973.

The Boundary Waters Treaty of 1909 established an International Joint Commission of six members, three appointed by the United States and three by Canada, to which all matters of common interest involving the Great Lakes could be referred in the future for research and investigation. On April 15, 1972, the Governments of the United States and Canada entered into an agreement on Great Lakes water quality and requested the Commission to assist the governments in the implementation of the agreement. To help the Commission in meeting its new responsibilities, the governments directed the Commission to establish a Great Lakes Water Quality Board with nine members from the United States and nine from Canada. In accordance with the terms of the agreement, the Commission must appoint one United States member from each of the eight different States bordering the Great Lakes. The ninth United States member is appointed by the Commission from the Federal Government. The Commission established the Board on July 20, 1972, and named Francis T. Mayo, Regional Administrator, Environmental Protection Agency, Chicago, Ill., as the Federal Government member and cochairman of the Board.

ESTABLISHMENT OF FEDERAL SUPPORT COMMITTEE

In order to assist the Federal member of the Water Quality Board, and to assure that Departments and agencies of the executive branch work together to realize the goals of the Great Lakes Water Quality Agreement, I am establishing a Federal Support Committee to the Federal member. I would appreciate it if each of you would designate a representative to serve as a member of the Committee. Mr. Mayo shall be Chairman of the Committee. Meetings of the Committee shall be at the call of the Chairman, and the Committee shall meet not less than once each year at a place designated by the Chairman. The Committee shall not be terminated while the Great Lakes Water Quality Board is still in being.

FUNCTIONS OF THE COMMITTEE

Each member of the Committee shall, after discussion, where appropriate, with other members of the Committee or the Committee as a whole:

a. Advise the Federal member on the Great Lakes Water Quality Board on all matters dealing with the obligations of the United States under the Great Lakes Water Quality Agreement, insofar as they fall within the jurisdiction of the Department or agency that appointed him.

b. Assure adequate participation by the Department or agency that appointed him in meeting commitments of the United States under the agreement.

Each member of the Committee shall have sufficient authority within his Department or agency to enable him to discharge these responsibilities.

Each Department and agency should furnish the Committee with such information and other assistance as may be called for to the extent permitted by law.

This memorandum shall be published in the FEDERAL REGISTER.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.73-8144 Filed 4-25-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

BAHAMAS TELECOMMUNICATIONS CORP.

Notice of Power Increase

BAHAMAS NOTIFICATION LIST NO. 2/73

Call letters	Location	Power (kW)	Frequency	Antenna	Schedule	Class
ZNS-2	Nassau	1D/0.25N	1240 kHz	ND	U	IV

FCC NOTE.—By letter dated April 12, 1973, the Federal Communications Commission received notification from the Bahamas Telecommunications Corp. of a power increase to 1 kW for station ZNS-2. Although the notification did not state that the existing nighttime operation would continue at 0.25 kW power, we make the assumption that it will be continued pending receipt of additional information.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.73-8112 Filed 4-25-73;8:45 am]

STEERING COMMITTEE FEDERAL/STATE—LOCAL ADVISORY COMMITTEE

Notice of Meetings

APRIL 20, 1973.

The Steering Committee of the Cable Television Federal/State—Local Advisory Committee will hold open meetings on May 9 and 10, 1973, at 10 a.m. The meetings will be held in room 6331 of the West Annex of the Commission, 2025 M Street NW., Washington, D.C.

The agenda for these meetings will be the continuation of a discussion of issues to be included in the final Advisory Committee report.

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

[FR Doc.73-8111 Filed 4-25-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI73-677]

APACHE EXPLORATION CORP.

Notice of Application

APRIL 19, 1973.

Take notice that on April 4, 1973, Apache Exploration Corp. (Applicant), P.O. Box 2299, Tulsa, Okla. 74101, filed in docket No. CI73-677 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the

sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corp., from the Wildcat Field, Lafourche Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 150,00 M ft³ of gas per month for 1 year at 50 c/m ft³ at 15.025 lb/in² a, subject to upward and downward British thermal unit adjustment, within the contemplation of § 2.70 of the Commission's "General Policy and Interpretations" (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before May 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's "Rules of Practice and Procedure" (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7999 Filed 4-25-73;8:45 am]

[Docket No. CI73-691]

ATLANTIC RICHFIELD CO.

Notice of Application

APRIL 20, 1973.

Take notice that on April 12, 1973, Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221, filed in docket No. CI73-691 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. from the Pledger Field, Brazoria County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on April 12, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for 6 months from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's "General Policy and Interpretations" (18 CFR 2.70). Applicant proposes to sell up to 100,000 M ft³ of gas per day at 50c/M ft³ at 14.65 lb/in², subject to upward British thermal unit adjustment. Estimated monthly sales volumes are 75,000 M ft³ of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's "Rules of Practice and Procedure" (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8245 Filed 4-25-73;8:45 am]

[Docket No. CI73-682]

EXXON CORP.

Notice of Application

APRIL 19, 1973.

Take notice that on April 11, 1973, Exxon Corp. (Applicant), P.O. Box 2180, Houston, Tex. 77001, filed in docket No. CI73-682 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Panhandle Eastern Pipe Line Co. from production in the Sooner Trend Field, Kingfisher County, Okla., and delivery of said gas at the Dover-Hennessey Gas Products Plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 10,000 M ft³ of gas per day for 1 year at 50 c/M ft³ at 14.65 lb/in²a, subject to upward British thermal unit adjustment, within the contemplation of § 2.70 of the Commission's "General Policy and Interpretations (18 CFR 2.70). The estimated monthly delivery volume is 195,000 M ft³ of gas. Estimated initial British thermal unit adjustment is 8.5 c/M ft³ for unprocessed gas and 3 c/M ft³ for processed gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's "Rules of Practice and Procedure" (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8000 Filed 4-25-73;8:45 am]

[Docket No. CI73-680]

INEXCO OIL CO.

Notice of Application

APRIL 19, 1973.

Take notice that on April 9, 1973, Inexco Oil Co. (Applicant), 12th floor, Houston Club Building, Houston, Tex. 77002, filed in docket No. CI73-680 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co., from the Lake Hatch Field, Terrebonne Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The contract submitted by Applicant as its FPC gas rate schedule provides for deliveries within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and Applicant proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's "General Policy and Interpretations" (18 CFR 2.70). Applicant proposes to sell an average daily quantity of up to 2,000 M ft³ of oil well gas at 45 c/M ft³ at 15.025 lb/in²a, subject to upward and downward British thermal unit adjustment. The estimated monthly delivery volume is 8,370 M ft³ of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's "Rules of Practice and Procedure" (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8001 Filed 4-25-73;8:45 am]

[Docket No. CI73-669]

KERR-McGEE CORP., ET AL.

Notice of Application

APRIL 19, 1973.

Take notice that on April 4, 1973, Kerr-McGee Corp. (Applicant), Kerr-McGee Building, Oklahoma City, Okla. 73102, filed in docket No. CI73-669 an application for itself and for Amoco Production Co. and Marathon Oil Co. pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Cities Service Gas Co. from the Hamon Locke Field, Hemphill County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to sell natural gas for 2 years within the contemplation of § 2.70 of the Commission's "General Policy and Interpretations" (18 CFR 2.70) at the rate of 40 c/M ft³ the first year and 41 c/M ft³ the second year, at 14.65 lb/in²a, subject to British thermal unit adjustment. The estimated monthly sales volume is 22,500 m ft³ of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's "Rules of Practice and Procedure" (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7998 Filed 4-25-73;8:45 am]

[Docket No. CI73-679]

WAYNE L. KIRKMAN AND ROBERT L. AUSTIN

Notice of Application

APRIL 19, 1973.

Take notice that on April 9, 1973, Wayne L. Kirkman and Robert L. Austin, doing business as Kirkman and Austin (Applicant), P.O. Box 143, Great Bend, Kans. 67530, filed in docket No. CI73-679 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Co. from the Iuka-Carmi Area, Pratt County, Kans., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell gas to the first day of the month following the expiration of 1 year from the date of initial delivery at the rate of 42.5 c/M ft³ at 14.65 lb/in²a, subject to upward and downward British thermal unit adjustment, within the contemplation of § 2.70 of the Commission's "General Policy and Interpretations" (18 CFR 2.70). The estimated monthly delivery volume is 20,000 M ft³ of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's "Rules of Practice and Procedure" (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants

parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-8246 Filed 4-25-73;8:45 am]

FEDERAL RESERVE SYSTEM

BANCORPORATION OF MONTANA

Acquisition of Bank

Bancorporation of Montana, Great Fall, Mont., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares (less directors' qualifying shares) of First Security Bank of Glasgow, Glasgow, Mont. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 16, 1973.

Board of Governors of the Federal Reserve System, April 19, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-8050 Filed 4-25-13;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F-177]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.*—This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telephone service rate proceeding.

2. *Effective date.*—This regulation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Colorado Public Service Commission in a proceeding (advice No. 842) involving the application of Mountain States Telephone & Telegraph Co. for a telephone rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

APRIL 20, 1973.

[FR Doc.73-8133 Filed 4-25-73;8:45 am]

[Federal Property Management Regs. Temporary Reg. F-177]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.*—This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.*—This regulation is effective immediately.

3. *Expiration date.*—This regulation expires April 30, 1973.

4. *Revocation.*—This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F-56	Sept. 18, 1969	Delegation of Authority to Secretary of Defense—Regulatory Proceeding.
F-95	Mar. 24, 1971	Do.
F-130	Nov. 19, 1971	Do.
F-135	Jan. 25, 1972	Do.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

APRIL 19, 1973.

[FR Doc.73-8089 Filed 4-25-73;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

[ICP Docket No. 20214

CLINCHFIELD COAL CO.

Hearing on Application for Renewal of Permit for Noncompliance With Interim Mandatory Respirable Dust Standard

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, 30 U.S.C. 842(b)(4)), notice is hereby given that the request for a public hearing filed by the United Mine Workers of America concerning the application for a renewal permit for noncompliance for the Moss No. 3 Mine Portal "C", Clinchfield Coal Co., Dante, Va., has been granted.

The hearing will be conducted pursuant to the regulation for practice and procedure for hearings before the Interim Compliance Panel, 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended.

Administrative Law Judge Joseph B. Kennedy is designated to preside over all proceedings in the matter identified by the docket number given above from the date of this notice until he shall have made the initial decision therein or until he shall have been relieved from his duties therein by order of the Interim Compliance Panel.

This matter is set for a joint prehearing conference which includes docket Nos. 20016 and 20564 in the Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. at 10 a.m., May 15, 1973, hearing room A.

The time and place of the hearing shall be set at the discretion of the Administrative Law Judge taking into account the Interim Compliance Panel's policy for expeditious treatment.

Edwin M. Weiss, Acting Chief Counsel of the Interim Compliance Panel, is authorized to appear in these proceedings in behalf of the Panel for the purpose of presenting evidence and examining witnesses.

All petitions, motions and other documents relating to the proceedings in the matter identified by the docket number given above shall be submitted to the said Administrative Law Judge, care of Correspondence Control Officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington, D.C. 20006. Judge Kennedy may be reached at the following telephone numbers: 202-343-2217 or 703-557-1407.

A copy of the request for public hearing and of the file is available for inspection in the office of the Correspondence Control Officer, Interim Compliance Panel, at the above address.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

APRIL 20, 1973.

[FR Doc.73-8074 Filed 4-25-73;8:45 am]

[ICP Docket No. 20016]

EASTERN COAL CORP.

Hearing on Application for Renewal of Permit for Noncompliance With Interim Mandatory Respirable Dust Standard

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, 30 U.S.C. 842(b)(4)), notice is hereby given that the request for a public hearing filed by the United Mine Workers of America concerning the application for a renewal permit for noncompliance for the Stone No. 8 Mine, Eastern Coal Corp., Stone, Ky., has been granted.

The hearing will be conducted pursuant to the regulation for practice and procedure for hearings before the Interim Compliance Panel, 30 CFR part 505 (35 FR 11296, July 15, 1970), as amended.

Administrative Law Judge Joseph B. Kennedy is designated to preside over all proceedings in the matter identified by the docket number given above from the date of this notice until he shall have made the initial decision therein or until he shall have been relieved from his duties therein by order of the Interim Compliance Panel.

This matter is set for a joint prehearing conference which includes dockets Nos. 20214 and 20564 in the office of hearings and appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va., at 10 a.m., May 15, 1973, hearing room A.

The time and place of the hearing shall be set at the discretion of the Administrative Law Judge taking into account the Interim Compliance Panel's policy for expeditious treatment.

Edwin M. Weiss, Acting Chief Counsel of the Interim Compliance Panel, is authorized to appear in these proceedings in behalf of the Panel for the purpose of presenting evidence and examining witnesses.

All petitions, motions, and other documents relating to the proceedings in the matter identified by the docket number given above shall be submitted to the said Administrative Law Judge, c/o Correspondence Control Officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington, D.C. 20006. Judge Kennedy may be reached at the following telephone numbers: 202-343-2217 or 703-557-1407.

A copy of the request for public hearing and of the file is available for inspection in the office of the Correspondence Control Officer, Interim Compliance Panel, at the above address.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 20, 1973.

[FR Doc.73-8075 Filed 4-25-73;8:45 am]

[ICP Docket No. 20564]

NACCO MINING CO.

Hearing on Application for Renewal of Permit for Noncompliance With Interim Mandatory Respirable Dust Standard

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, 30 U.S.C. 842(b)(4)), notice is hereby given that the request for a public hearing filed by the United Mine Workers of America concerning the application for a renewal permit for noncompliance for the Powhatan No. 6, Mine, The Nacco Mining Co., Powhatan Point, Ohio, has been granted.

The hearing will be conducted pursuant to the regulation for practice and procedure for hearings before the Interim Compliance Panel, 30 CFR part 505 (35 FR 11296, July 15, 1970), as amended.

Administrative Law Judge Joseph B. Kennedy is designated to preside over all proceedings in the matter identified by the docket number given above from the date of this notice until he shall have made the initial decision therein or until he shall have been relieved of his duties therein by order of the Interim Compliance Panel.

This matter is set for a joint prehearing conference which includes dockets Nos. 20016 and 20214 in the Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. at 10 a.m., May 15, 1973, hearing room A.

The time and place of the hearing shall be set at the discretion of the Administrative Law Judge taking into account the Interim Compliance Panel's policy for expeditious treatment.

Edwin M. Weiss, Acting Chief Counsel of the Interim Compliance Panel, is authorized to appear in these proceedings in behalf of the Panel for the purpose of presenting evidence and examining witnesses.

All petitions, motions, and other documents relating to the proceedings in the matter identified by the docket number given above shall be submitted to the said Administrative Law Judge, c/o Correspondence Control Officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington, D.C. 20006. Judge Kennedy may be reached at the following telephone numbers: 202-343-3317 or 703-557-1407.

A copy of the Request for Public Hearing and of the file is available for inspection in the office of the Correspondence Control Officer, Interim Compliance Panel, at the above address.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 20, 1973.

[FR Doc.73-8076 Filed 4-25-73;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS

ALABAMA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Alabama, dated March 27, 1973, and published April 2, 1973 (38 FR 8488); and amended April 5, 1973, and published April 9, 1973 (38 FR 9049), is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 27, 1973:

The county of:

Clarke.

Dated April 20, 1973.

ELMER BENNETT,
Acting Director, Office of Emergency Preparedness.

[FR Doc.73-8090 Filed 4-25-73;8:45 am]

MISSOURI

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); notice is hereby given that on April 19, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from heavy rains and flooding beginning on or about March 6, 1973 are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Missouri. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606) I hereby appoint Mr. Francis X. Tobin, Regional Director, OEP Region 7, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that act for this disaster.

I do hereby determine the following areas in the State of Missouri to have been adversely affected by this declared major disaster.

The counties of:

Andrew.	Cooper.
Atchison.	Daviess.
Buchanan.	DeKalb.
Butler.	Dunklin.
Caldwell.	Franklin.
Callaway.	Gasconade.
Cape Girardeau.	Gentry.
Clay.	Harrison.
Clinton.	Holt.
Cole.	Howard.

Jefferson.
Lincoln.
Marion.
Miller.
Mississippi.
New Madrid.
Nodaway.
Pemiscot.
Perry.
Pike.
Ralls.
St. Charles.
Ste. Genevieve.
St. Louis.
Scotland.
Scott.
Stoddard.
Worth.

and the

City of St. Louis.

Dated April 20, 1973.

ELMER BENNETT,
Acting Director, Office of Emergency Preparedness.

[FR Doc.73-8091 Filed 4-25-73;8:45 am]

POSTAL SERVICE

MONEY ORDERS

Notice of New Limit

As part of an improved money order system, the U.S. Postal Service will offer domestic money orders in amounts up to $300, instead of the present limitation of $100, for a single money order. The increased dollar limit will be implemented throughout the country on a staggered basis. It will be available, beginning April 28, 1973, in first-class post offices in the New York Metropolitan Region of the U.S. Postal Service, namely, the ZIP code areas 068–079, 088–098, 100–119, and 124–127 in the States of Connecticut, New Jersey, and New York, and also Puerto Rico and the Virgin Islands, 39 CFR 223 (36 FR 19480). There will be no limitation on the number of money orders that may be purchased at one time, except when the Postal Service may impose temporary restrictions.

The fee for money orders in amounts over $100 and up to $300 will be 40 cents. Fees for amounts up to $100 are unchanged. See 39 CFR 171.1 (35 FR 19481).

Money order operations in regions other than the New York Metropolitan Region will remain unchanged until the new $300 limitation is implemented in such regions. When the changed program is implemented nationwide, regulations found in 39 CFR 171.1 dealing with money orders will be amended.

(39 U.S.C. 401, 404(6).)

ROGER P. CRAIG,
Deputy General Counsel.

APRIL 23, 1973.

[FR Doc.73-8087 Filed 4-25-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5329]

ALLEGHENY POWER SYSTEM, INC., ET AL.

Notice of Proposed Issue and Sale of Common Stock of Subsidiary Companies and Acquisition and Pledge Thereof by Holding Company

Notice is hereby given that Allegheny Power System, Inc., 320 Park Avenue, New York, N.Y. 10022 (APS), a registered holding company, and its wholly owned electric utility subsidiary companies, Monongahela Power Co., 1310 Fairmont Avenue, Fairmont, W. Va. 26554, (Monongahela), The Potomac Edison Co., Downsville Pike, Hagerstown, Md. 21740 (Potomac Edison), and West Penn Power Co., Cabin Hill, Greensburg, Pa. 15601 (West Penn), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, and 10 thereof as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Each of the subsidiary companies proposes to issue and sell to APS, and APS proposes to acquire, from time to time prior to September 30, 1973, additional shares of their common stock for a cash consideration equal to the aggregate par or stated values thereof, as follows:

Subsidiary company and title of issue	Shares proposed to be issued	Cash consideration
Monongahela common stock, $50 par value	100,000	$5,000,000
Potomac Edison common stock, no par value (stated value, $20)	250,000	5,000,000
West Penn common stock, no par value (stated value, $20)	500,000	10,000,000

APS states that the funds necessary to purchase the stock will be obtained through internal sources and short-term borrowings. The net proceeds from the sale of the stock, together with other corporate funds, are to be used by the subsidiary companies to finance their construction programs. Construction expenditures for 1973 and 1974 are estimated at $96 million for Monongahela, $83 million for Potomac Edison, and $158 million for West Penn. All of the presently outstanding shares of common stock of Monongahela, Potomac Edison, and West Penn is owned by APS.

APS proposes to pledge with Chemical Bank, trustee under the trust indenture dated as of September 1, 1949, as supplemented, securing its 3½ percent Sinking Fund Collateral Trust Bonds, all of the acquired shares of common stock of Monongahela and Potomac Edison and 473,178 of the shares of West Penn.

The fees and expenses, including legal fees, to be paid in connection with the issue and sale of the additional shares of the subsidiary companies' common stock are estimated not to exceed $2,500. It is stated that the Pennsylvania Public Utility Commission, the Ohio Public Utilities Commission, and the Maryland Public Service Commission have jurisdiction over the proposed transactions. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 21, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8093 Filed 4-25-73;8:45 am]

[24 FW-1569-24 FW-1573]

AMERICAN EDUCATIONAL SPECIALISTS, INC., ET AL.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 19, 1973.

I. American Educational Specialists, Inc., Tronics Corp., U.S. Environmental Systems, Inc., Erie-Niagara, Ltd., and Med-Peds, Inc., Nevada corporations incorporated on December 21, 1972, with offices located at 351 West Jefferson, Dallas, Tex., filed with the Commission on January 29, 1973, separate notifications on form 1–A, with attached exhibits, including offering circulars, relating to an offering under each notification of 50,000 shares of 1-cent par value common stock at an offering price of $1 per share for an aggregate offering price to the public under each notification of $50,000 for the purpose of obtaining exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) of that act and regulation A promulgated thereunder. Amendments were filed naming Glendale Securities Corp. of Ridgewood, N.Y., as underwriter for each filing.

II. The Commission on the basis of information reported by the staff has reason to believe that the terms and conditions of regulation A have not been complied with in that:

A. The notification and offering circulars are incomplete, inaccurate, and contain untrue statements of material facts

and omit to state material facts necessary to make the statements made in the light of the circumstances under which they were made not misleading, particularly with respect to:

1. Disclosure of all promoters and affiliates.

2. The identity and background of undisclosed affiliates and promoters.

3. Disbarment proceedings pending against a promoter and affiliate who is also counsel for the underwriter in all of the proposed offerings except Tronics Corp.

4. The fact that each of these companies is an affiliate of the other companies in that they are all under the common control of undisclosed affiliates.

B. The terms and conditions of regulation A have not been complied with in that: The offering circulars failed to include statements of cash receipts and disbursements.

C. The offering proposed by each of the issuers if commenced would be made in violation of section 17 of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of each of the issuers under regulation A be temporarily suspended;

It is ordered, Pursuant to rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of each of the issuers under regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to rule 7 of the Commission's rules of practice, that each of the issuers file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of temporary suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission.

By the Commission.

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

[FR Doc.73-8094 Filed 4-25-73;8:45 am]

[File No. 24W-3104]

COMTECH VENTURE FUND, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 18, 1973.

I. Comtech Venture Fund, Inc., One Investment Place, Suite 110, Baltimore Md. 21204 (Comtech), incorporated in the State of Maryland on December 30, 1970, filed with the Commission on September 5, 1972, a notification on form 1-A and an offering circular relating to an offering of 83,200 shares, of its $1 par value common stock at $5 per share, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, pursuant to the provisions of section 3(b) thereof and regulation A promulgated thereunder. The filing was subsequently amended to increase the offering to 100,000 shares at $5 per share for an aggregate offering price of $500,000.

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of regulation A have not been complied with in that:

1. No regulation A exemption is available for Comtech under the provisions of rule 252(d)(2) and rule 252(c)(4), in that First Federated Commodity Trust Corp. (Federated), an affiliate of Comtech, and John R. Singleton, an officer, director, and promoter of Comtech, are subject to a decree of a court of competent jurisdiction of the State of Maryland permanently enjoining and restraining such persons from engaging in any fraudulent conduct or practice in violation of the Maryland Securities Act.

2. The $500,000 ceiling limitation of regulation A has been exceeded by reason of the sale of over $500,000 of unregistered securities within the last year in violation of section 5 of the Securities Act of 1933 by an affiliated issuer, who became affiliated within the past 2 years.

B. The notification and offering circular of Comtech Venture Fund, Inc. contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading particularly with respect to:

1. The failure to amend the notification and offering circular to disclose that an affiliate of the issuer and the vice president of the issuer were the subjects of a permanent injunction prohibiting them from further violations of the Maryland Securities Act.

2. The failure to disclose the sale of unregistered securities in violation of sections 5 and 17 of the Securities Act of 1933 by an affiliate of the issuer.

C. The offering, if made, would be in violation of the registration provisions of section 5 and of the antifraud provisions of section 17 of the Securities Act of 1933.

III. It, appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of Comtech under regulation A be temporarily suspended;

It is ordered, Pursuant to rule 261(a) of the general rules and regulations under the Securities Act of 1933, that the exemption under regulation A be and hereby is temporarily suspended.

It is further ordered, Pursuant to rule 7 of the Commission's rules of practice, that the Issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

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

[FR Doc.73-8095 Filed 4-25-73;8:45 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

APRIL 18, 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 Crystalography 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 April 19, 1973, through April 28, 1973.

By the Commission.

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

[FR Doc.73-8096 Filed 4-25-73;8:45 am]

[File No. 500-1]

RADIATION SERVICES, INC.

Order Suspending Trading

APRIL 20, 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 Radiation Services, 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 April 21, 1973, through April 30, 1973.

By the Commission.

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

[FR. Doc.73-8098 Filed 4-25-73;8:45 am]

[812-398]

SAVINGS BANK INVESTMENT FUND

Notice of Filing of Application for Supplementary Order

APRIL 20, 1973.

Notice is hereby given that Savings Bank Investment Fund, 50 Congress Street, Boston, Mass. 02109 (Applicant), a corporation duly organized pursuant to a special act of the Massachusetts Legislature, effective August 8, 1945, and registered under the Investment Company Act of 1940 (Act) as an open end diversified investment company, has filed an amendment to its application pursuant to sections 6(c), 18(i), and 22(e) of the Act requesting an order supplementing the Commission's exemptive order of December 17, 1946 (Investment Company Act Release No. 988) declaring that the proposed amendment of Applicant's charter has no effect upon the validity of the exemptions granted by the December 17, 1946 exemptive order. The 1946 order granted Applicant exemptions from sections 13(a), 15(a), 16(a), 18(i), 22 (d) and (e), 24(d), 32(a) (2) and (3) of the Act. 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 is an investment fund created by the Commonwealth of Massachusetts, the securities of which may be sold only to Massachusetts savings banks and a related entity, the investment powers of which are prescribed by statute, and which is subject to control of the Commissioner of Banks of the Commonwealth of Massachusetts.

Legislation has been filed on behalf of Applicant to amend the special act of the Massachusetts Legislature which comprises Applicant's charter. The proposed amendment would include any cooperative bank incorporated as such in the Commonwealth of Massachusetts and subject to the provisions of chapter 170 of the Massachusetts General Laws within the term "savings bank" for the purposes of section 3 of Applicant's charter, thereby permitting Applicant to offer and sell its securities to Massachusetts cooperative banks in addition to Massachusetts savings banks and a related entity.

Since September 27, 1971, section 26 of chapter 170 of the Massachusetts General Laws has permitted Massachusetts cooperative banks to invest in the shares of Applicant subject to specified limitations.

Applicant represents, however, that section 26 of chapter 170 of the Massachusetts General Laws and Applicant's charter are inconsistent because Massachusetts cooperative banks are permitted under the former to invest in the shares of Applicant, but Applicant is not permitted under the latter to offer and sell its securities to cooperative banks. The proposed amendment to Applicant's charter would remedy this inconsistency.

Since the December 17, 1946 order as supplemented by an order of November 29, 1961 contemplated that Applicant would offer and sell its securities only to Massachusetts savings banks and a related entity, Applicant seeks the instant supplementary order so that the acquisition of Applicant's securities by Massachusetts cooperative banks may be permitted.

Notice is further given that any interested person may, not later than May 16, 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 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 in care of Gaston, Snow, Motley & Holt, 82 Devonshire Street, Boston, Mass. 02109. 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.73-8099 Filed 4-25-73;8:45 am]

[812-3451]

EUGENE C. SIT AND JAMES R. JUNDT

Notice of Filing of Application for Exemption of and Order of Temporary Exemption Pending Determination of Application

Notice is hereby given that Eugene C. Sit and James R. Jundt, JDS Tower, Minneapolis, Minn. 55402 (Applicants) have filed an application pursuant to section 9(c) of the Investment Company Act of 1940 (the Act) for an order exempting Applicants, and any company of which either of them presently is or in the future may become an affiliated person, from the provisions of section 9(a) of the Act, and for anorder of temporary exemption from section 9(a) pending the Commission's determination of the application. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Applicants state that they both are employees of Investors Diversified Services, Inc. (IDS), which, among other things, serves as sole distributor and investment adviser for seven open end investment companies, including IDS New Dimensions Fund, Inc. (IDS New Dimensions Fund), IDS Growth Fund, Inc. (IDS Growth Fund), IDS Progressive Fund, Inc. (IDS Progressive Fund), and Investors Variable Payment Fund, Inc. (Investors Variable Payment Fund).

Since June 1969, Applicant Sit has been portfolio manager of IDS New Dimensions Fund. At the present time, he is senior portfolio manager of IDS New Dimensions Fund, IDS Progressive Fund and IDS Growth Fund. Applicant Jundt is the portfolio manager of IDS Progressive Fund. In January 1970, he was portfolion manager for a portion of the portfolio of Investors Variable Payment Fund.

On December 2, 1970, the Securities and Exchange Commission commenced an action, pursuant to section 21(e) of the Securities Exchange Act of 1934 (Exchange Act) against Lum's, Inc., and six other defendants, including IDS and Applicants (the "Lum's action") to enjoin alleged violations of section 10(b) of the Exchange Act and rule 10b-5 promulgated thereunder in connection with the sale of the common stock of Lum's, Inc. (now known as Caesars World, Inc.) by IDS New Dimensions Fund and Investors Variable Payment Fund. On April 19, 1973, stipulations of settlement were entered into between the plaintiff, Securities and Exchange Commission, and Applicants, and thereafter final judgments of permanent injunction by consent (the "Judgments") were entered in the action, permanently enjoining Applicants from using material, nonpublic corporate information in connection with the purchase or sale of any securities in violation of section 10(b) and rule 10b-5.

Section 9(a)(2) of the Act, as here pertinent, makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase

or sale of any security to serve or act in the capacity of investment adviser or depositor of any registered investment company, or principal underwriter for any registered open end company, registered unit investment trust, or registered face-amount certificate company. Section 9(a)(3) makes it unlawful for a company, any affiliated person of which is ineligible by reason of section 9(a)(2), to serve or act in the enumerated capacities.

Section 9(c) provides that upon application the Commission by order shall grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants submit that the prohibitions of section 9(a) of the Act, to the extent applicable by virtue of the entry of the final judgment of permanent injunction by consent, would be unduly and disproportionately severe as applied to Applicants and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors for the Commission to grant a permanent exemption from the provisions of section 9(a) of the Act. In support thereof Applicants state:

(1) The prohibitions of section 9(a) would deprive IDS New Dimensions Fund, IDS Growth Fund and IDS Progressive Fund and their more than 162,000 shareholders of the services of their respective portfolio managers.

(2) The activities of Applicants with regard to the sale of Lum's Inc. common stock were for the benefit of the mutual funds involved and not for the direct pecuniary benefit of Applicants, and there was no intent to violate any law.

(3) In compliance with the terms of the Judgment entered against IDS in the Lum's action, IDS has distributed to its personnel involved with trading and investment recommendations, including Applicants, a formal written statement of policy with respect to the receipt and use of material inside (nonpublic) information, and has undertaken to implement and supervise its employees' compliance with this policy.

(4) IDS has compliance programs, designed to assure compliance by IDS personnel, including Applicants, with applicable Federal and State securities laws.

(5) Applicants have never before been required to apply for an exemption from the provisions of section 9(a) of the Act.

(6) The prohibitions of section 9(a) would deprive Applicants of their ability to serve as portfolio managers, thereby potentially jeopardizing their livelihoods.

(7) The application of the law regarding the nature and proscribed uses of material inside information is complex and uncertain. More than 6 months after the events complained of in the Lum's action, the Commission, on its own motion, ordered the review of a case concerning the sale of stock without disclosure of certain material inside information because:

> The legal issues raised respecting the obligations of "tippees" were important matters of first impression having significant implications as to which it was desirable that the Commission express * * * its own views. *Matter of Investors Management*, SEC Admin. Proc. No. 3-1680, order directing review, July 30, 1970.

The Commission's opinion on these matters, announced on July 29, 1971 (Investment Advisers Act Release No. 289), set forth more definite criteria regarding application of the provisions of rule 10b-5 than was available previously.

The Commission has considered the matter and finds that: (1) The prohibitions of section 9(a) might be unduly or disproportionately severe as applied to Applicants, and (2) the conduct of the Applicants has been such as not to make it against the public interest or protection of investors to grant the application for a temporary exemption from section 9(a) pending determination of the application.

Accordingly, it is ordered, Pursuant to section 9(c) of the act that applicants, and any company of which either of them presently is an affiliated person, be and they are hereby temporarily exempted from the provisions of section 9(a) of the act, operative as a result of the entry of the injunction against applicants in *Securities and Exchange Commission* v. *Lums, Inc., et al.*, pending determination by the Commission of applicants' application for an order unconditionally exempting them from the provisions of section 9(a) operative as a result of the entry of such injunction.

Notice is further given that any interested person may, not later than May 14, 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 the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in 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.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-8097 Filed 4-25-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-5269]

COMINVEST OF HARTFORD, INC.

Notice of Issuance of License To Operate as a Small Business Investment Company

On Februray 6, 1973, a notice was published in the FEDERAL REGISTER (38 FR 3437) stating that Cominvest of Hartford, Inc., 18 Asylum Street, Hartford, Conn. 06103, had filed an application with the Small Business Administration, pursuant to section 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)) for a license to operate as a small business investment company pursuant to the provisions of section 301(d) of the Small Business Investment Act of 1958, as recently amended.

Interested parties were given to the close of business February 21, 1973, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued license No. 01/01-5269 to Cominvest of Hartford, Inc., pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended.

Dated April 17, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-8102 Filed 4-25-73;8:45 am]

[Declaration of Disaster Loan Area 970]

NEW YORK

Declaration of Disaster Loan Area

Whereas, It has been reported that during the month of February 1973, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of New York;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, Therefore, as Administrator of Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Rockland County, N.Y., suffered damage or destruction resulting from floods occurring on February 2.

Office: Small Business Administration Regional Office, 26 Federal Plaza, Room 3930, New York, N.Y. 10007.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 13, 1973.

Dated April 13, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-8103 Filed 4-25-73;8:45 am]

[Notice of Disaster Loan Area 966, Amdt. 2]

MISSISSIPPI

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Mississippi as a major disaster area following heavy rains and flooding which began on or about March 14, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the additional counties of Adams, Carroll, Claiborne, Holmes, Jefferson, Lafayette, Marshall, Pontotoc, Webster, and Wilkinson. (See 38 FR 8700 and 38 FR 9626.)

Applications may be filed at the:

Small Business Administration, District Office, Petroleum Building, Pascagoula and Amite Streets, Jackson, Miss. 39205.

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than May 30, 1973.

Dated April 13, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-8067 Filed 4-25-73;8:45 am]

[Notice of Disaster Loan Area 973]

MISSOURI

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Missouri as a major disaster area following heavy rains and flooding, beginning on or about March 6, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in Andrew, Atchison, Buchanan, Butler, Caldwell, Callaway, Cape Girardeau, Clay, Clinton, Cole, Cooper, Daviess, De Kalb, Dunklin, Franklin, Gasconade, Gentry, Harrison, Holt, Howard, Jefferson, Lincoln, Marion, Miller, Mississippi, New Madrid, Nodaway, Pemiscot, Perry, Pike, Ralls, St. Charles, Ste. Genevieve, St. Louis, Scotland, Scott, Stoddard, and Worth Counties and St. Louis City.

Applications may be filed at the:

Small Business Administration, District Office, 210 North 12th Street, Room 520, St. Louis, Mo. 63101.

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than June 21, 1973.

Dated April 20, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-8068 Filed 4-25-73;8:45 am]

[Declaration of Disaster Loan Area 972]

SOUTH CAROLINA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March 1973, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of South Carolina;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, Therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Abbeville County, S.C., suffered damage or destruction resulting from a tornado occurring on March 31, 1973.

OFFICE

Small Business Administration District Office, 1801 Assembly Street, Columbia, S.C. 29201.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 13, 1973.

Dated April 13, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-8104 Filed 4-25-73;8:45 am]

[Declaration of Disaster Loan Area 971]

VIRGINIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of April 1973, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of Virginia;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Fairfax County and Fairfax City, Va., suffered damage or destruction resulting from a tornado occurring on April 1, 1973.

Small Business Administration, Washington District Office, 1310 L Street NW., Washington, D.C. 20416.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 13, 1973.

Dated April 13, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-8105 Filed 4-25-73;8:45 am]

TARIFF COMMISSION

[AA1921-117/118]

PRINTED VINYL FILM FROM BRAZIL AND ARGENTINA

Notice of Investigation and Hearing

Having received advice from the Treasury Department on April 18, 1973, that printed vinyl film from Brazil and Argentina is being, or is likely to be, sold at less than fair value, the U.S. Tariff Commission on April 20, 1973, instituted investigation Nos. AA1921-117/118 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

HEARING.—A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m. e.d.s.t., on Tuesday, June 5, 1973. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon, Thursday, May 31, 1973.

Issued April 23, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-8115 Filed 4-25-73;8:45 am]

[TEA-W-195]

KAYSER-ROTH CORP.

Workers' Petition For A Determination; Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the

workers of the Stetson plant, South Weymouth, Mass., of the Kayser-Roth Shoes Division of the Kayser-Roth Corp., New York, N.Y., the U.S. Tariff Commission on April 20, 1973, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for men (of the types provided for in items 700.26, 700.27, 700.29, and 700.35 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before May 7, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in room 437 of the customhouse.

Issued April 23, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-8114 Filed 4-25-73;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

AIRCO SPEER ELECTRONIC COMPONENTS

Notice of Certification of Eligibility of Workers to Apply for Adjustment Assistance

Under date of November 28, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-157) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance on behalf of the workers of the DuBois, Pa. plant of Airco Speer Electronic Components, a division of Airco, Inc. In this report, the Commission, being equally divided, made no finding with respect to whether articles like or directly competitive with radio frequency coils, molded ceramic capacitors, and fixed precision metal film resistors produced by the DuBois, Pa. plant of Airco Speer Electronic Components are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers of such firm, or an appropriate subdivision thereof. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation.

Following this, the Director made a recommendation to me relating to the matter of certification (notice of delegation of authority and notice of investigation, 34 FR 18342; 37 FR 2472; 38 FR 8102; 29 CFR part 90). In the recommendation she noted that imports of coils and capacitors had increased in the years immediately prior to the plant's closing. In addition to increased imports from foreign competitors, Airco began to import coils in 1969 from a plant which it had acquired in Nogales, Mexico. Workers were employed interchangeably among the several products manufactured in the plant. Layoffs of employees caused in major part by increased imports began in October 1969 and continued until the plant closed in January 1971. After due consideration I make the following certification:

All hourly and salaried employees of the DuBois, Pennsylvania plant of Airco Speer Electronic Components, a division of Airco, Inc., who became unemployed or underemployed after October 5, 1969 are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 19th day of April 1973.

JOEL SEGALL,
Deputy Under Secretary, International Affairs.

[FR Doc.73-8126 Filed 4-25-73;8:45 am]

ARKWRIGHT MILLS, INC., SPARTANBURG, S.C.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of December 22, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-160) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by Arkwright Mills, Inc., Spartanburg, S.C. In this report, the Commission, being equally divided, made no finding with respect to whether articles like or directly competitive with the woven fabrics of cotton and of manmade fibers produced by Arkwright Mills, Inc. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the views of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation.

Following this, the Director made a recommendation to me relating to the matter of certification (notice of delegation of authority and notice of investigation, 34 FR 18342; 37 FR 2472, 38 FR 8198; 29 CFR part 90). In the recommendation she noted that concession generated imports like or directly competitive with fabrics produced by Arkwright Mills increased substantially. The company's attempts to develop new product lines to replace sales lost to these imported fabrics were largely unsuccessful. Unemployment and underemployment caused in major part by increased imports began in April 1971 when the company began phasing out its plant 2 operations and reducing office staff that supported such operations. Plant 2 closed as of June 1, 1971. Reductions in office staff caused in major part by import competition were completed at the end of 1971. After due consideration, I make the following certification:

"All hourly and salaried employees of plant 2 (Camp Croft Division) of Arkwright Mills, Inc., Spartanburg, S.C., who became unemployed or underemployed after April 3, 1971, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All salaried office employees of Arkwright Mills, Inc., Spartanburg, S.C. engaged in operations related to plant 2 who became unemployed or underemployed after March 30, 1971 and before January 1, 1972 are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 20th day of April 1973.

JOEL SEGALL,
Deputy Under Secretary, International Affairs.

[FR Doc.73-8127 Filed 4-25-73;8:45 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and administrative order No. 621 (36 FR 12819) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment

are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

A & F, Inc., South Fork, Pa.; 2-28-73 to 2-27-74 (women's foundation garments).

Aalfs Manufacturing Co., LeMars, Iowa; 2-16-73 to 2-15-74; 10 learners (boys' jeans).

Brew-Schneider Mfg. Co., Inc., Blakely, Ga.; 3-16-73 to 3-15-74 (washable service apparel).

Covington Industries, Inc., Florala, Ala.; 3-16-73 to 3-15-74; 10 learners (men's and women's pants).

Covington Industries, Inc., Samson, Ala.; 3-8-73 to 3-7-74; 10 learners (men's and women's pants).

Eden Industries, Inc., Manchester, Tenn.; 3-19-73 to 3-18-74 (men's and boys' pajamas).

Edison Textiles, Inc., Edison, Ga.; 2-22-73 to 2-21-74 (girls' and infants' shorts, slacks, and sunsuits).

Edison Textiles, Inc., Port Gaines, Ga.; 3-19-73 to 3-18-74; 10 learners (girls' and infants' shorts, slacks, and sunsuits).

Emporia Garment Co., Emporia, Va.; 2-16-73 to 2-15-74 (children's dresses).

Eudora Garment Corp., Eudora, Ark.; 2-20-73 to 2-19-74 (washable service apparel and work clothing).

The Jay Garment Co., Clarksville, Tenn.; 2-22-73 to 2-21-74 (men's work clothes).

McGehee Industries, McGehee, Ark.; 2-19-73 to 2-18-74; 6 learners (washable service apparel).

Michael Berkowitz Co., Inc., Waynesburg, Pa.; 2-15-73 to 2-14-74 (ladies' pajamas).

Monleigh Garment Co., Inc., Mocksville, N.C.; 3-1-73 to 2-28-74 (men's shirts and ladies' blouses).

St. Paul Sportswear Co., St. Paul, Va.; 3-12-73 to 3-11-74 (men's and boys' shirts).

Sharon Manufacturing Co., Sharon, Tenn.; 3-19-73 to 3-18-74 (children's pajamas).

Somerville Manufacturing Co., Inc., Somerville, Tenn.; 3-10-73 to 3-9-74 (men's pants).

Wentworth Manufacturing Co., Lake City, S.C.; 3-5-73 to 3-4-74 (women's dresses).

White Stag Manufacturing Co., Checotah, Okla.; 2-26-73 to 2-25-74 (women's, juniors', and children's shorts and slacks).

Wood Manufacturing Co., Inc., Limestone, Tenn.; 3-5-73 to 3-4-74 (men's pants).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Eudora Garment Corp., Eudora, Ark.; 2-20-73 to 8-19-73; 60 learners (washable service apparel and work clothes).

Town and Country Manufacturing Co., Bogart, Ga.; 3-12-73 to 9-11-73; 6 learners (women's aprons and blouses).

Wood Manufacturing Co., Inc., Limestone, Tenn.; 3-5-73 to 9-4-73; 18 learners (men's pants).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Good Luck Glove Co., Metropolis, Ill.; 2-15-73 to 8-14-73; 15 learners for plant expansion purposes (work gloves).

Mid West Glove Corp., Chillicothe, Mo.; 2-25-73 to 2-24-74; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Charles H. Bacon Co., Lenoir City, Tenn.; 3-6-73 to 3-5-74;; 5 percent of the total number of factory production workers for normal labor turnover purposes (women's and children's anklets).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Mistee Lingerie, Inc., Boyertown, Pa.; 2-22-73 to 2-21-74; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods and the number of learners authorized to be employed, are indicated.

Rio Grande Manufacturing Corp., Rio Grande, Puerto Rico; 1-2-73 to 1-21-74; 10 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of $1.14 an hour (men's cotton shorts).

Surtex-Division Stretch Wear Manufacturing Co., Inc., Coamo, P.R.; 2-12-73 to 2-11-74; 12 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 480 hours at the rates of $1.22 an hour for the first 240 hours and $1.35 an hour for remaining 240 hours (ladies' nylon dress gloves).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR part/528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before May 14, 1973.

Signed at Washington, D.C., this 19th day of April 1973.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc. 73-8125 Filed 4-25-73;8:45 am]

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PART II

SELECTIVE SERVICE SYSTEM

■

REGISTRANTS PROCESSING MANUAL

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER.

Portions of these materials have been published previously as temporary instructions which carried specified expiration dates. Entire chapters as currently effective are now being published to enhance the usefulness of these materials to the interested parties.

Questions pertaining to the interpretation of these materials may be discussed with personnel at any Selective Service local board.

CHAPTER 603—LOCAL BOARD PROCEDURES

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CHAPTER 603—LOCAL BOARD PROCEDURES

SECTION 603.1 *Uniform national filing system*—1. *Purpose.*—The purpose of the uniform national filing system is to establish one uniform method for the filing of registrant file folders/cover sheets, reports/forms and correspondence in all local boards. Through use of the uniform national filing system, any selective service personnel will be able to work efficiently in any local board.

2. The uniform national filing system will facilitate:

a. Access to specific individual SSS forms 101 to expedite handling of incoming mail, phone calls, inquiries, etc.,

b. Easy identification of specific classes (inventory),

c. Preparation of reports,

d. Proper selection of registrants for AFE and induction,

e. Periodic review of classes, and

f. Establishment of work priorities.

3. Requirements:

a. Files of registrants in classes 1–A, 1–A–O, and 1–O shall be filed according to the order of call. This will expedite the preparation of orders upon receipt of a call and compilation of the SSS form 117.

b. Dividers shall be used in the filing cabinet drawers to separate the different classifications and the various breakdowns of classes 1–A, 1–A–O, and 1–O Dividers shall be used to designate the different years of birth within each classification, in those instances when the registrant file folders are filed by Selective Service number. Subdividers are to be used to the extent required by the number of registrants assigned to the board.

c. A single suspense file will be established as a reminder to follow up on expiration dates of classifications or to take other actions relating to registrant processing. An index card (4 by 6) will be used for this purpose and will be filed according to the month, January through December.

(1) An index card should be made for each individual registrant as he enters suspense status, except as provided in (2) and (3) below.

(2) In cases where there are several registrants in the same classification with the same expiration date, instead of using individual cards, the local board may record more than one name on a card, provided all names can be recorded on the front of a single card (do not use the back).

(3) If there is a specific group of registrants on whom action is to be taken, the local board may use the card as a general reminder, such as initiating the review of all 2–S classifications.

d. A Charge-out card (SSS Form 710), properly completed, shall be placed in the file when a file folder is removed from its proper place in the file, but is not being sent out of the local board office. A GSA "out folder" or a similar folder shall be placed in the file for each file folder sent out of the local board office. This will enable the local board to file correspondence and other information or forms while the file is out of the office. Should any information bearing on classification be received while the file is at State headquarters or national headquarters being reviewed or at an appeal board or the national board, it shall not be filed but shall be immediately forwarded to the State director with a transmittal letter for inclusion in the file.

e. All work not completed at the end of the day will be placed in a properly labeled drawer of a filing cabinet. This drawer shall be titled "work file."

f. (1) Upon verification and completion of corrective action as required, all computer service center (CSC) lists should be maintained in a separate file drawer labeled "computer printouts" pending authorized destruction. Lists will be subdivided by title and filed chronologically with most recent list at the front.

(2) Copy 3 of the SSS form 7 shall be retained in this drawer, subdivided by administrative assignments to class 1–H by month, local board meetings by month, and appeal board meetings by month, pending receipt and verification of the computer service center's "list of notices of classification."

g. To provide for more efficient use of the locator file, which is made up of registration cards (SSS form 1), the index cards should be placed about 1 inch apart so that approximately 100 locator cards are between the index cards.

4. All registrant file folders will be filed in the following order:

I. All classes pending.

A. Unclassified registrants (by SSN).

B. Pending requested information.

C. Local board action (by SSN) (special cases, such as personal appearances, hardships, etc., shall be filed behind separate dividers, which are labelled to show the type of case).

D. Violators reported for prosecutive determination (by SSN).

II. Class 1–A and 1–A–O (below 1–H cutoff)—examined and acceptable registrants and registrants eligible to be processed for induction under paragraph 1(1) of section 631.6.

A. Ordered or rescheduled for induction (by RSN).

B. Available for selection or rescheduling.

1. Induction postponed (by date of expiration of postponement).

2. Volunteers (by sequence of volunteering).

3. EPSG (by RSN).

4. FPSG (by RSN).

C. Procedural rights not expired (by date of expiration of procedural rights).

D. Appeals pending (by RSN).

III. Class 1–O—examined and qualified (below 1–H cutoff) (by RSN).

A. Selected and ordered.

B. Volunteers (by sequence of volunteering).

C. Extended priority selection group (by RSN).

D. First Priority Selection Group (by RSN).

E. Procedural rights not expired (by date of expiration of procedural rights).

F. Appeals pending (by RSN).

IV. Classes 1–A and 1–A–O—Next year's First Priority. Selection Group Examined and Qualified (by RSN).

V. Class 1–O—Next year's First Priority Selection Group examined and qualified (by RSN).

VI. Ordered for Armed Forces examination—All classes (by order listed on SSS Form 225)—Includes waivers pending, consultations, transfer out, pending results, etc.

VII. Classes 1–A and 1–A–O—Not ordered for Armed Forces examination.

A. Armed Forces examination postponed (by date of expiration of postponement).

B. Extended Priority Selection Group (by RSN).

C. First Priority Selection Group, current year—below examination RSN cutoff (by RSN).

D. First Priority Selection Group, current year—above examination RSN cutoff and below 1–H RSN cutoff (by RSN).

E. Next year's First Priority Selection Group—below examination RSN cut-off (by RSN).

F. Next year's First Priority Selection Group—above examination RSN cut-off and below 1–H RSN cut-off (by RSN).

VIII. Class 1–O—Not examined.

(Use same subgroups as shown in VII above).

IX. Classes 1–A and 1–A–O (for reexamination—RBJ) (by RSN).

X. Class 1–O (for reexamination—RBJ) (by RSN).

XI. Class 2–A (by SSN).

XII. Class 2–C (by SSN).

XIII. Class 2–S (by SSN).

A. Graduating seniors.

B. All others, except medical specialist students.
C. Medical specialist students.
XIV. Class 2–D (by SSN).
XV. Class 3–A (by SSN).
XVI. Class 4–B (by SSN).
XVII. Class 4–C (by SSN).
XVIII. Class 4–D (by SSN).
XIX. Class 1–H.
A. Current year's First Priority Selection Group above 1–H cut-off (by RSN).
B. Next year's First Priority Selection Group above 1–H cut-off (by RSN).
C. Reduced Priorities (by SSN).
D. Became 18 years of age during current year (by SSN).
XX. Class 4–F (by SSN).
XXI. Class 4–A (by SSN).
XXII. Class 4–G (by SSN).
XXIII. Class 1–W (by SSN).
XXIV. Class 4–W (by SSN).
XXV. Class 1–D (by SSN).
XXVI. Class 1–C (by SSN).
XXVII. Over age 26 to be retained (by SSN) (except medical specialists).
XXVIII. Medical specialists (by classification within each breakdown as listed below, and by RSN (under 26) and by SSN (over 26)).
1. Physicians.
2. Podiatrists.
3. Dentists.
4. Veterinarians.
5. Osteopaths.
6. Optometrists.
7. Nurses.
XXIX. Duplicate file folders of registrants transferred for classification (after processing completed) (filed alphabetically).
XXX. Canceled (including deceased) (pending destruction) (by SSN).
XXXI. Over age 26 (pending destruction) (by classification and SSN).

5. *General files.* General files will be maintained in folders, which will be located behind the indicated dividers. The contents of each folder will be arranged in chronological order, most recent in front, unless otherwise indicated.

I. CORRESPONDENCE, GENERAL

Correspondence not included in the categories below (alphabetically by subject).

II. EMERGENCY ADMINISTRATION

Emergency Administration—strictly confidential.

III. FINANCE

a. Office space, space use reports, etc.
b. Expendable property: Purchase orders (SSS form 502), receiving reports (SSS form 503), shipping lists (SSS form 504), other related lists.
c. Nonexpendable property: purchase orders (SSS form 502), receiving reports (SSS form 503), shipping lists (SSS form 504), consolidated property list (SSS form 516), Government bills of lading, other related lists.
d. Requisitions (SSS form 501).
e. Telephone and telegraph.
f. Time and attendance reports (TUS 430) (as of June 11, 1972, time and attendance cards, AF 1278, will be used instead of TUS 430), leave slips (SF 71), and related records.
g. Correspondence re: Transportation requests (regular or charter movements) and meal tickets.
h. Government transportation requests—triplicate copies (SF 1169(c)).
i. Official travel—Compensated and uncompensated personnel.
j. Services: Purchase orders (SSS form 502).

IV. INDUCTION (EXCEPT MEDICAL SPECIALISTS)

a. Notice of call of local board (SSS form 201)—Related correspondence attached.
b. Delivery list (SSS form 261)—Related correspondence attached.
c. Copies of report of information (SSS form 119) retained in accordance with paragraph 10 of section 632.2.

V. NONREGISTRANTS

a. Under-age nonregistrants (alphabetically) (followup).
b. Of-age nonregistrants (alphabetically) (followup).

VI. PERSONNEL

a. Uncompensated personnel (individual folder for each person).
b. Compensated personnel (individual folder for each person).
c. General correspondence.

VII. ARMED FORCES EXAMINATIONS (EXCEPT MEDICAL SPECIALISTS)

a. Physical examination call on local board (SSS form 202).
b. Physical examination list (SSS form 225).
c. Notice to registrant to appear for medical interview (SSS form 219)—for transfers-in.
d. Transfers-in for AFE or induction (SSS form 230, alphabetical).
e. General correspondence.

VIII. PRESS RELEASES AND CLIPPINGS

Retain for not more than 6 months.

IX. REGISTRATION

a. Transmittals of Registration Card (SSS Form 1).
b. List of Registrants (SSS Form 3).
c. Tally Sheet (SSS Form 4).
d. General correspondence.

X. REPORTS

a. Minutes of Local Board Meeting (SSS Forms 112 and 112–A) by panels if applicable.
b. Report of Availability by Selection Groups—Classes 1–A and 1–A–O (SSS Form 117).
c. Report of Availability by Selection Groups—Class 1–O.
d. Inductions and Medical Determinations (SSS Form 262).
e. Record of Delinquents (SSS Form 302).
f. Form for monthly report of violators.
g. Report of Manpower Inventory (SSS Form 116).
h. Report of files destroyed.
i. Miscellaneous reports (separate folder for each type of report).

XI. MEDICAL SPECIALISTS

a. Report of Availability and Summary of Classification—Doctors of Medicine and Osteopathy, Dentists and Veterinarians (SSS Form 129).
b. Physical Examination List (SSS Form 225).
c. Calls for induction (SSS Form 201 or Form Letter).
d. Delivery List (SSS Form 261).
e. Miscellaneous reports.

XII. LOCATOR CARD

a. Copy 1 of the SSS Form 1 (Registration Card) shall be filed alphabetically in the regular locator file by each local board.
b. Copy 2 of the SSS Form 1 for registrants born in 1955 or later shall be filed by selective service number in a special file established by each local board for each year of birth.

XIII. BLANK FORMS

Blank forms shall be filed in numerical sequence
(1) SSS forms
(2) SF forms
(3) DD forms
(4) State forms

SEC. 603.2 *Procedures to be followed when consolidating local boards.*—1. Each local board losing its designated number due to consolidation will accomplish the following actions prior to the effective date of deactivation:
a. Accomplish all pending classification actions.
b. Make a complete audit of file folders/cover sheets by classification, and compare with SSS Forms 102 and 116.
c. Complete corrective action on all audit and inspection discrepancies.
d. Screen and dispose of all records and file folders/cover sheets which are authorized for destruction and disposal.
e. On the final Minutes of Local Board Meeting (SSS Form 112), enter a remark that this is the last meeting of the local board and that all records and file folders/cover sheets are being transferred to Local Board _____.
f. After the last entry on Classification Record (SSS Form 102) enter "Local Board deactivated and Registrants assigned to Local Board _____ effective _____".
g. Stamp on the front of each file folder/cover sheet (SSS Form 101) and each Registration Card (SSS Form 1) in the locator file, the remark "Local Board deactivated and Registrants assigned to Local Board _____ effective _____".
The originally assigned SSN of a registrant involved in a consolidation is not altered but is retained, regardless of his assignment to a different local board after consolidation.

2. The consolidated local board will accomplish the following action by, or as soon as possible after the effective date of consolidation.

a. Receive from the deactivated local board(s) and file:

(1) Copy 1 of the SSS Forms 1, which will be interfiled alphabetically with other copy 1's of the SSS Forms 1 on file at the local board; copy 2 of the SSS

Forms 1 for registrants born in 1955 or later, which will be interfiled by selective service number with other copy 2's of the SSS Forms 1 filed for each year of birth.

(2) The suspense file(s), which will be interfiled by suspense date.

(3) All Computer Service Center lists and forms, which will be interfiled by title and subdivided by previous board for which the report was prepared.

(4) The file folders/cover sheets (SSS Form 101) which will be interfiled by RSN, SSN, date of expiration of postponement or procedural rights, or sequence of volunteering, as applicable. When filing by SSN the SSS Forms 101 will be interfiled by year group according to the fourth element of the SSN and subdivided by second element, lowest first, when duplication of the fourth element exists.

(5) The general files which will be interfiled by appropriate heading and subdivided by original board of jurisdiction.

b. Submit to State headquarters a special Report of Manpower Inventory (SSS Form 116) to reflect the total number of registrants after the consolidation.

c. Make a statement after the last existing entry on the SSS Form 102 of the consolidated local board to show the effective date of the consolidation and the local boards consolidated. The consolidated local board will then continue to use its SSS Form 102 and will enter all new registrants of the consolidated area after the effective date of the consolidation, using its next consecutive SSN. The SSS Form(s) 102 of the deactivated local boards will continue to be used for those registrants transferred to the consolidated board until each registrant is phased out.

d. Enter remarks on the SSS Form 112 of the first meeting of the consolidated local board to show that local board No.(s) ____ has been deactivated and that their registrants have been assigned to the consolidated local board effective _____. When entering classification actions on the SSS Form 112 or 112–A, use the full SSN for registrants who have been transferred from a deactivated local board. On the SSS Form 112–A, the additional elements shall be placed in the margin to the left of the first column.

SEC. 603.3 *Reporting of alien registrants suspected of being illegally within the United States.*—1. Under the Military Selective Service Act, aliens who are illegally within the United States are nevertheless liable for registration and induction.

2. When any alien registrant is suspected of being illegally within the United States a report will be made to the State Director who will forward the information to the nearest field office of the Immigration and Naturalization Service.

3. The letter should contain the following information with respect to each alien registrant:

Name.	Birthdate.
SSN.	Place of birth.
Address.	Present citizenship.

Include also any other information which is thought to be pertinent.

SEC. 603.4 *Discarding of irrelevant material received from registrants.*—1. Local boards are authorized to discard all matter received from a registrant which plainly has no bearing on his identification or classification.

3. The determination as to what material should be discarded may be made by the local board, or by its executive secretary where the latter is authorized by the board to act.

3. All material received from the registrant or presently on hand, which is clearly frivolous, intended only to harass, or simply duplicative of existing information, should be discarded. With respect to material presently on hand, no special effort to examine files for the presence of such material need be made; however, such material may be removed and discarded as files are handled and examined in the course of regular Selective Service routines.

4. A brief descriptive notation will be made on page 2 of the registrant file folder or on page 8 of the classification questionnaire (SSS Form 100) when material is discarded.

SEC. 603.5 *Date stamp on correspondence received.*—1. All correspondence and forms received at the local board will be date stamped on the front only. This practice will make it unnecessary to duplicate the reverse side of a sheet merely to reflect the date stamp in any case where reproduction is required.

2. Care should be taken by the local board when date stamping so as not to obliterate or make illegible any information shown. If it would do so, the date stamp should be placed on the reverse side.

3. Care should also be taken to insure that use of the date stamp results in a clear, legible impression. Worn stamps should be replaced immediately.

SEC. 603.6 *Timely filing of notices or information.*—1. A registrant, in order to be entitled to certain procedural rights or to qualify for a status, such as reopening of classification, change in priority selection group placement, change in date or place of birth of record, or other change, must file with or submit to the local board a notice or information within a specified period of time or before a "cutoff" date.

2. When such a notice or information is filed with or submitted to the local board by mail, the date of mailing as shown by the Postal Service postmark on the envelope shall be used in determining whether the filing or submission is timely. If the envelope does not reflect a dated postmark or if the postmark is one imprinted by a postal meter or is obliterated or unreadable the date of receipt by the local board of the communication shall be considered the date of mailing.

CHAPTER 604—ORGANIZATION FOR REGISTRANT PROCESSING

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CHAPTER 604—ORGANIZATION FOR REGISTRANT PROCESSING

SEC. 604.1 *Local board areas.*—The State Director of Selective Service for each State shall divide his State into local board areas. There shall be at least one local board for each county or corresponding political subdivision, except where the Director of Selective Service approves the establishment of an intercounty local board. When more than one local board is established with the same geographical jurisdiction, registrants residing in that area will be assigned among the local boards in the manner as prescribed by the State Director of Selective Service.

SEC. 604.2 *Composition of local boards.*—1. Each local board and panel thereof shall consist of three or more members who are:

a. Between the ages of 18 and 65 years old and have not served on any local board and/or appeal 2board for more than 20 years,

b. Not members of the Armed Forces of the United States or any reserve component thereof, and who are not retired from the Armed Forces of the United States, including the reserve components thereof,

c. Citizens of the United States,

d. Residing in the county or corresponding political subdivision in which such local board has jurisdiction.

2. An intercounty local board shall have at least one member from each county or corresponding political subdivision within its area of jurisdiction.

3. The State director will notify the chairman of each local board of the prescribed number of members of his local board and panels thereof. A roster including names, ages, date of appointments, addresses and telephone numbers for each member will be furnished to the

chairman by the State director, as well as any changes.

4. Suitable records will be maintained at the State headquarters to enable it to accurately respond to inquiries as to the number of boards, panels, and members of each, in that State.

5. The President, upon recommendation of the respective Governor or comparable executive official, shall appoint the local board members.

SEC. 604.3 *Designation of local boards.*—1. The State Director of Selective Service shall identify by numbers each local board within his State.

2. The State Director of Selective Service shall maintain a current directory, listing each local board in his State by identifying number and address. Any change of address or consolidation of a local board will be reported to the appropriate regional service center utilizing the change of address or status (AP 901) in accordance with the procedural guide for that report, before the change is made.

SEC. 604.4 *Jurisdiction of local boards.*—The jurisdiction of each local board shall extend to all persons registered with, or subject to registration with, that local board. It shall have full authority to do and perform all acts within its jurisdiction authorized by the selective service law.

SEC. 604.5 *Organization and meeting of local boards.*—1. Each local board shall elect a chairman and a secretary from its membership. An entry shall be made in the minutes of local board meeting (SSS Form 112) reflecting the election of the chairman and secretary by the local board members and identifying each. A majority of the prescribed membership of the local board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until the next local board meeting or until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the local board, the chairman, a member, or employee of the local board shall recommend his removal to the State Director of Selective Service who shall investigate, and, if appropriate, take such action as is necessary to remove such member and secure a new member.

2. Wherever the workload on the local board members continues to be excessive the State Director may, upon approval from the Director of Selective Service, divide the local board into two or more panels. Each panel shall consist of three or more members and shall elect a chairman and secretary from its membership. A majority of the prescribed membership of a panel shall constitute a quorum and a majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Each panel of the local board shall have full authority to act on all cases assigned to it. Cases shall be assigned to each panel in a manner determined by the State Director. Separate minutes of local board meeting (SSS form 112) shall be completed for each meeting of a panel. All other records, reports, and forms dealing with or pertaining to registrants shall be identified by local board number only. Each panel shall have an alphabetical designation and be identified by the local board's number, such as, Oregon Local Board 13, Panel A.

3. A local board or panel should meet often enough to insure timely current processing of all registrants.

SEC. 604.6 *Disqualification of local board and members.*—No local board shall act on the case of a registrant who is a member or the first cousin or closer relation, either by blood, marriage, or adoption, or who is a fellow employee or employer, or stands in the relation of superior or subordinate in connection with any employment, or is a partner or close business associate of a member or employee of the board. If because of this provision a local board cannot act on the case of a registrant, the local board shall request the State Director of Selective Service to designate another local board to which the registrant shall be transferred for action on his case.

SEC. 604.7 *Minutes of meetings of local boards.*—Each local board shall keep a record of each meeting of the board on minutes of local board meeting (SSS form 112) which shall be filed by the local board as minutes of its meetings.

SEC. 604.8 *Signing official paper for local boards.*—1. Official papers issued by a local board may be signed by any member; or by any compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the local board, when authorized to do so by the RPM in the case of orders to report for examination, induction or alternate service, or when authorized to do so by resolution of the local board duly adopted by and entered in the minutes of the meeting of the local board: *Provided*, That the chairman or a member of the local board must sign a particular paper when specifically required to do so by the Director of Selective Service.

2. In an effort to assure greater flexibility and to provide for a current, continuing flow of registrant processing, local boards shall provide for more than one "authorization". Area supervisors, group supervisors, executive secretaries, and substitute clerks may all be authorized to sign for the local board(s) they serve.

3. The following steps shall be taken by State Directors to assure multiple authorizations:

a. When a compensated employee is appointed, specific reference shall be made in the remarks section of the standard form 50, identifying the local board or boards to which the employee is assigned for work.

b. Notify each local board of the names of all compensated employees assigned to it, whether full time or part time.

c. Advise each local board to pass a resolution, referencing this section of the RPM, authorizing compensated employees identified by name to act on behalf of the board's members, consistent with the wording of their job descriptions and the scope of the responsibility which the State Director wishes to assign them.

d. Insure that appointments of compensated personnel and corresponding local board resolutions of authorizations are kept current.

4. Attachment 604–1 to this chapter is a sample of such a resolution. List the employees' names below each action they are authorized to perform.

SEC. 604.9 *Advisors to registrants of local boards.*—1. Advisors to registrants may be appointed by the Director of Selective Service upon recommendation of the State Director of Selective Service to advise and assist registrants in the preparation of questionnaires and other selective service forms and to advise registrants on other matters relating to their rights and liabilities under the selective service law. The names and addresses of advisors to registrants within the local board area shall be conspicuously posted in the local board office.

2. In an effort to reduce the registrant consultation workload of the compensated local board personnel, and to encourage broader geographical, community, age and minority participation, the State Directors are encouraged to utilize advisors to registrants.

SEC. 604.10 *Interpreters at local boards.*—1. When necessary, the local board is authorized to use interpreters.

2. The following oath shall be administered to an interpreter each time he is used by a local board:

> You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

SEC. 604.11 *Appeal board areas.*—Each State Director of Selective Service shall establish one appeal board for each Federal Judicial District within his State. The State Director for the State of New York shall establish for each Federal Judicial District or portion thereof in that State located outside of the city of New York an appeal board area which shall comprise the entire district or portion thereof which is outside the city of New York. The State Director for New York City shall establish for each of the Federal Judicial Districts located partly within the city of New York an appeal board area which shall comprise the entire portion of such district located within the city of New York.

SEC. 604.12 *Composition and appointment of appeal board members.*—1. Appeal board members shall be:

a. Between the ages of 18 and 65 years old and have not served on any local board and/or appeal board for more than 20 years,

b. Not members of the Armed Forces of the United States or any Reserve Component thereof, and are not retired from the Armed Forces of the United States,

including the Reserve Components thereof,

c. Citizens of the United States,

d. Residents of the area for which the respective appeal boards have jurisdiction.

2. The President, upon recommendation of the respective Governor, shall appoint the members of the appeal boards.

3. The State Director will notify the chairman of each appeal board of the prescribed number of members of his appeal board and panels thereof. A roster including names, ages, date of appointments, addresses, and telephone numbers for each member will be furnished to the chairman by the State Director, as well as any changes.

4. Suitable records will be maintained at the State headquarters to enable it to accurately respond to inquiries as to the number of boards, panels, and members of each in that state.

5. Each appeal board or panel thereof shall consist of three or more members, but should always be an uneven number to minimize the possibility of a tie vote.

SEC. 604.13 *Designation of appeal boards.* 1. When there is one appeal board in a State the board shall be called "Appeal Board for the State of ____" and, if the appeal board consists of panels, each panel shall be given the designation "Appeal Board for the State of ____, Panel No. ____", in numerical order.

2. Except in the State of New York and in the city of New York, when there are two or more appeal boards in a State, each board shall be called "Appeal Board for the Selective Service System in the ____ Federal Judicial District of the State of ____" and if an appeal board consists of panels, each panel shall be given the designation "Appeal Board for the Selective Service System in the ____ Federal Judicial District of the State of ____, Panel No. ____", in numerical order.

3. In the State of New York each appeal board shall be called "New York State Appeal Board for the Selective Service System in the ____ Federal Judicial District" and, if an appeal board consists of panels, each panel shall be given the designation "New York State Appeal Board for the Selective Service System in the ____ Federal Judicial District, Panel No. ____", in numerical order.

4. In the city of New York each appeal board shall be called "New York City Appeal Board for the Selective Service System in the ____ Federal Judicial District" and, if an appeal board consists of panels, each panel shall be given the designation "New York City Appeal Board for the Selective Service System in the ____ Federal Judicial District, panel No. ____" in numerical order.

SEC. 604.14 *Jurisdiction of appeal boards.*—The appeal board shall have jurisdiction to review and to affirm or change any decision appealed to it from any local board in its area or any decision appealed from any local board not in its area when such appeal is transferred to it or is appealed to it by or on behalf of any registrant whose principal place of employment or residence is located in its area.

SEC. 604.15 *Disqualification of appeal board members.*—No appeal board shall act on the case of a registrant who is a member or the first cousin or closer relation, either by blood, marriage, or adoption, or who is an employer, employee, or fellow employee, or stands in the relationship of superior or subordinate in connection with any employment, or is a partner or close business associate of a member or employee of the appeal board. If because of such provision, or for any other reason, an appeal board cannot act on the case of a registrant, and there is no panel of the appeal board to which the case may be transferred, the appeal board shall transmit such case to the State director of Selective Service for transfer to another appeal board.

SEC. 604.16 *Organization and meeting of appeal boards.*—1. Each appeal board or panel shall elect a chairman and a secretary from its membership. Each appeal board or panel shall keep minutes of each of its meetings. An entry shall be made in the minutes of the appeal board meeting reflecting the election of the chairman and secretary by the appeal board members and identifying each. A majority of the prescribed membership of an appeal board or panel when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the board, the chairman, a member or employee of the board shall recommend his removal to the State director of Selective Service who shall investigate, and if appropriate, take such action as is necessary to remove such member and secure a new member.

2. Where the workload on the appeal board members continues to be excessive, the State director may, upon approval from the Director of Selective Service, divide the appeal board into two or more panels. Each panel shall be established with not less than three members, and shall elect a chairman and secretary from its membership. A majority of the prescribed membership of a panel shall constitute a quorum, and a majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Each panel of the appeal board shall have full authority to act on all cases assigned to it. Cases shall be assigned to each panel in a manner determined by the State director. Separate minutes shall be recorded for each meeting of a panel and identified by panel. All other records, reports, and forms shall be identified with the appeal board's designation.

SEC. 604.17 *Signing official papers of the appeal board.*—Official papers issued by an appeal board or panel may be signed by a member, or may be signed by the clerk "By direction of the appeal board", if he or she is authorized to do so by a resolution duly adopted by and entered in the minutes of such appeal board or panel, provided that the chairman or a member of an appeal board or panel must sign a particular paper when specifically required to do so by the Director of Selective Service.

SEC. 604.18 *Medical advisers to the State directors of Selective Service.*—The President may appoint, upon recommendation of the Governor, from qualified physicians, one or more medical advisers to each State director of Selective Service Service. It shall be the duty of such medical advisers to furnish such advice concerning the physical and mental condition of registrants as the State director may require.

SEC. 604.19 *Organization and function of National Selective Service Appeal Board.*—1. Members of the National Selective Service Appeal Board (sometimes referred to as "Presidential Appeal Board" or "National Board") are appointed by the President. The President shall designate one member as Chairman. A majority of the members of the National Board shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question.

2. The National Board may sit en banc or, upon the request of the Director of Selective Service or as determined by the Chairman of the National Board, in panels, each panel to consist of at least three members. The Chairman of the National Board shall designate the members of each panel and shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board, or a panel thereof, shall hold meetings in Washington, D.C., and upon request of the Director of Selective Service or as determined by the Chairman of the National Board, at any other place.

3. The National Board or panel thereof, is authorized and directed to perform all the functions and duties vested in the President by that sentence of section 10(b)(3) of the Military Selective Service Act, which reads as follows: "The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title, and the determination of the President shall be final." The National Board, when an appeal to the President has been taken, under the provisions of chapter 627, RPM, shall classify each registrant, giving consideration to the various classifications which a local board might consider, and shall give effect to the provi-

sions of the Military Selective Service Act and the established policies of the Director of Selective Service.

4. The Director of Selective Service shall establish the order, by category, in which appeals by registrants will be considered, but he shall not determine the sequence in which appeals within a given category shall be processed.

SAMPLE RESOLUTION

This local board, through the exercise of its discretion and judgment, determines by the process of classification the availability of its registrants for induction into the Armed Forces.

Because there is no occasion for the exercise of discretion or judgment in (1) the issuance of selective service forms reflecting prior local board determinations, and (2) the issuance of correspondence which restates current selective service directives, such functions are essentially administrative.

Accordingly, pursuant to chapter 604 of the registrants processing manual, it is hereby resolved that the following named compensated employees are authorized to sign Selective Service forms and correspondence on behalf of this local board.

(Date of Resolution)

(Local borad chairman or member)

Attachment 604–1 (Rev. Jan. 1, 1973)

CHAPTER 608—INFORMATION

608.12(e) is amended to read:

(e) Each local board maintains a classification record (SSS form 102), which contains the name selective service number, and the current and past classifications for each person registered with that board. Information in this record will be supplied upon request. Responses need not be made to requests for information which are not reasonably specific, or which would be unduly burdensome, or which appear to be for the purpose of harassment.

CHAPTER 611—DUTY AND RESPONSIBILITY TO REGISTER

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611.3 Change of status.
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CHAPTER 611—DUTY AND RESPONSIBILITY TO REGISTER

SEC. 611.1 *Persons required to be registered.*—1. Except as otherwise provided in this chapter, it shall be the duty of every male citizen of the United States, and of every other male person (except an alien male person who is in a medical, dental, or allied specialist category) who resides in or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth, to present himself for and submit to registration.

2. Every alien male person who is in a medical, dental, or allied specialist category residing in the United States or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 35th anniversary of the day of his birth shall have the duty to present himself for and submit to registration.

3. Every male person required to register shall present himself for and submit to registration before a duly designated registration official or the local board having jurisdiction in the area in which he has his permanent home or in which he may happen to be on the day or any of the days fixed for his registration. Registration of persons required to be registered, who are outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam or the Canal Zone at the time they are required to register, shall be accomplished in accord with the provisions of chapter 655. All persons waiting to register at any place of registration at the closing hour on the last day fixed for their registration shall be registered.

4. Any person, who upon attaining the age of 18 years is required to register, shall be registered on the anniversary of the date of his birth or within the period of 60 days commencing 30 days before such date.

5. Any persons entering the United States and required to register, other than citizens of the United States, shall present themselves for and submit to registration within the period of 6 months following the day on which they enter the United States. Aliens over age 26 who have not reached the 35th anniversary of their date of birth and who receive a degree in a medical, dental or allied specialty, shall present themselves for and submit to registration before a duly designated registration official or selective service local board within 30 days following their receipt of that degree.

6. Any person other than a person described in section 611.4, subject to registration who, because of circumstances over which he has no control, is prevented from presenting himself for and submitting to registration at the time designated in this section, shall notify the nearest local board of his name, place of residence, and the reason he is unable to comply, and, unless his liability to register has expired, shall present himself for and submit to registration immediately when it becomes possible for him to do so.

SEC. 611.2 *Persons not required to be registered.*—The following persons are not required to be registered:

1. A male alien who is now in or who hereafter enters the United States and who has not been admitted for permanent residence in the United States, shall not be required to be registered unless he is: (a) A conditional entrant or refugee who has been admitted to the United States and who does not possess either an immigrant or nonimmigrant status, or (b) a person who illegally enters or is illegally in the United States. A male alien who is a conditional entrant or refugee should have a statement to that effect from the Immigration and Naturalization Service indicating his conditional entrant or refugee status. Possession of such a statement indicates that he is required to register. (The possession of an immigration form I–94 (entry-departure record) is not a conclusive indication as to whether the male alien is or is not required to register.) If the male alien does not have conclusive documentation as to being a conditional entrant or refugee, the local board shall verify his status with the nearest office of the Immigration and Naturalization Service. A male alien who has in his possession an immigration form I–151 (alien registration receipt card, "green card") has been admitted as a permanent resident alien and is required to register.

2. Commissioned officers, warrant officers, enlisted men, and aviation cadets of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration and the regular Public Health Service;

3. Cadets, United States Military Academy;

4. Midshipmen, United States Naval Academy;

5. Cadets, United States Air Force Academy;

6. Cadets, United States Coast Guard Academy;

7. Midshipmen, United States Naval Reserve, United States Merchant Marine Academy.

8. Students enrolled in an officer procurement program at the following military colleges, the curriculum of which has been approved by the Secretary of Defense:

a. The Citadel, Charleston, S.C.
b. Norwich University, Northfield, Vt.
c. Virginia Military Institute, Lexington, Va.
d. North Georgia College, Dahlonega, Ga.

9. Members of the reserve components of the Armed Forces, the Coast Guard, and the Public Health Service, while on active duty, provided that such active duty in the Public Health Service that commenced after June 30, 1967, is performed by members of the reserve of the Public Health Service while assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or while assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration.

10. Any person who is separated from the Armed Forces after having served honorably or under honorable conditions on active duty, other than active duty for training, for not less than 6 months, or who has served as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service for not less than 24 months.

SEC. 611.3 *Change of status.*—Except as otherwise provided herein, every male person who would have been required to be registered in accord with section 611.1 of this chapter, except for the fact that

he was in one of the categories described in section 611.2 of this chapter and therefore exempt from registration, shall present himself for and submit to registration within 30 days after a change in his status removes him from such exempt category.

SEC. 611.4 *Inmate of institution.*—Unless he has already been registered, every person subject to registration who is an inmate of an insane asylum, jail, penitentiary, reformatory, or similar institution shall be registered on the day he leaves the institution.

SEC. 611.5 *Voluntary registration.*—Any male person who entered the Armed Forces before being required to be registered in accord with the provisions of paragraph 1 of section 611.1 and who is separated from active duty after having served honorably on active duty, other than active duty for training, for not less than 6 months, may present himself for and submit to registration.

CHAPTER 612—DUTIES IN REGISTRATION

Paragraph 7 is amended to read:

7. *Care and custody of registration cards and status cards.*—The chairman of the local board is charged with the care and custody of the registration cards (SSS Form 1) and the status cards (SSS Form 7) received by the local board from the State Director of Selective Service. The local board shall guard against the loss or destruction of these documents and shall not permit anyone to tamper with them. The chairman of the local board shall warn all persons concerned against entrusting them to unauthorized persons.

CHAPTER 619—TERMINATION OF ACCOUNTABILITY

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CHAPTER 619—TERMINATION OF ACCOUNTABILITY

SEC. 619.1 *Accountability.*—Accountability is defined as being the responsibility of the Selective Service System to maintain a current record of the status and location of each registrant.

SEC. 619.2 *Termination of Accountability.*—A registrant's accountability shall be terminated whenever (1) his registration is cancelled or, (2) he attains that age and status which permit the destruction of his file folder, as provided in section 619.3.

SEC. 619.3 *Preparation.*—1. Whenever one of the following events occur, the local board executive secretary shall certify the file eligible destruction:

a. Cancelled registrations (including deceased registrants) upon expiration of length of time they are required to be kept;

b. Whenever a registrant attains age 26, unless one of the following conditions exists:

(1) He has been reported to the U.S. attorney as a violator and no disposition has been made of the case.

(2) He has been convicted of a violation of the selective service law and has not completed serving his sentence.

(3) He is an alien, subject to section 315(b) of the Immigration and Nationality Act, who has requested a waiver of training and service in the Armed Forces.

(4) He is an alien medical specialist.

(5) He is a medical specialist or is undergoing professional training for qualification as a medical specialist, and has extended liability to age 35.

(6) His case possesses unique historical, legal or administrative value, as determined by the State director.

(7) He is classified in class 1–W.

(8) He is an alien (including former American citizens who have expatriated themselves) who at some time has been classified in class 1–A, class 1–A–O, or class 1–O.

2. Whenever a registrant whose file was not destroyed at age 26, due to one of the above exclusions, attains age 35, the local board executive secretary will certify the file eligible for destruction unless:

a. The registrant has been reported to the U.S. attorney as a violator, and no disposition has been made of his case.

b. The registrant's case possesses unique historical, legal or administrative value, as determined by the State director.

3. Whenever an alien's file has been certified eligible for destruction upon his reaching age 35, and there is on file a certificate for waiver of service and training, the certificate will be removed from the file and forwarded to the Immigration and Naturalization Service, Department of Justice.

SEC. 619.4 *Termination processing.*—Whenever a registrant's accountability is to be terminated due to certification by the local board executive secretary that his file is eligible for destruction, an entry will be made in the first available space to the right of the last classification action pertaining to the registrant on the classification record (SSS Form 102), "Destroyed, Job Number ———", as indicated in the directive authorizing the destruction of the file. (See attachment 619–1.)

SEC. 619.5 *Accounting.*—Each registrant's file certified by the executive secretary as eligible for destruction must be properly recorded on the report of manpower inventory (SSS form 116) prepared for the month in which the registrant became eligible for termination processing, as a subtraction (out) from the registrant's latest classification and an addition (in) to the number of men dropped from accountability.

SEC. 619.6 *Liability.*—Termination of accountability does not affect any liability which a registrant may have under the Military Selective Service Act. Registrants who have liability for training and service and who request duplicate SSS Form 2 or 110, may be issued duplicates based upon the information appearing on SSS Forms 1 or 102, if their files have been destroyed. If such duplicates are issued, a notation of the issuance of a duplicate form will be entered in the "Remarks" column of SSS Form 102.

COVER SHEET/REGISTRANT FILE FOLDER

DISPOSAL REFERENCES

As an aid for determining the proper disposal "Job Number", as required in section 619.4, the following outline identifies the destruction authority by classification, job number and directive.

Classification	Job No.	Directive
I. 35 years of age and older: 65–A		
II. 26 years of age and older:		
A. 3–A	NN–171–145	Admin. Bull. 1.40 as amended, Nov. 3, 1971.
4–A		
4–F		
5–A		
B. 1–Y		
C. 1–A		
1–A–O		
1–C		
1–D		
1–O		
1–S	NN–172–49	LASD (AA–27), Nov. 3, 1971.
2–A		
2–C		
2–S		
4–B		
4–C		
4–D		
D. 2–D		
1–H	NN–172–138	LASD 715.1, Mar. 20, 1972.
4–G		
4–W		

Previous to the November 3, 1971, amendment to Administrative Bulletin 1.40, the destruction of those classes now covered by job No. NN–171–145 had different job numbers. There is no requirement to change the previous numbers to the new consolidated number.

CHAPTER 623—CLASSIFICATION PROCEDURE

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623.1	Commencement of classification.
623.2	Consideration of classes.
623.3	Action to be taken when classification determined.
623.4	Issuing a duplicate of a lost, destroyed, mislaid or stolen notice of classification or status card (SSS Form 7).
623.5	Registrants transferred for classification.
623.6	Procedure upon transfer for classification.

CHAPTER 623—CLASSIFICATION PROCEDURE

SECTION 623.1 *Commencement of classification.*—1. Each registrant shall be classified as soon as practicable after his registration.

2. The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and such other written information as may be placed in his file: *Provided*, That the board shall proceed with the registrant's classification if his RSN is below the established 1–H cutoff number and he fails to provide the board in a timely manner with any information concerning his status which he is requested or required to furnish. Since it is imperative that appeal boards have available to them all information on which the local board determined the registrant's classification, oral information shall not be

considered unless it is summarized in writing on an SSS form 119, signed by the person furnishing the information and placed in the registrant's file. Under no circumstances shall the local board rely upon information received by a member personally unless such information is reduced to writing on an SSS form 119, signed by the member and placed in the registrant's file. None of the provisions of this chapter shall impair the power of the local board to take notice of the vulnerability of any registrant for induction and of the fact that the Congress has made such registrants liable for induction for military service and in the absence of any other information, when the registrant has failed to furnish such information within the time prescribed, to classify the registrant as available for military service.

SEC. 623.2 *Consideration of classes.*—Every registrant who is being considered for induction shall be placed in class 1–A except that when grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with class 1–AM considered the highest class and class 4–A considered the lowest class according to the following table:

Class:	Class:
1–AM	4–B
1–A–O	4–C
1–A–OM	4–D
1–O	1–H
1–OM	4–G
2–A	4–F
2–C	4–W
2–S	1–D
2–D	1–W
2–M	1–C
3–A	4–A

SEC. 623.3 *Action to be taken when classification determined.*—1. Within 10 working days after the local board has classified or reclassified a registrant (except a registrant who is classified in class 1–C because of his entry into active service in the Armed Forces), it shall mail him a status card (SSS form 7). When a registrant is classified in class 2–A, 2–C, 2–D, 2–M, 2–S, or 3–A, the date of termination of the deferment shall be entered on the SSS form 7. When mailing a status card to a registrant classified in class 1–O, the local board shall include a conscientious objector skills questionnaire (SSS form 152) together with a return envelope preaddressed to the local board.

2. After each local board meeting, the effective date of the classification, the class, and the date of termination if applicable, will be entered on page 1 of the SSS form 101. The date of classification, the class and the effective date of the classification, if different than the date of classification, will be entered on page 2 of the SSS form 101, or page 8 of the SSS form 100, if present in the file folder. Record the class and the date of classification on SSS form 102. A copy of the minutes of local board meeting continuation sheet (SSS form 112–A) shall be posted in a conspicuous place in the office of the local board for a period of 60 days. A list of administrative assignments to class 1–H shall also be posted. When a person is unable to ascertain the current classification of a specific registrant from this posted notice, an employee of the local board, upon request, shall consult the classification record (SSS form 102) and shall furnish the person making the inquiry the current classification of such registrant.

3. In the event the local board classifies a registrant in a class other than that which he requested, it shall record its reasons on a report of oral information (SSS form 119) which shall be signed by a local board member who was present at the meeting at which the registrant was classified and filed in the registrant's file. The local board shall inform the registrant of such reasons in writing at the time it mails to him a status card (SSS form 7). (Sample letter for this purpose is attachment 624–2 to ch. 624.)

SEC. 623.4 *Issuing a duplicate of a lost, destroyed, mislaid, or stolen notice of classification or status card* A*SSS tice of classification or status card (SSS form 7).*—A new or duplicate SSS form 7 may be issued to a registrant only by the local board which mailed the original SSS form 110 or 7 to him, upon his written statement requesting a duplicate notice and the presentation of proof satisfactory to the local board that his notice has been lost, destroyed, mislaid, or stolen.

SEC. 623.5 *Registrants transferred for classification.*—1. After completing the registration card (SSS form 1), and before the local board of record (the registrant's own local board) has undertaken the classification of a registrant, other than his initial assignment into class 1–H, he may be transferred to another local board by the State Director for classification if he is so far from his local board as to make complying with notices a hardship.

2. After completing the (SSS form 1), a registrant may be transferred to another local board by the Director or State Director for classification at any time (1) when the local board cannot act on his case because of disqualification, or (2) when a majority of the members of the local board, or a majority of the members of every panel thereof if the board has separate panels, withdraws from consideration of the registrant's classification because of any conflicting interest, bias, or other reason, or (3) when the State Director deems such transfer to be necessary in order to assure equitable administration of the selective service law.

SEC. 623.6 *Procedure upon transfer for classification.*—1. The local board from which the registrant is transferred shall prepare, in triplicate, an order for transfer for classification (SSS form 114), shall send one copy thereof to the registrant, and shall transmit the original to the local board to which the registrant is transferred, together with all papers pertaining to the registrant except the registration card (SSS form 1) and the remaining copy of the SSS form 114. The local board from which the registrant is transferred shall, with red ink, note the transfer in the "Remarks" column of the SSS form 102.

2. The local board to which the registrant is transferred shall classify the registrant. It shall follow the same procedure as in the case of one of its own registrants if a request for a personal appearance, a request for reopening, or an appeal is filed. It shall give the same notices and maintain the same records as are sent and maintained for its own registrants, except that it shall use a separate page in its SSS Form 102 for transferred registrants and shall make all entries on that page in red ink. The local board to which the registrant is transferred shall prepare a duplicate SSS Form 101. After the classification, after the personal appearance, when requested, and after the determination on appeal, when taken, the local board to which the registrant is transferred shall return to the local board of record all papers pertaining to the registrant except the duplicate SSS Form 101 and the SSS Form 114 and file the duplicate SSS Form 101 as instructed by section 603.1. In the proper column of the SSS Form 102 the local board to which the registrant is transferred shall note the date of the returning of the papers.

3. The classification made by the local board to which a registrant is transferred shall be appealed through that local board only. The local board of record shall accept and enter on the Classification Record (SSS Form 102) and the Minutes of Local Board Meeting (SSS Form 112), without any change, the classification reported by the board which classified the registrant. If the local board of record receives new information that might affect the registrant's classification, the board shall send the information and the registrant's file to the board to which he was transferred, for further consideration; provided, that if the disqualification of the local board or other reason for the original transfer for classification no longer exists, the local board of record may consider the new information and classify the registrant in the same manner as if he had never been transferred for classification.

CHAPTER 624—PERSONAL APPEARANCE BEFORE THE LOCAL BOARD

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CHAPTER 624—PERSONAL APPEARANCE BEFORE THE LOCAL BOARD

SECTION 624.1 *Opportunity for personal appearance.*—1. This chapter deals only with the personal appearance before the local board in accord with section 22 of the Military Selective Service Act and part 1624 of Selective Service Regulations.

2. The local boards shall not conduct courtesy interviews.

3. Opportunity for personal appearance.

a. Every registrant shall have the opportunity, in accord with the provisions of this chapter, to appear in person before the local board which classified him except, (1) after his administrative classification into class 1-H, (2) after his classification by the local board, made as a result of a personal appearance, and (3) after his classification by an appeal board. Any registrant who has the right to a personal appearance and who requests it will have his request acknowledged within 10 working days after receipt of his request by the local board on a Procedural Rights Notice (SSS Form 204).

b. When a registrant requests a personal appearance, and the local board determines that he does not have a right to such appearance, he will be notified by letter. The local board will inform the registrant of its determination by using sample letter attachment 624-1.

(NOTE.—SSS Form 204 will not be mailed to the registrant unless the local board has determined to grant a personal appearance.)

4. A registrant who files a claim for classification in class 1-A-O, 1-O or 3-A, shall upon his request, be granted an opportunity to appear in person before the local board, prior to his classification being determined by the local board (preclassification personal appearance). A registrant who requests, is granted, and appears for a preclassification personal appearance does not have the right to a personal appearance following that classification by the local board and issuance of a Status Card SSS Form 7). However, if a registrant claims 1-A-O, 1-O or 3-A, and requests a preclassification personal appearance, and the registrant is in a lower class, and is not in a category of registrants currently vulnerable for induction processing, the local board shall notify the registrant, using the letter format shown in attachment 624-2, that the information submitted will be considered at such time as his classification is due to be reopened, and he will be accorded his procedural rights at that time.

SEC. 624.2 *Request for personal appearance.*—1. In order for a registrant who is claiming 1-A-O, 1-O or 3-A to qualify for a preclassification personal appearance, the local board must receive a written request for the preclassification personal appearance from the registrant prior to the time the local board considers his claim.

2. A registrant who is eligible for a post-classification personal appearance must file a written request with the local board within 15 days after the date the local board mails him a Status Card (SSS Form 7). This 15-day period may be extended by the local board when it is satisfied that the registrant's failure to request a personal appearance within the specified time was due to some cause beyond his control.

SEC. 624.3 *Appointment for a personal appearance.*—1. The local board shall consider and schedule personal appearances in the order of the registrant's vulnerability for induction or alternate service as established by his priority selection group and RSN.

2. The local board shall give the registrant no less than 15 days notice before a personal appearance, unless the registrant requests an earlier appointment which can be scheduled by the local board. To schedule a personal appearance, the local board shall mail the registrant a Procedural Rights Notice (SSS Form 204).

3. Should the registrant fail to appear at a scheduled personal appearance, he shall not be given an opportunity to appear at a later meeting unless he first establishes to the satisfaction of the local board good cause for his failure to appear. The registrant must file a written statement of the reason for his failure to appear at his scheduled meeting within 5 days after his failure to appear, or he will be deemed to have waived his right to appear at a later meeting of the local board. The 5-day period may be extended only by the local board when it is satisfied that the registrant's failure to file a written statement within such period was due to some cause beyond his control. The local board may authorize by resolution any compensated employee assigned to the local board to approve the reasons given by the registrant. However, the local board may not delegate the authority to reject the reasons given. The compensated employee will reschedule the personal appearance of a registrant whose reasons are accepted by preparing SSS Form 204 using copies 3 and 4 only, as prescribed in its procedural directive.

SEC. 624.4 *Procedure for a personal appearance before the local board.*—1. A quorum of the local board or appropriate panel of the local board must be present during all personal appearances. A majority of those present at the personal appearance will determine the classification action.

2. At any personal appearance the registrant may:

a. Present evidence, and up to three witnesses;

b. Discuss his classification;

c. Point out the class or classes in which he feels he should be placed;

d. Direct attention to any information in his file which he believes the local board has overlooked, or to which he feels it has not given sufficient weight.

The registrant may present any further information which he believes will assist the local board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he or his witnesses presented for inclusion in his file folder. A summary of the personal appearance shall be prepared by the compensated employee or member of the local board and signed by a member of the local board and shall also be placed in the registrant's file folder. A copy of this summary shall be mailed to the registrant.

3. A registrant shall be given sufficient time at his personal appearance as is reasonably necessary for the fair presentation of his claim or claims. Normally 15 minutes will be deemed adequate for this purpose, but the local board shall extend this time if it appears that further time is reasonably necessary for the fair presentation of the registrant's claim. The registrant's entire presentation, including the testimony of witnesses, shall be made during this time period.

4. A registrant who is granted a personal appearance before his local board shall be considered for all classifications which he has claimed or for which he has submitted information, and shall be deemed to have had his personal appearance for all such classifications.

5. If the registrant does not speak English adequately, he may appear with a person to act as an interpreter. This interpreter will not be considered as one of the registrant's three witnesses unless he also testifies in behalf of the registrant. The following oath shall be administered to an interpreter for each appearance requiring his services:

> You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

6. No registrant may be represented at his personal appearance before the local board by anyone acting as an attorney or legal counsel, but an attorney is not excluded from appearing solely as a witness for a registrant.

7. Recording devices will not be utilized during any personal appearance before the local board, nor will the making of a verbatim transcript be permitted.

SEC. 624.5 *Conduct of a personal appearance before the local board.*—1. The registrant shall be given the courtesy of being introduced to each local board member present at his personal appearance. Name plates may be used by local board members. The local board members should attempt to place the registrant at ease during his personal appearance.

2. Any questions asked by the local board member should be relevant to the registrant's case.

3. It is important that the registrant realize that his classification will be decided by the local board, and not by the compensated employee who may be present during his appearance. To accomplish this, the compensated employee should not participate in the hearing, except to answer questions directed at him or her by a local board member. Such employee should take sufficient notes to enable him or her to prepare a brief summary of the proceedings to be placed in the registrant's file folder.

4. Witnesses who appear before the local board should appear singly (the registrant being present throughout his personal appearance) and they shall be extended the same courtesies given a registrant. Upon completion of a witness' testimony, he should be excused from the meeting room. The local board may, however, allow more than one witness to be present at the same time, and to remain throughout the entire proceedings, if it appears to be beneficial to the general presentation of the registrant's claim.

5. Upon reaching the end of the actual personal appearance, the local board should advise the registrant of the following, prior to excusing him from the room:

a. That the local board will decide his classification, based upon the information within his file and the information that was presented to the local board at his personal appearance;

b. That a status card (SSS form 7) will be mailed to him shortly, reflecting the local board's decision in this matter;

c. That if his claim is denied by the local board, he will be supplied with the reasons for its decision along with his status card;

d. That he may appeal the local board's decision by filing a written appeal within 15 days of the mailing of the status card; and any appeal previously filed is invalid;

e. That he may prepare a summary of the personal appearance for inclusion in his file.

6. The local board should thank him for attending the personal appearance and advise him that his personal appearance is now concluded.

SEC. 624.6 *Procedure when a registrant fails to appear.*—1. Whenever a registrant for whom a personal appearance has been scheduled fails to appear as scheduled, the local board shall consider, in accordance with paragraph 3 of section 624.3, any written explanation of such failure that has been filed within 5 days, or filed within any period of extension as granted by the local board. If, at the next scheduled local board meeting, the local board determines that the registrant's failure to appear for his personal appearance was without good cause, or if he failed to mail or submit an acceptable explanation within 5 days (or extension as granted by the local board), the registrant will be deemed to have had his personal appearance, and the following action will be taken:

a. If the scheduled personal appearance was a preclassification appearance, the local board will classify the registrant on the basis of the information in his file and mail him a status card (SSS form 7).

b. If the scheduled personal appearance was a postclassification appearance and the local board has not received new or additional information which in its judgment would warrant reopening the classification, the local board will mail the registrant a notice of decision not to reopen classification (SSS form 204A), and if the registrant has on file a timely appeal, he shall be notified that it will be processed.

c. If the scheduled personal appearance was a postclassification appearance and there is additional information in the file which the local board judges sufficient to warrant reopening, it will reopen and consider anew the classification and mail the registrant a status card (SSS form 7).

d. In the case of (a), (b) or (c) above the registrant will have the right of appeal to the appeal board.

e. In the event the local board classifies the registrant in a class other than that which he requested, it shall record its reasons on a report of information (SSS form 119) or in a written statement which shall be signed by a local board member and filed in the registrant's file folder. The local board shall inform the registrant in writing of its reasons at the time it mails his status card (SSS form 7) retaining a copy of the letter in the registrant's file. The mailing of the SSS form 7 will provide another right of personal appearance because the reopening of classification was not based upon a personal appearance. The reopening by the local board under the provisions of this section cancels any appeal which was filed during any previous period afforded the registrant to request an appeal.

2. A notation that the registrant failed to appear before the local board shall be entered on page 8 of his classification questionnaire (SSS Form 100) or on page 2 of his registrant file folder (SSS Form 101), as appropriate.

3. If under the provisions of paragraph 3 of section 624.3, the local board determines that the registrant had good cause for failing to report for his personal appearance he will not be classified until given the opportunity to appear before the local board at a later meeting, and his case will be considered as if he had not been previously scheduled for a personal appearance. The local board will prepare SSS Form 204, in accordance with its procedural directive, establishing the rescheduled personal appearance.

SEC. 624.7 *Procedure of the local board following a personal appearance.*—1. After the registrant appears before the local board, it shall classify the registrant, and mail a status card (SSS Form 7) to him. If the scheduled personal appearance was a preclassification personal appearance, the registrant shall be notified that he is not entitled to a postclassification personal appearance. In the event the local board classifies the registrant in a class other than that which he requested, it shall record the reasons on a report of information (SSS Form 119), which shall be signed by a local board member who was present at the meeting at which the registrant was classified, and this shall be filed in the registrant's file holder. The local board shall inform the registrant, in writing, of the reasons for denial and that any appeal previously filed is invalid at the time it mails his status card (SSS Form 7).

2. Only those members of the local board before whom the registrant appeared shall classify him.

3. A statement that the registrant has appeared before the local board shall be entered on page 8 of his classification questionnaire (SSS Form 100), or on page 2 of his registrant file folder (SSS Form 101), as appropriate.

SEC. 624.8 *Appearance before the local board stays an order to report for induction or alternate service.*—The local board shall not issue a registrant an order to report for induction or alternate service during the period in which he may request a personal appearance before the local board or, if he has requested a personal appearance, during the period the personal appearance is pending. Any such order which has been issued during either of those periods shall be canceled by the local board. Upon cancellation, the registrant shall be notified in writing and a copy of the cancellation will be placed in his file folder and noted on page 2 of the file folder, or page 8 of the classification questionnaire.

DEAR _____: This acknowledges your request for a personal appearance before the local board. A review of your file reveals that you are not entitled to a personal appearance. Consequently, the local board has denied your request.

For the Local Board,

_____
Authorized Signature

Name _____

Address (Street) _____

City and State _____

Attachment 624–1

(Rev. JAN 1, 1973)

DEAR SIR: This will acknowledge receipt of your recent correspondence. In view of the necessity to process registrants in the order of their vulnerability for induction, the local board will not consider your information at this time. This will not deprive you of any procedural rights.

Before your local board considers your case for possible reclassification, it will mail you a current information questionnaire. Your completing that form, attaching any additional information, and returning it to the local board will insure that you receive full consideration at the proper time.

Please keep the local board advised of your current mailing address.

For the Local Board,

_____
Authorized Signature

Name _____

Address (Street) _____

City and State _____

Attachment 624–2

(Rev. JAN 1, 1973)

CHAPTER 626—APPEAL TO THE APPEAL BOARD

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Attachment 626-1 Sample letter regarding denial of requested classification and reasons therefore.

CHAPTER 626—APPEAL TO THE APPEAL BOARD

SEC. 626.1 *Who may appeal.*—1. The Director of Selective Service, the State Director of Selective Service of the local board of record, or the State Director of Selective Service of the State where the local board which classified the registrant is located, may appeal from any classification action of a local board at any time prior to the induction of the registrant, or his reporting for alternate service.

2. The registrant may appeal to an appeal board, within prescribed time limits, from any classification given to him by the local board except his initial administrative assignment to class 1-H.

SEC. 626.2 *Time limit within which registrant may appeal.*—1. The registrant must file his appeal (and his request for a personal appearance before the appeal board, if a personal appearance is desired) within 15 days after the date the local board mails to him a status card (SSS form 7), or notice of decision of local board not to reopen classification (SSS form 204A).

2. Any time prior to the date the local board mails to the registrant an order to report for induction or for alternate service the local board will permit him to appeal even though the period for taking an appeal has elapsed, if the local board is satisfied that his failure to appeal within the time specified was due to some cause beyond his control. When the local board grants the registrant an extension of time to appeal, he may within the extended period also request a personal appearance before the appeal board. Whether the local board grants an extension of time or not, an entry will be made on page 2 of the registrant file folder (SSS form 101), or page 8 of the classification questionnaire (SSS form 100), when present in the file folder, and the registrant shall be notified in writing of the local board's decision.

SEC. 626.3 *Procedure for taking an appeal.*—1. Any person entitled to do so may appeal to the appeal board by filing with the local board a written notice of appeal. If the Director of Selective Service or the State Director of Selective Service appeals to the appeal board, he shall place in the registrant's file a written statement of his reasons for taking such appeal.

2. Whenever an appeal is taken from a local board's classification by the Director of Selective Service or the State Director of Selective Service, the local board shall notify the registrant on the individual appeal record (SSS Form 120) of the action, including a statement of the reasons therefore, informing him that (1) his appeal will be considered by the appeal board for the area in which his local board is located unless he files, within 15 days from the date of mailing on the SSS Form 120, a written request with the local board that the appeal be considered by the appeal board having jurisdiction over the area in which his principal place of employment or residence is located, and (2) he may request a personal appearance before the appeal board if he files with the local board, within 15 days from the date of mailing on SSS Form 120, a written request for such personal appearance. Whenever a registrant's principal place of employment or residence is outside the United States he may request that the appeal be considered by the appeal board for the District of Columbia. "Principal place of employment" as used in this paragraph means the geographical location at which the registrant usually performs the duties of his employment. The 15-day period may be extended by the local board when it is satisfied that the registrant's failure to file a written request within such period was due to some cause beyond his control. A request for transfer of appeal under this paragraph will be acknowledged by issuance of a second SSS Form 120. A request for personal appearance will be acknowledged by issuance of SSS Form 204.

3. If the Director or State director has the registrant's file folder in his possession when the appeal is taken, he shall return the file folder to the local board (when the file folder is in the possession of the Director, it shall be returned through the State director) with a notice in writing that the appeal is being taken and a statement of his reasons for taking such appeal.

4. When the registrant is taking the appeal he may also, during his 15-day appeal period, request an opportunity to appear in person before the appeal board, and/or request that the appeal be considered by the appeal board having jurisdiction over the area in which his principal place of employment or residence is located. The notice of appeal need not be in any particular form, but must include the name of the registrant, his request and the address of his residence or employer if a transfer is requested. Any notice shall be liberally construed so as to permit the appeal. The appeal will be acknowledged on the individual appeal record (SSS Form 120).

5. The appeal board having jurisdiction over the local board which classified the registrant shall consider the appeal of the registrant's classification unless the registrant has filed with his local board a timely request that the appeal be determined by the appeal board having jurisdiction over the area in which his principal place of employment or residence is located.

6. The registrant may attach to his appeal a statement specifying the reasons he believes the classification inappropriate, directing attention to any information in his file which he believes received inadequate consideration, and setting out more fully any information which was submitted.

7. A registrant's file which is being sent to the appeal board will be forwarded through the State director or his representative. Prior to forwarding the registrant's file folder to the appeal board, the local board executive secretary will prepare the file and insure completion of the procedures required for taking an appeal, to include the following:

a. Issuance of SSS Form(s) 120.

b. If the appeal has been taken by the Director or a State director, insuring that the registrant has received in writing the reasons for such appeal. (A copy of this notification will be placed in the registrant's file folder.)

c. Insuring that all documents in the registrant's file folder are arranged in chronological sequence, with the latest on top, except that the SSS Form 100, when present in the file folder, shall always be the top document.

d. Insuring that the registrant's file folder does not contain information which has not been reviewed by the local board. If any such information is present, it shall be considered by the local board, and if the local board does not reopen the registrant's classification, the file shall be sent to the appeal board.

e. Insuring that if a written summary of a personal appearance had been prepared and entered in the registrant's file folder by the local board, the registrant had been furnished a copy of such written summary.

f. Insuring that the period in which the registrant may request a personal appearance, or that his appeal be considered by an appeal board other than the one for the area in which the registrant's local board is located, has expired (15 days from the date of mailing of the SSS Forms 7, 110 or 204A) and that any request for a personal appearance has been acknowledged by issuance of SSS Form 204, or any request for transfer of appeal has been acknowledged by issuance of SSS Form 120.

g. Insuring that, if the appeal was taken by the Director or the State director, SSS Form 120 was issued and that the period for requesting a personal appearance or that the appeal be considered by an appeal board other than the one for the area in which the registrant's local board is located has expired (15 days from the date of mailing of SSS Form 120).

h. Insuring that any request for transfer of appeal has been acknowledged by issuance of a second SSS Form 120.

i. Insuring that an entry has been made on page 2 of registrant's file folder (SSS Form 101), or page 8 of the classification questionnaire (SSS Form 100)

indicating the date of mailing of the file to the State director for forwarding to the appeal board.

SEC. 626.4 *Review by State director or his representatives.*—1. When the registrant's file is received by the State director or his representative for forwarding to the appeal board, he shall check the file to be sure that all procedural requirements have been properly complied with. If he discovers any procedural error, he shall return the file to the local board for corrective action. When any information has been placed in the file which was not considered by the local board in making the classification from which the appeal to the appeal board is taken, the State director or his representative shall review such information. When in his opinion, the information, if true, would justify a different classification of the registrant, he shall return the file to the local board with a request that the local board reopen and classify the registrant anew in accordance with section 625.2.

2. When the State director or his representative has complied with the provisions of the preceding paragraph he shall, unless the file is returned to the local board, forward the file to the appeal board or appropriate State director if the appeal is to be considered by an appeal board in another State.

3. If an appeal by the Director or State director is withdrawn, the registrant will be informed in writing by the local board which classified him. If an appeal or request for a personal appearance by the registrant is withdrawn, his withdrawal will be acknowledged by SSS Form 204.

SEC. 626.5 *Actions by appeal board.* 1. The appeal board shall consider appeals in the order of the registrant's vulnerability for induction or alternate service as established by his priority selection group and random sequence number.

2. Upon receipt of the registrant's file folder, the appeal board clerk shall (a) date stamp the upper right corner of the individual appeal record (SSS form 120), (b) make the required entries in the docket book of appeal board (SSS form 121) including "P.A. REQUESTED", if appropriate, and (c) review the file folder for procedural correctness, completeness and determination of the registrant's vulnerability.

3. The appeal board clerk shall check to see whether the registrant has requested a personal appearance before the appeal board. If no request for a personal appearance has been made, the appeal board will classify the registrant after 15 days have expired from the date of receipt of the registrant's file.

4. If a registrant has requested a personal appearance before the appeal board, the appeal board will notify the registrant of the date, time and place of his scheduled appearance on copy 3 of SSS form 204 and will mail him such notification at least 15 days prior to the scheduled appearance.

5. Should the registrant fail to appear as scheduled, except for good cause which he establishes to the satisfaction of the appeal board, he shall not be given the opportunity to appear at a later meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting no later than 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a later meeting. The 5-day period may be extended by the appeal board when it is satisfied that the registrant's failure to file a written statement within such period was due to some cause beyond his control. In any event, the appeal board shall not classify the registrant at the meeting at which the registrant failed to appear, unless the registrant has withdrawn his request to appear, or has submitted a reason for his failure to appear which is not satisfactory to the appeal board. Otherwise, he shall be classified at the next meeting after the meeting at which he failed to appear, provided no evidence has been received explaining his failure to appear, or he has submitted a reason for his failure to appear, or he has submitted a reason for his failure to appear which is not satisfactory.

6. If the appeal board is satisfied that the registrant had good cause for his failure to appear, it shall reschedule him for a personal appearance at a later meeting. The appeal board may authorize the appeal board clerk to approve the reasons given by the registrant. However, the appeal board may not delegate to the appeal board clerk the authority to reject reasons given. The appeal board clerk will reschedule the personal appearance of a registrant whose reasons are accepted, by preparing SSS form 204 using copies 3 and 4 only, as prescribed in its procedural directive.

7. If an appeal board has panels, the personal appearance may be rescheduled from the originally-assigned panel to another panel of the same board if (1) such reassignment would avoid undue delay in registrant processing and (2) both panels have identical geographic jurisdiction within the appeal board area. Upon obtaining the concurrence of the chairman of each panel regarding such reassignment, the appeal board clerk shall record the action in the appeal board minutes and by docket book entry for both panels.

8. The registrant shall be given such time for his personal appearance as the appeal board determines is reasonably necessary for the fair presentation of his claim. No registrant may be represented before the appeal board by anyone acting as attorney or legal counsel. The registrant shall not be entitled to present witnesses. If the registrant does not speak English adequately, he may appear with a person to act as an interpreter. The following oath shall be administered to an interpreter for each appearance requiring his services:

> You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

Recording devices will not be utilized during any personal appearance before the appeal board nor will the making of a verbatim transcript be permitted.

9. At any personal appearance the registrant may:

a. Present evidence.

b. Discuss his classification.

c. Point out the class or classes in which he thinks he should have been placed.

d. Direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight.

e. Furnish further information which he believes will assist the appeal board in determining his proper classification. Such information should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file folder.

10. During a registrant's personal appearance there shall be present a quorum of the members of the appeal board or appropriate panel of the appeal board, and only those members of the appeal board before whom the registrant appeared shall classify him. Classification of the registrant by the appeal board shall take place after one of the following has occurred:

a. He has appeared before the board.

b. He withdrew his request to appear.

c. He waived his right to an opportunity to appear.

d. He failed to appear, without establishing to the satisfaction of the appeal board good cause therefor.

11. If the registrant appeared before the board, the appeal board shall prepare a written summary of the oral information presented. The SSS form 119 may be utilized for this purpose. Such summary shall be prepared in an original and two copies; the original and one copy to be returned with the file to the local board. The second copy shall be retained by the appeal board.

12. In reviewing the appeal and classifying the registrant, the appeal board shall consider the various classes in the order specified in chapter 623. The appeal board shall not receive or consider any information other than the following:

a. Information contained in the registrant's file folder as received from the local board.

b. General information concerning economic, industrial, and social conditions.

c. Oral statements by the registrant and written evidence submitted by him to the appeal board during his personal appearance.

13. Minutes shall be taken of each appeal board or panel meeting and shall include: date of meeting; time convened and adjourned; date last meeting; members present by name. For each appeal considered, the registrant's name, SSN, RSN, priority selection group, classification of appeal board, vote, personal appearance and any special requests and instructions the board may have shall be recorded. The minutes shall be authenti-

cated by a member of the appeal board or panel who was present at the meeting. The original of the minutes shall be retained as permanent records by the appeal board and a copy shall be sent to the State headquarters having jurisdiction over the appeal board.

14. After classifying the registrant, the appeal board shall prepare the action by appeal board (SSS form 120A). In the event that the appeal board classifies the registrant in a class other than that which he requested, it shall record its reasons on a report of information (SSS form 119) which shall be signed by a member of the appeal board who was present at the meeting at which the registrant was classified, or by the appeal board clerk if so authorized by resolution of the appeal board. The SSS form 119 shall be filed in the registrant's file folder. The appeal board shall enclose SSS form 120A in the registrant's file folder, make entries on the docket book of appeal board (SSS form 121) indicating the determination, and transmit the registrant's file folder through the appropriate State director of selective service to the local board.

SEC. 626.6 *Procedure of local board following action by appeal board.*—1. When the registrant's file folder is received by the local board, it shall:

a. Complete and mail SSS form 7 to the registrant. If the registrant was classified by the appeal board in a class other than that which he requested, it shall mail the registrant a written notification of the appeal board's reasons for denying the requested classification (see attachment 626–1) along with the SSS form 7; and, if the registrant appeared before the appeal board, the original of the written summary of the oral information presented during the personal appearance.

b. Record on page 2 of the registrant file folder (SSS form 101) or page 8 of the classification questionnaire (SSS form 100), the issuance and receipt of all forms and communications to or from the registrant since the file folder was forwarded on appeal.

c. Enter on pages 1 and 2 of the registrant file folder (SSS form 101) or page 8 of the Classification Questionnaire (SSS form 100), the classification granted by the appeal board and the effective date of the classification.

d. Enter date of mailing of SSS form 7, mailing of notification of reasons for denial, and summary statement, if applicable, on the registrant file folder or the classification questionnaire, and enter the class and date of mailing of the SSS form 7 on the SSS form 102.

e. Enter the classification action on the minutes of local board meeting (SSS form 112) of the next local board meeting.

SEC. 626.7 *Appeal stays induction and alternate service.*—The local board shall not issue an order to report for induction or alternate service either during the period afforded the registrant to take an appeal to the appeal board, or during the period such an appeal is pending. Any such order which has been issued during either of those periods shall be canceled by the local board. Whenever an appeal to the appeal board has been taken during the time allowed for taking appeals by a person entitled to do so, any order to report for induction or alternate service which has been previously issued to the registrant shall be ineffective and shall be canceled by the local board. Upon cancellation, the registrant shall be notified by issuance of notice of cancellation, SSS form 255. Issuance of the form 255 will be noted on page 2 of the registrant file folder, or page 8 of the classification questionnaire.

SEC. 626.8 *Nonrenewal of personal appearance right following appeal.*—The mailing of the status card (SSS form 7) to the registrant following classification by the appeal board shall not create his right to a personal appearance before the local board.

SAMPLE LETTER REGARDING DENIAL OF REQUESTED CLASSIFICATION AND REASONS THEREFORE

(Local Board Stamp)

(Date of Mailing)

To:----------
SSN:----------
Dear ----------,

This is to advise you that the classification you requested has been denied by the appeal board. Your new status card (SSS form 7) is enclosed. If you had a personal appearance before the appeal board, a summary of your personal appearance is also enclosed.

The reason for denial of the requested classification is as follows:

Enclosure(s)

(Authorized signature)

Attachment 626–1
(Rev. APR 1, 1973)

CHAPTER 627—APPEAL TO THE PRESIDENT

INDEX

Sec.	Title
627.1	Persons who may appeal to the President.
627.2	Procedure for taking an appeal to the President.
627.3	Procedure on appeal to the President.
627.4	Procedures of the National Selective Service Appeal Board.
627.5	File to be returned after appeal to the President is decided.
627.6	Procedure of local board after file is returned.
627.7	Appeal to the President stays induction or alternate service.

CHAPTER 627—APPEAL TO THE PRESIDENT

SECTION 627.1 *Persons who may appeal to the President.*—1. The Director of Selective Service, the State director of Selective Service of the State where the local board which classified the registrant is located, or the State director of Selective Service of the State where the appeal board which classified the registrant is located, may appeal to the President from any determination of an appeal board at any time prior to the induction of the registrant, or his reporting for alternate service.

2. When a registrant has been classified by the appeal board and one or more members of the appeal board dissented from that classification, he may appeal to the President and request a personal appearance before the National Selective Service Appeal Board within 15 days after the mailing by the local board of the status card (SSS form 7) notifying him of his classification by the appeal board. The local board may permit any registrant who is entitled to appeal to the President under this section to do so at any time prior to the date the local board issues to him an order to report for induction or for alternate service, even though the period of taking such an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to some cause beyond his control.

SEC. 627.2 *Procedure for taking an appeal to the President.*—1. Any person entitled to do so may appeal to the President by filing with the local board a written notice of appeal. This notice need not be in any particular form but must identify the registrant and indicate that the classification is being appealed to the President. If the Director or a State director appeals, he shall place in the registrant's file folder a written statement of his reasons for taking the appeal. A copy of the notice of appeal shall be furnished to the State director for the State where the appeal board which classified the registrant is located.

2. If the Director or State director has the registrant's file folder in his possession when the appeal is taken, he shall return the file folder to the local board (when the file folder is in the possession of the Director, it shall be returned through the State director) with a notice in writing that the appeal is being taken.

SEC. 627.3 *Procedure on appeal to the President.*—1. Whenever the Director or the State director appeals to the President, the registrant shall be mailed an Individual Appeal Record (SSS Form 120) and informed by separate letter of the reasons for the appeal. If he desires to appear before the National Selective Service Appeal Board (National Board) he must within 15 days from the date on the SSS Form 120 request an appearance in writing, addressed to his local board. The 15-day period may be extended by the local board when it is satisfied that the registrant's failure to request an appearance within that period was due to some cause beyond his control. If the local board grants an extension of time to the registrant, it shall be so stated on a Report of Information (SSS Form 119), which shall be signed by a compensated employee or member of the local board and placed in the registrant's file folder. When a registrant makes a timely request for a personal appearance or his late request is approved by the local board, the request shall be placed in his file and the registrant shall be mailed copy 2 of the Procedural Rights Notice (SSS Form 204) acknowledging his request. The local board shall then forward the entire file to the State Director of Selective Service or his representative, placing copy 3 of SSS Form 120 in the registrant's file. The local board shall enter on page 2 of

the Registrant File Folder (SSS Form 101) or page 8 of the Classification Questionnaire (SSS Form 100) the date the file is forwarded.

2. If the registrant is taking the appeal, he may at the same time file a written request with the local board to appear before the National Board.

3. Prior to forwarding the registrant's file folder to the National Board through the State director or his representative, the local board Executive Secretary will review the file to make sure that:

a. If the appeal has been taken by the Director or State director the registrant has been notified in writing of the reasons the appeal has been taken and that a copy of such notification is in his file folder.

b. All documents in the registrant's file folder are arranged in chronological sequence, latest on top, except that the SSS Form 100, if present in the file, shall always be the top document.

c. The file folder does not contain information which has not been reviewed by the local board. If any such information is present, it shall be considered by the local board and if the local board does not reopen the registrant's classification, the file shall be sent through the State director to the National Board.

d. If the appeal was taken by the registrant, the period for requesting a personal appearance has expired (15 days from the date of mailing of the SSS Form 7).

e. If the appeal was taken by the Director or the State director, the period for requesting a personal appearance has expired (15 days from the date of mailing of the advisory SSS Form 120).

f. If a written summary of a personal appearance has been prepared and entered in the registrant's file folder by the local- or State appeal board, a copy has been furnished the registrant.

4. When the registrant's file is received by the State director or his representative for forwarding to the National Board, the file will be checked to be sure that all procedural requirements have been properly complied with, including the issuance of SSS Form 120 confirming such an appeal has been taken. If the State director or his representative discovers any procedural error, he shall return the file to the local board for corrective action. When any information, not considered by the local board in making the classification from which the appeal to the President is taken, has been placed in the file, the State director or his representative shall review such information. When, in his opinion, the information, if true, would justify a different classification of the registrant, he shall return the file to the local board with a request that the local board reopen and classify the registrant anew.

5. When the State director or his representative has complied with the provisions of the preceding paragraph he shall, unless the file is returned to the local board, forward the file to the Director of Selective Service, attention: NSSAB.

6. If an appeal or request for a personal appearance is withdrawn by the registrant, his withdrawal will be acknowledged by mailing SSS Form 204 to the registrant.

7. If an appeal by the Director or State director is withdrawn, the registrant will be informed in writing by the local board, and the following procedures will be accomplished:

a. The local board will prepare an SSS Form 204 in the same manner as if the registrant had withdrawn his request for an appeal.

b. This will be distributed as follows:

(1) Copy 1 is sent to the Computer Service Center.

(2) Copy 2 is destroyed.

(3) Copy 3 is sent to the National Board.

(4) Copy 4 is retained by the local board until return of the registrant's file from the National Board, when it will be placed in his file.

c. Upon return of the registrant's file from the National Board, an appropriate entry will be made on page 2 of the SSS Form 101 or page 8 of the SSS Form 100.

SEC. 627.4 *Procedures of the National Selective Service Appeal Board.*—1. An appeal to the President is determined by the National Selective Service Appeal Board (National Board).

2. Not less than 15 days in advance of the meeting at which his classification will be considered, the National Board shall inform any registrant who has requested a personal appearance that he may appear at such meeting and present evidence, other than witnesses, bearing on his classification. Should the registrant fail to appear at the scheduled meeting (except for good cause which he establishes to the satisfaction of the National Board), he shall not be granted an opportunity to appear at a later meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure, or he will be deemed to have waived his right to an opportunity to appear at a later meeting. If he establishes to the satisfaction of the National Board that he has good cause for not appearing on the date originally scheduled, he shall be scheduled to appear at a later date. His 5-day period may be extended by the National Board when it is satisfied that his failure to file a written statement within such period was due to some cause beyond the registrant's control.

3. The registrant is entitled to 15 minutes for his personal appearance. The National Board may, in its discretion, extend the time of the registrant's personal appearance. A registrant cannot be represented before the National Board by anyone acting as attorney or legal counsel. The registrant shall not be entitled to present witnesses. If the registrant does not speak English adequately, he may appear with a person to act as an interpreter. The following oath shall be administered to an interpreter for each appearance requiring his services:

You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

Recording devices will not be utilized during any personal appearance before the National Board nor will a verbatim transcript be permitted.

4. At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board or appeal board has overlooked or to which sufficient weight has not been given. The registrant may present such further information as he believes will assist the National Board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

5. The National Board shall classify a registrant who has requested a personal appearance after (a) he appeared before the National Board, (b) he withdrew his request to appear, (c) he waived his right to an opportunity to appear, or (d) he failed to appear without establishing good cause to the satisfaction of the National Board. When a registrant appears before the National Board, only those members of the Board before whom the registrant appeared shall classify him. Classifications will be determined by a quorum of the National Board or appropriate panel of the National Board.

6. In reviewing the appeal and classifying the registrant, the National Board shall not receive or consider any information other than the following:

a. Information contained in the registrant's file folder received from the local board;

b. General information concerning economic, industrial, and social conditions; and

c. Oral statements by the registrant and written evidence submitted by him to the National Board during his personal appearance.

7. In the event that the National Board classifies the registrant in a class other than that which he requested, it shall record the reasons in his file. Upon receipt by the local board of a written request from the registrant within 30 days following the mailing of a status card (SSS form 7) the local board shall furnish to the registrant a brief statement of the reasons for the decision of the National Board.

SEC. 627.5 *File to be returned after appeal to the President is decided.*—When the appeal to the President has been decided, Minutes of Action Upon Appeal to the President completed, and Docket Book entries recorded, the file shall be returned to the local board through the appropriate State Director of Selective Service.

SEC. 627.6 *Procedure of local board after file is returned.*—When the file of the registrant is received by the local board, it shall:

(1) Mail a status card (SSS form 7) to the registrant, and

(2) Record on page 2 of the registrant file folder (SSS form 101) or page 8 of the classification questionnaire (SSS form 100) the issuance and receipt of all forms and communications to or from the registrant since the file folder was forwarded on appeal; and

(3) Enter the classification granted by the National Board on the classification record (SSS form 102), on the minutes of local board meeting (SSS form 112) and on page 2 of the registrant file folder (SSS form 101) or page 8 of the classification questionnaire (SSS form 100).

SEC. 627.7 *Appeal to the President stays induction or alternate service.*—The local board shall not issue a registrant an order to report for induction or alternate service during the period afforded the registrant to take an appeal to the President or during the period his appeal is pending. Any such order which has been issued during either of these periods shall be canceled by the local board, and the registrant mailed a notice of cancellation (SSS form 255). Whenever an appeal to the President has been taken by a person entitled to do so, any order to report for induction or for alternate service in lieu of induction which has previously been issued to the registrant shall be ineffective and shall be canceled by the local board. A copy of the cancellation will be placed in his file folder and an entry made on page 2 of the registrant file folder or page 8 of the classification questionnaire.

CHAPTER 630—VOLUNTEERS FOR INDUCTION

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630.2	Place to volunteer.
630.3	Registration of certain volunteers.
630.4	Classification and selection of volunteers.
630.5	Withdrawal of application for voluntary induction.

CHAPTER 630—VOLUNTEERS FOR INDUCTION

SEC. 630.1 *Who may volunteer.*—1. Any registrant who has attained the age of 18 years but who has not attained the age of 26 years or completed his current active duty obligation under the Military Selective Service Act may volunteer for induction into the Armed Forces other than as a medical, dental, or allied specialist unless he:

a. Is classified 4–F or is eligible for class 4–F;

b. Has been temporarily rejected with reexamination believed justified (RBJ) and the period of time specified for his return for reexamination has not terminated or the basis for his temporary rejection continues to exist;

c. Is an alien who has not resided in the United States for a period of 1 year or longer.

2. A registrant who is classified in class 1–AM may volunteer for induction as a medical, dental, or allied specialist in accord with the provisions of chapter 680, RPM.

3. Any man who has attained the age of 17 years and who has not attained the age of 18 years may volunteer for induction into the Armed Forces, except an alien who has not resided in the United States for a period of 1 year or longer. He shall be registered and be assigned a selective service number as prescribed in chapter 613. He shall file with his local board two copies of application for voluntary induction (SSS form 254). On both copies the consent to his induction must have been signed by his parents or guardian.

4. A registrant who volunteers for induction who has attained the age of 18 years but has not attained the age of 18 years and 6 months shall be required to complete and file SSS form 254 in duplicate with his local board of record.

5. A registrant who volunteers for induction who has attained the age of 18 years and 6 months shall complete and file with his local board an SSS form 254.

SEC. 630.2 *Place to volunteer.*—1. If a young man who is eligible to volunteer has not been registered and desires to volunteer for induction, he may complete SSS form 254 and register at any local board. If volunteering and registration are accomplished at a local board other than the local board having jurisdiction in the area in which his place of residence is located, that local board shall assist the registrant in any manner which will aid in his processing for induction, and forward the registration card and SSS form 254 to the local board of jurisdiction which will then process the registrant for induction.

2. If a registrant has been registered and desires to volunteer for induction, he may volunteer at any local board. If the registrant volunteers at a local board other than his local board of jurisdiction, the local board at which he volunteers shall assist the registrant in any manner which will aid in his processing for induction, and will forward the SSS form 254 to his local board of jurisdiction which will then process him for induction.

SEC. 630.3 *Registration of certain volunteers.*—If a man who is required to be registered, but who has not yet registered, volunteers for induction, he shall be registered and shall be given a selective service number as provided in chapter 613.

SEC. 630.4 *Classification and selection of volunteers.*—1. When the registration of a volunteer for induction is accomplished, he shall be administratively assigned to class 1–H and issued a status card (SSS form 7) by his local board.

2. When a registrant who is in class 1–A, 1–A–O, 1–O, or 1–H files an application for voluntary induction (SSS form 254), he shall be selected and ordered for induction, provided there is an outstanding induction call.

3. When a registrant who is in a deferred class, other than class 4–F, files an application for voluntary induction, he shall be classified into class 1–A as soon as possible. He shall then be selected and ordered for induction provided there is an outstanding induction call.

4. A volunteer for induction may be selected and ordered for induction even though he has not yet been given an Armed Forces examination. He will be examined when he reports for induction and will not be inducted unless he is found fully qualified.

SEC. 630.5 *Withdrawal of application for voluntary induction.*—A registrant may, in writing, withdraw his application for voluntary induction at any time prior to his actual induction. When he withdraws his application for voluntary induction, the local board shall cancel any outstanding order to report for induction.

CHAPTER 631—ALLOCATION OF INDUCTIONS

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CHAPTER 631—ALLOCATION OF INDUCTIONS

SEC. 631.1 *Random selection sequence.*—The Director of Selective Service shall establish a random selection sequence for the processing of registrants for induction. Such random selection sequence will be established by a drawing to be conducted in Washington, D.C., once each year on a date the Director shall fix, and shall be applied nationwide. The random selection method shall use 365 days or, when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the calendar year of the drawing, shall have attained their 19th but not their 20th year of age. The drawing, commencing with the first day selected and continuing until all 365 days or, when appropriate, 366 days are drawn, shall be accomplished impartially.

2. The random selection sequence of numbers established by a lottery drawing shall determine the order of selection of those registrants included in that drawing. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to

induction for military training and service by random selection. A registrant's random sequence number shall be based upon the birth date given at the time of registration and entered on his registration card (SSS form 1). However, should a registrant furnish documentation establishing a new date of birth, prior to the day before the lottery drawing, it will be entered on the classification record (SSS form 102), corrected on the registration card (SSS form 1), corrected on page 1 and entered on page 2 of the registrant file folder (SSS form 101), and the verifying evidence placed in the file folder. This corrected date of birth shall be used in establishing the registrant's random sequence number. A random sequence number established for a registrant shall be equivalent, for purposes of selection, to the same random sequence number established for other registrants in other drawings. The random sequence numbers obtained shall determine the order of selection of the registrants covered thereby.

3. All registrants born in the years 1944 through 1950 shall be assigned a birth date sequence based upon the results of the drawing held on December 1, 1969, identified as 1970 random selection sequence. Registrants born during 1951 shall be assigned a similar sequence based on the drawing of July 1, 1970, identified as 1971 random selection sequence, while those born in 1952 shall receive a number from the drawing of August 5, 1971, identified as 1972 random selection sequence, and those born in 1953 shall receive a number from the drawing of February 2, 1972, identified as 1973 random selection sequence (RSS). Charts showing the random selection sequence for each of these years are attached to this chapter. A drawing will be held annually to establish the random sequence numbers for each succeeding year of birth.

4. The applicable random sequence number is to be placed on the registrant file folder (SSS form 101) in the appropriate box, and on the classification record (SSS form 102) in this manner: (70) 041. The number in parentheses ( ) is used by the local board for identification of the year after the drawing was held which established the registrant's random sequence number, and indicates the first year he could be vulnerable for induction.

TABLE 631-1 - ASSIGNMENT OF RANDOM SEQUENCE NUMBER (RSN)

RULE	A	B	C		D		E
	If Registrant was born in:	Assign RSN based on lottery held	Identify Random Selection Sequence (RSS) (the year in which he attains age 20) by parens.		Follow the registrants RSS (taken from Column C, (2)) with his birth date sequence		And his RSN will be recorded as:
			(1)	(2)	(1)	(2)	
			IF HE REACHED AGE 20 IN	HIS RSS IS:	IF HE WAS BORN ON:	HIS BIRTH-DATE SEQUENCE WOULD BE:	
1	1944-50	Dec 1 1969 (See Table 631-3)	1964-70	(70)	Apr 1, '50	032	(70) 032
2	1951	Jul 1 1970 (See Table 631-5)	1971	(71)	Jun 2,'51	304	(71) 304
3	1952	Aug 5 1971 (See Table 631-7)	1972	(72)	Jul 4,'52	142	(72) 142
4	1953	Feb 2 1972 (See Table 631-9)	1973	(73)	Aug 5,'53	063	(73) 063

SEC. 631.3 *Calls by the Secretary of Defense.*—The Secretary of Defense may from time to time place with the Director of Selective Service a call or requisition for men required for induction into the Armed Forces. The Secretary of Defense may also from time to time place with the Director of Selective Service a call or requisition for men in any medical, dental, or allied specialist category required for induction into the Armed Forces.

SEC. 631.4 *Allocations by the Director of Selective Service.*—1. The Director of Selective Service shall, upon receipt of a call or requisition from the Secretary of Defense for men to be inducted into the Armed Forces, issue a call or requisition to the several States.

2. Upon receipt of a call or requisition from the Secretary of Defense for men in a medical, dental, or allied specialist category to be inducted into the Armed Forces, the Director of Selective Service shall issue a call or requisition to the several States as provided for in chapter 680, RPM.

3. When the Director of Selective Service issues an induction call, he will establish an induction RSN cutoff number in a given priority group, which will apply nationally. All available registrants with RSN's equal to or below that number will be subject to induction under that call.

SEC. 631.5 *Allocations by State director of selective service.*—The State director of selective service shall direct each local board to select and deliver men for induction in accordance with the call or requisition received from the director of selective service.

SEC. 631.6 *Action by local board upon receipt of allocation.*—1. When an allocation is received from the State director of selective service, any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, shall, as provided by this section, select and issue orders to report for induction to those men required to fill the call from among its registrants who have been classified in class 1-A or class 1-A-O and have been found acceptable for service in the armed forces and to whom a statement of acceptability (DD Form 62) has been mailed and who are fully available for induction, except that:

a. When a registrant in any classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an armed forces examination, he may, at such time as he is in class 1-A or 1-A-O and reached for induction, be selected and ordered to reported for induction to fill an induction call even though he has not been found acceptable for service in the armed forces and a statement of acceptability (DD Form 62) has not been mailed to him. In such case the armed forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until he has been found acceptable for service in the armed forces, and

b. A registrant who has volunteered for induction may be selected and ordered to report for induction to fill an induction call even though he has not had an armed forces examination. In such case the armed forces examination shall be administered to him after he has reported for induction as ordered and he shall not be inducted until he has been found acceptable for service in the armed forces.

2. *Order of call.*—a. *Rescheduling of postponed registrants.*—Registrants to whom orders to report for induction have previously been issued will be given a rescheduled reporting date which is the earliest possible date after expiration of the postponement.

b. *Selection of registrants not yet ordered.*—Registrants who have not already been ordered and given postponements shall be selected and ordered to report for induction in the following categories and in the order indicated provided, that a registrant who has been identified as one who will become a member of category (2) or (3) below, on the next January 1, may, prior to December 31, be selected and ordered to report for induction in January, and such order shall be canceled if such regis-

trant does not become a member of either category on January 1.

(1) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(2) Nonvolunteers in the extended priority selection group in the order of their random sequence number, with those registrants with lower numbers being selected first: *Provided*, That in the calendar year 1973, no registrant who first entered this group before December 31, 1972, shall be inducted.

(3) Nonvolunteers in the first priority selection group in the order of their random sequence number with those registrants with lower numbers being selected first.

(4) Nonvolunteers in each of the lower priority selection groups, in turn, within the group in the order of their random sequence number with those registrants with lower numbers being selected first.

(5) Nonvolunteers who have attained the age of 19 years during the calendar year but who have not attained the age of 20 years, in the order of their dates of birth with the oldest being selected first.

(6) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of their dates of birth with the oldest being selected first.

c. *Age 26 limitation to induction.*—No registrant included in paragraphs a or b(2), (3), or (4), above, will be inducted after he has attained the age of 26 years.

3. No local board shall order an alien for induction into the Armed Forces of have United States unless that alien shall have resided in the United States for more than 1 year, regardless of whether he volunteers for induction. When an alien has been within the United States for two or more periods and the total of such time exceeds 1 year, he shall be deemed to have remained in the United States for more than 1 year. In computing the length of such time, any portion of 1 day shall be counted as 1 full day.

4. A registrant's random sequence number will be deemed to have been "reached" if it is equal to or lower than the highest random sequence cutoff number established by the director of selective service for induction of registrants in the same priority selection group in that calendar year.

5. *Identification of selection groups.*—a. *Assignment to priority groups.*—Each registrant in class 1–A, 1–A–O, 1–O or 1–H shall be assigned to a selection group, from January 1 of the year in which he attains the age of 20 until the 26th anniversary of his date of birth. If a registrant receives a deferment or exemption while a member of any priority selection group and is subsequently reclassified 1–A, 1–A–O, 1–O or 1–H, he shall, upon such reclassification, be reassigned to the priority selection group to which he was assigned when he received his deferment or exemption, unless he has attained the age of 26.

b. *The extended priority selection group (EPSG).*—(1) Consists of 1A and 1–A–O registrants in the first priority selection group on December 31 of any calendar year, whose random sequence numbers were reached during that year, but who were not issued an order to report for induction (SSS Form 252) with a scheduled reporting date within that calendar year, or were issued an SSS Form 252 with a scheduled reporting date within that calendar year, which was canceled prior to the end of that year. The EPSG will also consists of 1–O registrants in the first priority selection group on December 31 of any calendar year, whose random sequence numbers were reached during that year, but who were not issued an order to report for alternate service with a reporting date within that calendar year, or were issued an order to report for alternate service which was canceled prior to the end of that year.

c. *The first priority selection group (FPSG).*—(1) *1970.*—Consisted of nonvolunteers in class 1–A, 1–A–O or 1–O born on or after January 1, 1944, and on or before December 31, 1950, who had not attained their 26th birthday.

(2) *1971 and later years.*—In the calendar year 1971 and each calendar year since, (1) nonvolunteers in class 1–A, 1–A–O, 1–O, or 1–H who prior to January of each year have attained the age of 19 years but not 20 years and (2) nonvolunteers who prior to January 1 of each year have attained the age of 19 but not of 26 years and who during that year were classified into class 1–A, 1–A–O, 1–O, or 1–H, and who do not qualify for the extended priority selection group as defined in paragraph 5(b) of this section, or who do not qualify for a lower priority selection group.

d. *Transfer from first priority selection group to second priority selection group (SPSG).*—Any registrant who was a member of a first priority selection group on December 31 of any calendar year, whose random sequence number was not reached, shall on January 1 of the succeeding year be placed in the second priority selection group, even if he has not been previously found physically qualified and even if he is in the process of exercising his procedural rights at the end of the year.

e. *Transfer from first priority selection group to extended priority selection group (EPSG).*—(1) Any 1–A or 1–A–O registrant in the first priority selection group on December 31 of any calendar year, whose random sequence number was reached for induction during that year, but who was not issued an order to report for induction (SSS Form 252) with a scheduled reporting date within that calendar year, or was issued an SSS Form 252 with a scheduled reporting date within that calendar year which was canceled prior to the end of that year, shall on January 1 of the following year, be assigned to the extended priority selection group. The assignment to the EPSG will take place regardless of the registrant's physical acceptability, appeal status, or condition of confinement or court supervision for a period of 1 year or less.

Example 1.—Howard Pagone was born in 1952 and his RSN is (72) 045. He was reached and ordered for Armed Forces examinations on November 15, 1972, at which time he was found to be temporarily disqualified with RBJ in 6 months. He will enter the extended priority selection group on January 1, 1973, as his RSN was reached for induction during 1972.

Example 2.—Richard Jenkins was born in 1952 and his RSN is (72) 045. He was reached as a member of the 1972 first priority selection group but not ordered for induction in July 1972, as he was under the active supervision of a parole officer, with the parole scheduled to terminate on March 15, 1973. He will enter the extended priority selection group on January 1, 1973.

(2) Any 1–O registrant in the first priority selection group on December 31 of 1972 or any later year, whose random sequence number was reached during that year, but who was not issued an order to report for alternate service, with a reporting date within that calendar year, or was issued such an order which was canceled prior to the end of that year, shall on January 1 of the following year be assigned to the extended priority selection group.

(3) In order to fill calls for the first quarter of a year by issuing induction orders prior to January, registrants who would be in the following year's extended priority selection group and first priority selection group shall be tentatively identified and issued induction orders when reached by RSN prior to January. If any such registrant is reclassified into a deferred class before the end of the year, this cancels his induction order, and he will not become a member of the priority group to which he was tentatively assigned, because deferred registrants are not in a priority group.

(4) A registrant in the first priority selection group who has been issued an order to report for induction or alternate service with a reporting date within the calendar year in which the order was issued, and after the end of that calendar year has his order canceled, or for other reasons fails to complete his military service or alternate service, shall, upon becoming eligible for selection for induction or alternate service, be placed in the extended priority selection group.

f. *Transfer from extended priority selection group to second priority selection group.*—Any registrant who for 90 consecutive days remains a member of the extended priority selection group, fully available for induction or alternate service, and whose RSN is not reached in the EPSG for induction or for alternate service during those 90 days, shall be assigned to the second priority selection group. A registrant in the 1972 EPSG will be deemed to be fully available for induction or alternate service on any day in 1972 that he is a member of the EPSG.

Example 3.—John McKay was born in 1950, his RSN is (70) 080, and he reentered the extended priority selection group on September 8, 1972, having been deferred out of the extended priority selection group in January

1971, McKay will be eligible for assignment to the second priority selection group on December 7, 1972, whether or not he has been examined and found qualified.

g. *Reduced priority selection groups.*—On January 1 of each year, each priority selection group below the first priority selection group is automatically reduced one step further in priority. In this manner the second priority selection group will become the third, the third will become the fourth, and so on. However, no entry will be made on the SSS Form 101 to denote selection groups after the second priority selection group.

h. *Selection of 26-year-old registrants.*—Any registrant who is assigned to the extended priority, first priority, or a reduced priority selection group will be removed from that group upon his 26th birthday and his order to report for induction or alternate service will be canceled unless he has failed or refused to report for induction or alternate service.

6. *Administrative processing of selection groups.*—a. Each phase of local board administration—reclassification, orders for armed forces examination, personal appearance, appeals and so forth—shall be done in order of random sequence number and priority group insofar as practicable, so that registrants will be processed in the order of their vulnerability for induction.

b. To achieve fundamental fairness for registrants, it is important that local boards swiftly process all registrants who submit information which merits reclassification of the registrant into or out of the first priority selection group, especially information sent to the board later in the calendar year. The local board shall promptly reclassify any registrant who requests in writing that his current deferment be ended and who is currently classified in one of the following deferred classes: Class 2–A, class 2–C, class 2–D, class 2–S, or class 3–A. It is equally critical that local boards give rapid and fair consideration to members of the extended priority selection group to insure that their vulnerability to selection is continued no longer than necessary.

c. Information or requests received by the local board or mailed to the local board after its last meeting in the calendar year but before January 1 of the new year, and information or requests submitted prior to the last meeting in the calendar year and upon which the local board has not completed action shall be considered by the local board as soon as practicable in the new year. Local board actions with respect to information submitted or requests made in accordance with the provisions of this section, will be effective as of December 31 of the year in which submitted. Annotate the minutes of action, page 8 of the classification questionnaire (SSS Form 100) or page 2 of the registrant file folder (SSS Form 101), following the classification action with the legend, "Effective December 31 (year)".

d. Certain students have been placed or retained in an available class, and have been assigned to the extended priority selection group, because timely information had not been furnished to the local board by the school. When this has occurred, and the registrant has acted in good faith, the registrant should be reassigned to the first priority selection group, rather than the extended priority selection group, when he is retained in or reenters class 1–A, 1–A–O, 1–O or 1–H. This action should be limited to cases where (1) the registrant at any time prior to entering the extended priority selection group had been in class 2–S or class 2–A (student), or had informed his local board that he was entering or had entered a course of study which would make him eligible for class 2–S or class 2–A, and (2) the registrant had reasonably relied upon his school to verify his status as a full-time satisfactory student, and (3) the registrant has subsequently established to the satisfaction of his local board that he was a full-time student, making satisfactory progress, at the time he was assigned to the extended priority selection group.

e. Other circumstances which may prevent consideration prior to December 31 in any calendar year of information which may merit reclassification of a registrant shall be referred to the State Director of Selective Service for his decision.

f. If the Director of Selective Service, or a State director of Selective Service with respect to registrants of his State, determines that a registrant has been assigned to an inappropriate priority selection group, he may direct the reassignment of the registrant to a designated priority selection group.

SEC. 631.7 *Registrants who shall be inducted without calls.*—1. Regardless of any other provision of this manual, any registrant enlisted or appointed in the Ready Reserve of any reserve component of the Armed Forces, including the Army National Guard or the Air National Guard (other than a Reserve enlistment program which requires the reservists to serve on active duty for a period of 2 years), prior to attaining the age of 26 years, who (1) fails to serve satisfactorily during his obligated period of service as a member of such Ready Reserve or another reserve component of which he becomes a member and who is still a member of a reserve component and who has not discharged his current military obligation under the Military Selective Service Act, and who (2) is certified by the respective armed forces to be an unsatisfactory participant, shall be ordered to report for induction by the local board regardless of the class in which he is classified and without changing his classification.

2. Any registrant who is ordered to report for induction under the preceding paragraph shall be forwarded for induction at the next time the local board is forwarding other registrants for induction or at any prior time when special arrangements have been made with the induction station, without any calls being made for the delivery of such registrants. Whenever the local board desires to deliver such a registrant specially, it shall request the State director of Selective Service to make the special arrangements for the time and place at which the registrant may be delivered for induction. When delivering such a reservist for induction, a separate delivery list (SSS Form 261) shall be used, and the armed force into which he is to be inducted shall be identified in the "Remarks" column of the delivery list.

3. Whenever a local board receives a record of military status of registrant (DD form 44) wherein it is stated that a registrant has ceased to perform satisfactorily as a member of a Reserve component, and it is not clear what action the Reserve component is taking, the local board shall prepare a request for Armed Forces information (SSS form 720) and send it to the reserve unit of which the registrant is a member, requesting information as to whether or not the registrant is being processed for active duty under Title 10, United States Code, 673(a). No action such as reclassification, ordering for Armed Forces examination or induction shall be taken by the local board involving that registrant during the period this request is being processed.

4. If the Reserve unit informs the local board that orders to active duty are being processed, no further action by the local board is necessary until receipt of a notification of entry into active military service (DD form 53) showing the registrant has entered upon active duty. In the event the unit informs the local board that the registrant is being discharged in lieu of being issued active duty orders, the local board shall, upon receiving notification on DD form 44 of the registrant's discharge, reclassify the registrant into the lowest class for which he qualifies, and process him routinely.

5. The primary responsibility to order to active duty unsatisfactory participants of the Reserve components lies with the Armed Service concerned, but the Selective Service System will order for priority induction those registrants who are members of Reserve components who are certified as unsatisfactory participants by the Reserve component concerned.

6. Any registrant who has failed or refused to report for induction shall continue to remain liable for induction and when available shall be immediately inducted.

7. Any registrant paroled for induction under the provisions of chapter 643 will be forwarded for induction regardless of the class in which he is classified and without changing his classification.

SEC. 631.8 *Extended liability of deferred registrants.*—1. *Extension of liability.*—The Military Selective Service Act provides that certain registrants who have been or are deferred incur extended liability beyond age 26 for training and service in the Armed Forces. Such extended liability may be to either age 28 or age 35.

2. A registrant must have liability for induction in order for that liability to be extended by his deferment. Liability cannot be extended when the registrant was never liable for induction. When a registrant, prior to his attaining the age of 26, was always entitled without question to be placed in a class exempt from liability under the law, his liability will not be extended if he has been placed in a deferred class solely because that class

was lower than the exempt class in the order of consideration of classes.

3. *Classification which extends liability to age 28.*—A classification in class 1-D originally granted before September 3, 1963, to a registrant who had enlisted in the National Guard prior to attaining the age of 18, extends his liability for training and service until he reaches the age of 28.

4. *Classification which extends liability to age 35.*—Classification of a registrant into any of the following classes before he has attained the age of 26 extends his liability for training and service until he reaches the age of 35:

(1) Class 1-D for persons who prior to attaining the age of 26 enlist or accept appointment on or after September 3, 1963, in the Ready Reserve including the National Guard.

(2) Class 1-D for members of the Reserve Officers' Training Corps and other officer training programs.

(3) Class 1-D for persons commissioned upon graduation from an Officers' Candidate School.

(4) Class 1-D for accepted aviation cadet applicants.

(5) Class 1-D for members of Reserve components of the Armed Forces who are serving satisfactorily, except for those covered in paragraph 3.

(6) Class 1-S.

(7) Class 1-Y.

(8) Class 2-A.

(9) Class 2-C.

(10) Class 2-D.

(11) Class 2-M.

(12) Class 2-S.

(13) Class 3-A, except for those covered in paragraph 5.

(14) Class 4-B.

(15) Class 4-F, except for those covered in paragraph 5.

5. *Classifications which do not extend liability.*—The classification of a registrant in any of the following classes does not extend his liability.

(1) Class 1-A.

(2) Class 1-AM.

(3) Class 1-A-O.

(4) Class 1-A-OM.

(5) Class 1-C.

(6) Class 1-D, except for those covered in paragraph 4, (1) through (5).

(7) Class 1-H.

(8) Class 1-O.

(9) Class 1-OM.

(10) Class 1-W.

(11) Class 3-A under the former provisions of the law and regulations when the deferment was solely by reason of the registrant having a wife with whom he maintained a bona fide family relationship in their home and no hardship or other elements of dependency involved.

(12) Class 4-A.

(13) Class 4-C.

(14) Class 4-D.

(15) Class 4-F relating to the exemption of medical, dental, and allied specialists whose applications for appointment as Reserve officers have been rejected solely because of their physical disqualification.

(16) Class 4-G.

(17) Class 4-W.

(18) Class 5-A.

PROCESSING BASED ON SELECTION GROUPS AND AGE

RULE	A	B	C	D
	IF A REGISTRANT IS A NON-VOLUNTEER*	AND HIS RSN	AND HE	THEN
1	and on December 31 of any year is in Class 1-A, 1-A-O, 1-O or 1-H		has attained 19 years of age during that year	assign him to FPSG on Jan. 1 of the following year
2		has not been reached	is not yet 26 years of age and is in FPSG	assign him to SPSG on Jan. 1 of the following year
3		has been reached but he has not been issued an order to report for induction or alternate service because he was not fully available	is not yet 26 years of age and is in FPSG	assign him to SPSG on Jan. 1 of the following year
4		has not been reached	is not yet 26 years of age and is in a priority group lower than FPSG	assign him to the next lower priority group on Jan. 1 on the following year
5	and is classified during the year into 1-A, 1-A-O, 1-O or 1-H		is age 20 but not yet 26 and was not in FPSG on Dec. 31 of any previous year	assign him to FPSG
6	and is in a deferred or exempt status received while in a priority selection group		is not yet 26 years of age and is reclassified 1-A, 1-A-O, 1-O or 1-H	assign him to the priority group he was in prior to deferment or exemption
7	and is in the FPSG and has an outstanding Order to Report for Induction or Alternate Service with a reporting date within such year		is not yet 26 years of age and his order is canceled after such year or he otherwise fails to complete military or alternate service	assign him to SPSG when he again becomes eligible for selection for induction
8	in SPSG	was not reached for 90 consecutive days	was fully available during those 90 consecutive days and has not reached the age of 26	assign him to SPSG after the 90 days.
9	and is in SPSG, FPSG, or a reduced priority selection group		has attained age 26	cancel any outstanding order and drop him from accountability

CHAPTER 632—DELIVERY AND INDUCTION

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CHAPTER 632—DELIVERY AND INDUCTION

SEC. I. 632.1 *Order to report for induction.*—1. Upon receipt of notice of call on local board (SSS Form 201), any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the local board shall review the file folder of each nonvolunteer registrant selected for induction to insure:

a. That his RSN is no higher than the induction cutoff established by the Director,

b. That he is assigned to the correct priority selection group and that his group has been selected,

c. That his procedural rights have been granted, or he has failed to exercise his procedural rights within the period allowed,

d. That he has been examined and found qualified, or has failed to report for or submit to an Armed Forces examination as ordered,

e. That, if an alien, he has an obligation,

f. That he is not eligible for a deferred or exempt class, or class 1-O,

g. That he will not have reached the 26th anniversary of his date of birth prior to his scheduled date of induction if he is a nonvolunteer in the extended priority selection group, first priority selection group, or a lower priority selection group.

2. The scheduling and delivery of the registrant shall be in accordance with instructions of the State director. If the registrant is a member of a recognized church, religious sect, or religious organization which has historically observed certain religious holidays, and the registrant is scheduled to report for induction on one of those holidays, his induction shall be rescheduled if he so requests.

3. After it has been determined that the registrant has been properly selected for induction, any member or compensated employee of the local board shall prepare for each registrant selected an order to report for induction (SSS form 252). The date specified to report for in-

duction shall be at least 30 days after the date the SSS form 252 is mailed, except that:

a. A registrant who has volunteered for induction may be selected and ordered to report for induction on any date after he has volunteered, and,

b. A registrant who is subject to induction without call, in accordance with section 631.7, shall be delivered for induction after special arrangements for time and place have been established by the State director, unless he can be delivered earlier with the local board's regular call.

4. The date of mailing of the SSS form 252 shall be entered on page 2 of the registrant file folder (SSS form 101) or page 8 of the classification questionnaire (SSS form 100) and a copy of the SSS form 252 will be placed in the file folder.

5. One copy of "Before You Enter the Army" (DA Pamphlet 608–32) will be mailed with the registrant's SSS form 252.

6. A statement of personal history (DD form 398) with instruction sheet will be mailed to each registrant, except a medical specialist with SSS form 252.

7. Following the mailing of the SSS form 252 to all registrants scheduled for induction, the local board shall:

a. Prepare a delivery list (SSS Form 261) listing the registrants according to the order of call by RSN, lowest first within each order (see sample Delivery List in Attachment 632–1). The RSN shall be placed immediately following the registrant's name as shown on Attachment 632–1. Registrants who are violators shall be listed in the first group, under the heading "Violators". Registrants who have been in a postponed status shall be listed in the second group, under the heading "Previously Postponed". Registrants who have volunteered for induction shall be listed in the third group, under the heading "Volunteers". Registrants in the EPSG shall be listed in the fourth group, under the heading "EPSG". Registrants in the FPSG shall be listed in the fifth group, under the heading "FPSG". If there are no registrants being listed in one or more of these categories, the unused headings will be omitted. The entry "1–A–O" will be made in the Remarks Column for each registrant who is in class 1–A–O.

b. Forward to AFEES, within the time established by the State director and AFEES concerned, the following: (Should an original of any of the following be in the registrant's file folder, it will be forwarded).

(1) One copy of the delivery list (SSS Form 261) unless registrants are to report directly to the AFEES, in which case, the original and two copies of the delivery list will be forwarded.

(2) Original and three copies of each registrant's record of induction (DD Form 47).

(3) The copy of the report of medical examination (Standard Form 88).

(4) The copy of the report of medical history (Standard Form 93 or 89 if in the file).

(5) Any X-ray films made at the time of the Armed Forces physical examination.

(6) Any waiver of disqualification.

(7) Any order terminating civil custody.

(8) All medical documentation which the registrant has furnished the local board.

(9) All other information concerning the qualification of the registrant.

(10) If the registrant has volunteered for induction and has not attained the age of 18 years and 6 months, the duplicate copy of the application for voluntary induction (SSS Form 254) will be forwarded.

c. When making the entries on DD Form 47, the local board will type "H.S. Grad" in item 10 of such form whenever the registrant is a high school graduate. The source of the entry will be the registrant's statement on his current information questionnaire (SSS Form 127), SSS Form 100, or any such information on any other paper in his file which indicates he has graduated from high school.

d. Forward one copy of the delivery list to the State director.

SEC. 632.2 *Induction of registrants distant from their own local boards.*—1. Any registrant who has been ordered for induction and who is distant from his local board of jurisdiction, may voluntarily submit to processing for induction at any Armed Forces examining and entrance station, on or before the third day prior to the day on which he was to report for induction.

2. Upon reporting to any AFEES, the registrant must identify himself as required by the AFEES commander and present to the AFEES the registrant's copy of the order to report for induction (SSS Form 252), or notice of rescheduled induction reporting date (SSS Form 253). The AFEES to which the registrant presents himself will in all cases retain such order or notice. The retained order or notice will be forwarded by the AFEES with other records reflecting the result of induction processing in accordance with paragraph 10 of this section of the manual. Reporting prior to 11 a.m. at such AFEES on or before the third day prior to the reporting date specified on SSS Form 252 or on SSS Form 253 (or where such third day falls on a weekend or a holiday, reporting by 11 a.m. on the last working day prior to such weekend or holiday) shall be deemed a satisfactory alternative to compliance with the order. A registrant may no longer have his induction transferred to another local board, except as provided in section 632.5 of this chapter.

Example No. 1.—Jeff Frei receives a notice ordering him to report for induction on a Tuesday. Since he is in a State quite distant from his own local board, he wishes to voluntarily submit to induction at the nearest AFEES. To meet the 3-day requirement, he presents himself to the AFEES before 11 a.m. on the Friday before his induction date since the third day prior to that is on a weekend.

3. A local board may postpone a registrant's induction the minimum amount of time necessary to permit him to submit voluntarily to induction, citing this section as authority, whenever it finds that he has not been given sufficient time to do so. Normally, the period of 30 days required between the date of mailing of the SSS form 252 and the date scheduled for induction will be sufficient notice to allow a registrant to submit voluntarily to induction.

4. Assistance shall be given to registrants who inquire as to the location of the nearest AFEES. Upon the registrant's request, transportation to the AFEES shall be provided by the assisting local board by the least expensive method available, citing this chapter of the manual as authority. The registrant should be transported with the local board's own registrants if transportation is scheduled prior to the date the registrant must report at the distant AFEES.

Example No. 2.—Registrant Sam Yule comes into your local board with an order to report for induction at a local board in another State. He says he wants to transfer his induction to your board. You explain to him that he may not transfer his induction but that he may go to the nearest AFEES and submit to induction rather than returning to his own local board. Since Sam says he prefers to go to the AFEES on his own, you give him directions to the AFEES.

Example No. 3.—Sam Yule of the above example requests that you provide transportation to the AFEES. It happens that you have a bus taking your own registrants to the AFEES two days from now, in time to get Sam to the AFEES prior to the 3-day limit. You tell him that he may ride on the bus with the other registrants. If the bus is going in the afternoon, and meals and lodging are being provided to your registrants, you provide the same things for Sam. Note that you will not add Sam to your delivery list.

5. The registrant who seeks assistance of a local board too late to present himself at the nearest AFEES prior to 11 a.m. on the 3d day prior to the reporting date specified on his SSS form 252 or 253 should be advised to contact his own State director to request a postponement of induction in order to permit him to meet the 3-day requirement. If he tells the assisting local board that he has such a postponement, no written proof shall be required of him since the registrant will be required to certify to that fact later at the AFEES. If he has not received a postponement, the executive secretary or clerk at the assisting local board may assist him in obtaining one.

Example No. 4.—Registrant Rich Hard presents his induction order to a local board and requests transportation to the AFEES. The executive secretary of the board notices, however, that his scheduled induction date is the next day, and thus that it is too late for Rich to meet the 3-day requirement. He should be instructed to call his own State director and secure a postponement of induction to allow him to get to the AFEES. Rich says he already has done this. The executive secretary of the board should forward him to the AFEES without asking for any written proof of the postponement since it was granted over the phone and no notice of postponement was sent to him (although it was noted in his file). Rich will be asked to sign a statement at the AFEES attesting to the fact that he has been given a postponement.

6. When the registrant seeks to present himself for and submit voluntarily to induction at an AFEES after the initial date of induction has passed, the AFEES commander shall contact the State director having jurisdiction over the registrant's local board requesting authority to process the registrant. The State director will normally authorize the induction, completing a report of information (SSS form 119), a copy of which will be sent to the registrant's local board for inclusion in his file folder.

7. The registrant's State director, upon authorizing a postponement of the registrant's reporting date on the basis of a request from the registrant or the assisting local board, shall make a record of the request, the action taken, and the authority (RPM section 632.3) on a report of information (SSS form 119), a copy of which will be sent to the registrant's local board for inclusion in his file folder.

8. The assisting local board shall not place such a registrant on a delivery list nor prepare a record of induction (DD form 47) or any other record involved in induction processing. The assisting local board shall make a record in duplicate on SSS form 119 of an inquiry made by any registrant of another local board regarding reporting for induction at a distant AFEES, including his name, selective service number, induction date specified on the SSS form 252 or 253, and assistance offered. The duplicate copy of the SSS form 119 shall be filed by the assisting local board in its general files, section IVc, and the original shall be sent to the assisting local board's State director for transmittal to the State director of the registrant's local board.

9. In the event a registrant, whose reporting date is postponed under this section, reports for induction on the new reporting date at the time and place specified in his order or notice, instead of presenting himself for induction at a distant AFEES, he shall immediately be delivered for induction to the AFEES serving his own local board.

10. For each registrant who presents himself to a distant AFEES for induction, the AFEES will forward all records specified in section 632.9 through the State director having jurisdiction over the registrant's local board, reporting the disposition of each case. The AFEES will identify these cases by entering "RPM 632.2." in the top margin (front side) of the DD form 47 forwarded to the State director.

11. If a registrant has failed to appear for his scheduled or rescheduled induction, the local board should delay reporting the registrant as a violator for a period sufficient for a distant AFEES to transmit information of induction, but in any case, no longer than 30 days after the scheduled or rescheduled reporting date.

SEC. 632.3 *Postponement of induction.*—1. The local board may, after the SSS form 252 has been issued, postpone the registrant's induction, by issuance of a notice of postponement (SSS form 264), in cases involving death of a member of the registrant's immediate family, serious illness of the registrant, or other emergency beyond the registrant's control. The local board, when granting a registrant such a postponement, will set a date certain when the postponement shall terminate, but the date shall not be later than 60 days from the date the postponement is granted. In case of imperative necessity, the local board may grant one further postponement to a date certain but the date shall not be later than 60 days from the date of granting the second postponement. No minimum notice is required when rescheduling the registrant's induction, in view of the fact that he was given a date certain for the termination of his postponement at the time it was granted.

2. The Director of Selective Service or any State director of selective service (as to registrants registered within his State) may, for good cause, at any time prior to the issuance of any SSS form 252 postpone the issuance of the order, or at any time after the issuance of an SSS form 252, postpone the induction of the registrant or registrants until such date as he may deem advisable. The local board will issue a notice of postponement (SSS form 264) to any registrant whose scheduled induction reporting date has been postponed.

3. Whenever the file folder of a registrant who is under an order to report for induction is sent to the Director or State director for review and the review is not expected to be completed prior to the outstanding reporting date or termination of current postponement, the State director will postpone the induction for the minimum time necessary to allow the review to be completed. The local board will issue SSS forms 264 and 253 simultaneously, providing simultaneous terminal and reporting dates.

4. Whenever a registrant who has completed his academic studies is ordered to report for induction, but requires an internship and/or State examination in order to practice a profession, the local board shall postpone his induction until a date after the normal time required to complete the internship if he is in an internship, and/or take the first regularly scheduled State examination for which he is qualified, citing this paragraph and section as authority. Postponement for this purpose shall not exceed 12 months.

5. The local board shall, upon the appropriate facts being presented to it, postpone the induction of a registrant who on the date of issuance of his SSS form 252 was satisfactorily pursuing a full-time course of instruction at a college, university or similar institution, or a trade or technical school: (1) Until a date immediately following the end of that quarter, semester or term, or the end of his academic year if reached for induction during his last academic year; or, (2) until he ceases satisfactorily to pursue such course of instruction, whichever is earlier. If the quarter, semester, or term (or the academic year in the case of the last academic year) will end prior to the originally scheduled reporting date, no postponement shall be granted.

6. Any registrant who is issued an induction order while satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning shall, upon the appropriate facts being presented to the local board, have his date of induction postponed:

a. Until the time of his graduation,

b. Until he attains the age of 20, or

c. Until he ceases satisfactorily to pursue such course of instruction, whichever first occurs.

7. Any registrant who attains the age of 20 after beginning his last academic year of high school and is issued, or has been issued, an SSS form 252 shall have his date of induction postponed until the end of that academic year provided he continues to pursue satisfactorily a full-time course of instruction.

8. No postponement is appropriate if the academic year ends prior to the originally scheduled induction date. For a registrant who entered his course of study in the summer or fall, the academic year ends at the conclusion of the spring term. For a registrant who entered his course of study in the winter or spring, the academic year ends on the anniversary of his entrance into the course of study.

9. A registrant shall be deemed to be in his last academic year only if he is scheduled to complete by the end of that academic year, the requirements for:

a. Graduate or professional degree,

b. A baccalaureate degree,

c. An associate degree or diploma in a program not leading to a baccalaureate degree,

d. A high school diploma.

10. The local board should refer to the State director any request from a registrant for a postponement of his induction date to permit his employer to hire and train a replacement or until a normal break in the employment cycle. State directors should grant such postponements only in compelling circumstances, and for the minimum time necessary.

11. Registrants who are serving in the Peace Corps, who were accepted for training prior to June 30, 1971, will have their induction dates postponed by the Director of Selective Service until the end of the normal 2-year term of service in the Corps. Such postponements shall not be extended unless authorized by the Director.

12. A registrant who has enrolled in a 2-year ROTC program shall be postponed, citing this paragraph and section as authority, providing the professor of Military Science, professor of Aerospace Studies, or professor of Naval Science furnishes a form letter during the spring term confirming the registrant's acceptance for training in an ROTC basic camp that following summer. If he is under an order to report for induction and such a letter is receievd, he shall be issued an SSS form 264 and his reporting date postponed until October 31 of that year. If he has been accepted for the summer basic camp and is later reached for in-

duction, his local board will issue an SSS form 252 and postpone his date of induction until October 31 of that year, providing the above form letter is in his selective service file.

13. If the registrant enters an advanced ROTC program that fall, the professor of Military Science, professor of Aerospace Studies or professor of Naval Science will issue a record of military status of registrant (DD form 44) and upon its receipt, the registrant will be considered for Class 1–D. If a DD form 44 is not received by October 31 of that year, or if the registrant drops from the basic camp, or if he fails to enroll in the fall course, his postponement shall be terminated at that time and he shall be rescheduled for induction when he is again reached.

14. Registrants who have been awarded ROTC scholarships but who have not yet enrolled in the ROTC program will be issued their orders to report for induction when reached, and then postponed until October 31 of that year, citing this paragraph and section as authority. If a registrant is under an outstanding order to report for induction, he shall be postponed until October 31 of that year.

15. If the registrant enrolls in college and enters the ROTC program on an ROTC scholarship and a DD form 44 is received, he will be considered for class 1–D. If a DD form 44 is not received by October 31, his postponement shall be terminated at that time and he shall be rescheduled for induction when reached.

16. When a local board receives information that a registrant to whom it has issued an induction order is under probation or civil restraint, or on parole, it shall complete the following actions:

a. Obtain a brief résumé of the nature of the conviction, period of probation and the name and address of the probation officer.

b. Determine whether the registrant will be released for inducton and, if so, obtain such release in writing.

c. Forward this information, along with medical records, to AFEES for a "papers only" review of the registrant's moral acceptability.

d. If necessary, postpone the induction to complete the above actions, citing this section as authority.

e. If the registrant remains fully acceptable and is released from civil restraint, process for induction under a call on the board.

f. If the registrant is found unacceptable for induction, consider him for class 4–F.

g. If the registrant remains fully acceptable and is not released from civil restraint, but is expected to be released within one year, postpone the induction reporting date until the month of anticipated release from such restraint, citing this section as authority. If the registrant is expected to remain under civil restraint for more than 1 year, he shall be placed in class 4–F under the provisions of section 622.44.

h. If the registrant was ordered in accordance with section 631.7, his acceptability will not be determined until his release from civil restraint. He will be processed in accordance with the disposition instructions contained in the preceding paragraph.

17. To postpone a registrant's reporting date, the local board shall issue him an SSS form 264. A copy of such form shall be mailed to the State director of selective service and a copy filed in the registrant file folder (SSS form 101). The date of mailing or issuance of the postponement shall be entered on page 2 of the SSS form 101 or page 8 of the classification questionnaire (SSS form 100). The local board shall also note the date of the issuance of the postponement and the date of its expiration in the "Remarks" column of the classification record (SSS form 102). It shall also make an entry on a card in the suspense file showing the expiration date of the postponement.

18. A postponement by direction of the Director or State director, as provided in paragraph 2 of this section, or a postponement authorized in paragraph 4, 10, 12, or 14 of this section, or a student postponements, as provided in paragraph 5, 6, or 7 of this section, which is in excess of 60 days, may be terminated when the issuing authority so directs. An SSS form 253 will be prepared by the local board, fixing the time and place the registrant shall report for induction, following termination of his postponement. When rescheduling the induction date after postponing a registrant for any reason referred to in the first sentence of this paragraph, the local board shall give the registrant not less than 30 days, nor more than 60 days notice of the date of induction. The date of mailing SSS form 253 shall be entered on page 2 of SSS form 101 or page 8 of the SSS form 100. The local board shall also note the date of issuance of SSS form 253 in the "Remarks" column of the SSS form 102 and pull the suspense card from the suspense file. Any postponement of induction granted by the local board under the provisions of paragraph 1 of this section, or a postponement granted under any other paragraph of this section for a specified period of less than 61 days, does not require the 30 to 60 day notice mentioned above.

19. A registrant whose induction has been postponed shall not be inducted into the armed forces during the period of any such postponement. SSS form 264 or an SSS form 253 shall not render invalid the SSS form 252 which has been issued to a registrant, but shall operate only to postpone the reporting date, and the registrant shall report on the new date, as specified in the SSS form 253 without having a new SSS form 252 issued to him.

20. Any postponement granted to a registrant shall be terminated prior to the scheduled termination date if information is received by the postponing authority which reveals that the cause for the postponement has ceased to exist.

SEC. 632.4 *Cancellation of induction orders.*—1. Any order to report for induction which has been issued to a registrant either during the period in which he may make a timely request for a personal appearance before the local board, or during the period such personal appearance is pending, shall be canceled by the local board.

2. Any order to report for induction or alternate service which has been issued to a registrant shall be canceled by the local board whenever the classification is reopened and considered anew, except when the registrant has failed to comply with either of those orders, the reopening of his classification by the local board for the purpose of placing him in or removing him from class 4–C shall not cancel the order with which he failed to comply.

3. Any order to report for induction which has been issued to a registrant during either the period afforded the registrant to take an appeal to the appeal board or to the National Appeal Board, or during the period such an appeal is pending, shall be canceled by the local board.

4. Whenever an appeal has been taken by the Director or a State Director, any order to report for induction which has previously been issued to the registrant for whom the appeal has been taken shall be canceled by the local board.

5. Any cancellation of an induction order, except where the registrant has enlisted, shall be prepared on the Notice of Cancellation (SSS Form 255) in accordance with its procedural directive. The date of cancellation and mailing shall be noted on page 2 of the SSS Form 101 or page 8 of the SSS Form 100.

SEC. 632.5 *Directed transfer for induction.*—1. The Director of Selective Service may direct that a particular registrant or any registrant who comes within a described group of registrants be transferred for induction to the local board or local boards he shall designate.

2. Whenever the Director of Selective Service has directed that a registrant shall be transferred for induction, the registrant's own local board shall take the following actions:

a. Prepare a Transfer for Armed Forces Physical Examination or Induction (SSS Form 230) by inserting in part 1 the date, the name, selective service number, and present address of the registrant, the name and address of the local board to which the registrant is transferred, and the words "Transferred for induction by direction of the Director of Selective Service". When completing part 3 of the form, the registrant's RSN shall be placed in the space above the signature, followed by "Postponed Registrant", "Volunteer", "EPSG" or "FPSG", as applicable.

b. Mail one copy of the Transfer for Armed Forces Physical Examination or Induction (SSS Form 230) to its State Director and file one copy in the registrant's file folder.

c. Mail to the local board to which the registrant is transferred for induction the following:

(1) The original and one copy of Transfer for Armed Forces Physical Examination or Induction (SSS Form 230).

(2) The original and three copies of the Record of Induction (DD Form 47).

(3) All copies of the Report of Medical Examination (Standard Form 88).

(4) All copies of the Report of Medical History (Standard Form 93 or 89 if in the file).

(5) Any X-ray films made at the time of the Armed Forces preinduction examination.

(6) Any waiver of disqualification.

(7) Any order terminating civil custody.

(8) All other information concerning the qualification of the registrant for service in the armed forces.

(9) Any other records which may be designated by the Director of Selective Service.

(10) If the registrant has volunteered for induction and has not attained the age of 18 years and 6 months, the duplicate copy of the Application for Voluntary Induction (SSS Form 254) shall be mailed.

d. Enter a notation that the registrant has been transferred in the "remarks" column of the SSS Form 102.

e. Enter a notation that the records have been forwarded for transfer of induction and the date of forwarding on page 2 of the SSS Form 101 or on page 8 of the SSS Form 100.

3. When the local board to which the registrant has been transferred for induction receives the papers from the registrant's local board, as provided above, it shall proceed to schedule the induction, issue the SSS Form 252 and enter the registrant(s) on its SSS Form 261, after its own registrants, under the heading "Transferred In For Induction", followed by the heading "Violators", "Previously Postponed", "Volunteer", "EPSG", or "FPSG", as applicable. The local board shall deliver the registrant for induction as soon as possible, giving him at least 30 days notice.

SEC. 632.6 *Duty of registrant to report for and to submit to induction.*—1. When the local board orders the registrant for induction, it shall be the duty of the registrant to report for induction at the time and place ordered, as provided on the SSS Form 252 or the SSS Form 253 mailed to him by the local board. If the date when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for induction at such time and place as may be established by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall be his continuing duty from day to day to report for induction.

2. Upon reporting for induction, it shall be the duty of the registrant (a) to follow the instructions of any authorized representative of the local board as to his transportation to the AFEES, (b) to follow the instructions of the leader and assistant leaders appointed for the group being forwarded for induction, (c) to appear at the AFEES, (d) to obey the orders of the representatives of the Armed Forces while at the AFEES, and (e) to submit to induction, or, if he is found not qualified for induction, to follow the instructions of the representatives of the Armed Forces regarding his return to the local board.

3. Whenever a registrant does not comply with an SSS Form 252 or with an SSS Form 253 by failing to report for or submit to induction, the local board shall attempt to contact the registrant or persons aware of the registrant's whereabouts and status, to determine the reason for the registrant's failure to report.

4. When the local board's contact reveals a possible justification for the registrant's failure to report (for example, enlistment in the regular Armed Forces, induction at a distant AFEES, or enlistment in a reserve component) an effort shall be made to verify that reason. A record of the board's efforts shall be placed in his file folder. If verification is not received within 30 days of the scheduled or rescheduled reporting date the registrant shall be reported to the State Director under the provisions of paragraph 1 chapter 642.

5. If the local board's efforts to determine the cause for the registrant's failure to report reveal no valid basis for such failure, or if contact with the registrant is not achieved, the local board shall, after 30 days from the scheduled or rescheduled reporting date for induction has elapsed, report the registrant to the State Director according to the provisions of paragraph 1, chapter 642.

6. Whenever a registrant refuses to submit to induction after reporting to the Armed Forces Examining and Entrance Station, the station commander, in accordance with Army Regulation No. 601–270, will have a letter of notification of refusal to submit to induction prepared in quadruplicate and distributed as follows:

a. The original of the letter will be sent to the appropriate U.S. attorney.

b. One copy will be sent to the State Director of Selective Service of the State in which the registrant refused to be inducted.

c. One copy will be sent to the local board which delivered the registrant to the induction station; and

d. One copy will be retained at the station.

7. Upon receipt of the letter of notification by the local board that a registrant failed to submit to induction, it shall notify its State director by letter, place a copy of both notifications in the registrant's file folder, and make the notations on page 2 of the SSS Form 101 or page 8 of the SSS Form 100.

SEC. 632.7 *Forwarding registrants for induction.*—1. When the registrants who are to be forwarded for induction have assembled, the local board authorized personnel shall proceed as follows:

a. The roll shall be called using the previously prepared delivery list (SSS Form 261) and noting any absences in the "Remarks" column.

b. A leader and assistant leaders shall be appointed and each given a completed appointment of leader or assistant leader (SSS Form 340). Leaders and assistant leaders shall have such authority as is necessary to deliver the group to the place of induction.

c. The leader shall be given the following in a sealed envelope:

(1) The original and one copy of the delivery list (SSS Form 261).

(2) Any medical statements or other pertinent data received at the local board between the date the individual records were mailed to the AFEES and the delivery date.

d. The leader shall be instructed to deliver the sealed envelope to the commanding officer of the induction station or to his representative.

2. When it is necessary, travel tickets or transportation requests, and meal and lodging requests for the group, covering their trip to the place of induction, shall be issued.

3. The local board shall inform all registrants in the group who are reporting for induction that it is their duty to obey the instructions of the leader or assistant leaders during the time they are going to the AFEES; that they will be met there by representatives of the Armed Forces; that while they are there they will be subject to and must obey the orders of the representatives of the Armed Forces; that they must present themselves for and submit to induction; and that, if they are found not qualified for induction, the representatives of the Armed Forces will provide transportation and subsistence for their return trip.

4. The local board shall file one copy of the delivery list in the local board files.

SEC. 632.8 *Induction.*—At the AFEES, the registrants who have been forwarded for induction and found qualified will be inducted into the Armed Forces.

SEC. 632.9 *Records returned to the local board.*—1. The commanding officer of the AFEES will return to the local board the following documents concerning registrants forwarded for induction:

a. The original delivery list (SSS Form 261), indicating in column 4 the disposition of each registrant forwarded for induction.

b. For each registrant inducted, a copy of the record of induction (DD Form 47), a copy of the report of medical examination (Standard Form 88), and any previous record of induction and reports of medical examination submitted.

c. For each registrant found not acceptable for service in the Armed Forces, the original and one copy of the statement of acceptability (DD Form 62), the original and one copy of the record of induction (DD Form 47), one copy of the report of medical examination (Standard Form 88), one copy of the report of medical history (Standard Form 89 or 93), and the copy of the application for voluntary induction (SSS Form 254) if submitted.

d. For each registrant whose acceptability requires further evaluation, the AFEES will retain the medical records and arrange for any further evaluation required. The induction order will remain in effect until the registrant is inducted or is found unacceptable for military service.

2. Upon receipt of the documents described in paragraph 1 a, b, c, of this section, the local board shall take the following action except as otherwise provided in section 632.5:

a. File the original delivery list.

b. For each registrant inducted:

(1) Verify his induction from section IX of DD Form 47.

(2) File the copy of that form and the copy of the report of medical examination in the registrant file folder (SSS Form 101).

(3) Enter the date of induction on SSS Form 102.

(4) Enter receipt of induction papers from the AFEES and the date of induction on page 2 of SSS Form 101 or on page 8 of the registration questionnaire.

(5) Prepare the file for classification action at the next local board meeting.

c. For each registrant found not acceptable for service in the Armed Forces:

(1) Verify that the registrant was found unacceptable, from section VIII of DD Form 47 and from DD Form 62.

(2) File the original record of induction (DD Form 47), the original report of medical examination (SF 88), the copy of the report of medical history (SF 89 or 93), and the copy of the application for voluntary induction (SSS Form 254), if submitted, in the registrant's file folder.

(3) Mail registrant's copy of DD Form 62 and SSS Forms 220 and 255.

(4) Change or enter X-Y-Z profile code on SSS Form 101.

(5) Make the entry "NQ" and the date of the determination in column 6 of the SSS Form 102.

(6) Enter receipt of induction papers from AFEES and "Unacceptable at Induction" on page 2 of SSS Form 101 or page 8 of the registration questionnaire.

(7) Prepare the file for classification action at the next local board meeting, if appropriate.

3. When a registrant is inducted or enlists, the commanding officer of the AFEES or the responsible officer at the place of enlistment will collect from the registrant his status card (SSS Form 7) or his registration certificate (SSS Form 2) and his notice of classificatoin (SSS Form 110) and return it to his local board. Upon receipt of these form(s) the local board shall destroy them. Notations shall be made of the receipt and destruction of the form(s) on page 2 of the registrant file folder or page 8 of the classification questionnaire.

4. The commanding officer of the AFEES will forward one copy of each delivery list to the State director.

5. When the records of a registrant, who has been transferred for induction in accordance with section 632.5, are returned from the AFEES to the local board which forwarded him for induction, the local board shall file the original delivery list and return all individual records pertaining to the registrant to the State director having jurisdiction over the registrant's local board, for transmittal to the registrant's local board.

SEC. 632.10 *Disposition of registrants inducted or found not qualified.*—1. Upon receiving notice from the AFEES that a registrant who has been forwarded for induction has been inducted or has received a final determination of unacceptability for service in the Armed Forces, the local board shall reopen his classification and classify him anew.

2. A registrant who has been found unacceptable by the AFEES at his induction examination with "Reexamination Believed Justified" (RBJ) indicated on the statement of acceptability (DD Form 62) shall not be classified into class 4-F until he is reexamined and again found unacceptable. When a local board receives a registrant's DD Form 62 with RBJ indicated, following his induction examination, it shall:

a. Retain the registrant in his present classification, and cancel the outstanding induction order.

b. Mail the registrant's copy of the DD Form 62 and the SSS Forms 220 and 225 and a letter explaining his RBJ status. A sample letter for this purpose is attachment 628-3 to chapter 628.

c. Enter on page 2 of the SSS Form 101 or page 8 of the SSS Form 100 "RBJ letter mailed" and the date.

d. Schedule the registrant for reexamination in accordance with section 628.15.

If found acceptable upon reexamination, he will again be subject to selection for induction in accordance with chapter 631.

SEC. 632.11 *Enlistment of registrants in the Armed Forces.*—1. A registrant, who has been found qualified for military service at an AFEES, and who inquires regarding enlistment in any regular or Reserve component of the Armed Forces, including the National Guard, should be informed that his medical papers are at the AFEES.

2. If the local board does not receive a record of military status of registrant (DD form 44) or a notification of entry into active military service (DD form 53) showing that a registrant has enlisted in the Armed Forces, prior to selecting him for induction, he shall be issued an induction order when reached.

SEC. 632.12 *Enlistment of registrants ordered for induction.*—1. Whenever a local board receives a DD form 53 or a DD form 44 evidencing that one of its registrants to whom an induction order has been issued, has been enlisted or appointed after June 30, 1972, in the Armed Forces of the United States, including the Reserve components thereof, and the date of enlistment or appointment is at least 10 days prior to his scheduled reporting date for induction, it shall reopen his classification and cancel his order to report for induction.

2. In the case of a registrant whose induction reporting date has been postponed under any provision of this chapter, the enlistment or appointment will be valid if it is accomplished at least 10 days prior to the rescheduled reporting date. If such a registrant's induction reporting date has not yet been rescheduled, his enlistment or appointment will also be valid. No enlistments or appointments of any kind are permitted after the 10th day prior to the induction reporting date.

Example.—Joseph Schultz is scheduled to report for induction on July 20. He may enlist or be appointed in any of the Armed Forces, including the Reserve components, through the 10th of July. After the 10th of July, Joseph could not be enlisted in any program, and must report for induction on July 20 as ordered.

4. Any enlistments which are in conflict with the provisions of this section shall be reported by the local board to the State Director.

LOCAL BOARD NO. 10
100 N. PITT ST.,
SUITE 207
ALEXANDRIA, VA. 22314
(Local Board Stamp)

SELECTIVE SERVICE SYSTEM
DELIVERY LIST
(Prepare in Quintuplicate)

Sheet No. 1 of 1 sheets.
NOVEMBER 20, 1972
(Date of delivery)
Call No. 265
Induction period NOVEMBER 1972
(Month)

To: COMMANDING OFFICER, ARMED FORCES INDUCTION STATION

The registrants herein listed, except as otherwise noted, have been selected for service by this local board and were forwarded on NOV 20, 1972 (Date) by XYZ TRANSIT SYSTEM (Name of carrier) to report to you for induction.

Number called for	---	Number listed on transfer in	1
Number listed from this board	7	Total number forwarded	8

(1)	(2) SELECTIVE SERVICE NO.				(3) NAME (Last) (First) (Middle Initial)	(4) Not Previously Found Qualified	(5) DISPOSITION: Inducted Army	Navy	Air Force	Marine Corps	Found Not Qualified	Postponed Further	Other (Specify)	(6) REMARKS
1					VIOLATORS									
2	44	10	51	101	BLACK, JOHN W. {71}115									
3				-	PREVIOUSLY POSTPONED									
4	44	10	52	40	WHITE, HENRY A. {72}018									
5	44	10	52	69	BROWN, CHARLES F. {72}035									
6					VOLUNTEERS									
7	44	10	53	112	GREEN, GARY M. {73}060									
8					EPSG									
9	44	10	50	230	BLUE, EDWARD NMI. {70}191									
10					FPSG									
11	44	10	52	71	KNIGHT, THOMAS B. {72}080									
12	44	10	52	59	DAY, RALPH C. {72}086									1-A-O
13					TRANSFERRED IN FOR INDUCTION									
14					FPSG									
15	44	116	52	390	FALL, GEORGE A. {72}072									
					Totals (Enter on last sheet only)									

Josephine Moss
(Signature of Clerk, Executive Secretary, or member of local board)
OCTOBER 20, 1972
(Date of preparation)

(Signature of C. O. AFES)
(Grade and organization)
(Date of return to local board)

PSDN Form 201 (Revised 6-30-69)
(Printing of 6-15-69 may be used)

SUMMARY OF POSTPONEMENT PROVISIONS

Rule Number (A)	Reason for Postponement (B)	Postponement Granted by Authority of: (C)	Duration of Postponement (D)	Minimum Notice For Rescheduled Induction (E)	X Reference Paragraph in Section 632.3 (F)
#1	Emergency	Local Board	To a date certain 60 days maximum with 60 day extension	None	Paragraph 1
#2	Good cause	Director or State Director	Until time deemed advisable	If postponement is in excess of 60 days or without limit, the registrant shall be given not less than 30 and not more than 60 days notice. A postponement for a specified period of less than 61 days requires no minimum notice.	Paragraph 2
#3	Internship or State Examination	Director (HPM)	Completion of internship or next state exam (12 month maximum)		Paragraph 4
#4	College Student	Director (HPM)	Senior-Max. until end of academic year. Other-Max. until end of current semester.		Paragraphs 5, 6, 9
#5	High school student	Director (HPM)	Until graduation, or until age 20, whichever occurs first; or until end of last academic year of high school if he attains age 20 while in that year		Paragraphs 6, 7, 8, 9
#6	Employment replacement	State Director	Minimum time necessary		Paragraph 10
#7	Peace Corps	Director	Maximum of 2 years		Paragraph 11
#8	R.O.T.C.	Director (HPM)	Not later than October 31 of that year		Paragraphs 12, 13, 14, 15
#9	Probation or civil restraint	Director (HPM)	Minimum time required; maximum one year		Paragraph 16

Note: Any postponement granted shall be terminated prior to the scheduled termination date when the reason for the postponement has ceased to exist.

CHAPTER 641—DUTY OF REGISTRANTS

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CHAPTER 641—DUTY OF REGISTRANTS

SECTION 641.1 *Introduction.* Part 1641 of Selective Service regulations, as amended September 3, 1972, is quoted below for the information and guidance of and compliance by all registrants and personnel of the Selective Service System.

PART 1641—DUTY OF REGISTRANTS

Sec.
1641.1 Reporting by registrants of their current status.
1641.2 Effect of mailing a communication to the registrant.
1641.3 Waiver of right or privilege.
1641.4 Duty to report for and submit to Armed Forces examination.
1641.5 Duty to report for and submit to induction.
1641.6 Duty to have unaltered documents in personal possession.
1641.7 Duty of registrant separated from active duty in Armed Forces.
1641.8 Duty to return registration certificate to local board.

SEC. 1641.1 *Reporting by registrants of their current status.*—(a) It shall be the duty of every classified registrant until his liability for training and service has terminated, to keep his local board currently informed in writing of: (1) The address where mail will reach him, (2) his receipt of any professional degree in a medical, dental, or allied specialist category, and (3) in accord with instructions of the Director of Selective Service, facts concerning his status that the local board requests.

(b) The registrant shall submit to his local board information concerning his status within 10 days after the date on which the local board mails him a request therefor, or within such longer period as may be fixed by the local board.

SEC. 1641.2 *Effect of mailing a communication to the registrant.*—The mailing of an order, notice, or blank form to a registrant to the address last reported by him in writing to his local board shall constitute notice to him of the contents of the communication, whether he actually receives it or not.

SEC. 1641.3 *Waiver of right or privilege.*—If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege.

SEC. 1641.4 *Duty to report for and submit to Armed Forces examination.*—(a) When the local board mails to a registrant an Order to Report for Armed Forces Examination (SSS Form 223), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the Order to Report for Armed Forces Examination (SSS Form 223) is mailed and prior to the time fixed therein for the registrant to report for his Armed Forces examination, the local board cancels such Order to Report for Armed Forces Examination (SSS Form 223) or postpones that time when such registrant shall so report and advises the registrant in writing of such cancellation or postponement.

(b) If the time when the registrant is ordered to report for Armed Forces examination is postponed, it shall be the duty of the registrant to report for Armed Forces examination upon the termination of such postponement and he shall report for Armed Forces examination at such time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for Armed Forces examination when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for Armed Forces examination to his local board and to each local board whose area he enters or in whose area he remains.

(c) Upon reporting for Armed Forces examination, it shall be the duty of the registrant (1) to follow the instructions of a member, executive secretary, or local board clerk as to the manner in which he will be transported to the location where his Armed Forces examination will take place, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for Armed Forces examination, (3) to appear at the place where such examination will be accomplished, (4) to obey the orders of the representatives of the Armed Forces while at the place where his examination will be accomplished, (5) to submit to examination, and (6) to follow the instructions of a member, executive secretary, or clerk of the local board as to the manner in which he will be transported on his return trip from the place where his Armed Forces examination takes place.

SEC. 1641.5 *Duty to report for and submit to induction.*—(a) When the local board orders the registrant for induction it shall be the duty of the registrant to report for induction at the time and place ordered by the local board. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for induction at such time and place as may be ordered by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for inducton to his local board.

(b) Upon reporting for induction, it shall be the duty of the registrant (1) to follow the instructions of a member or clerk of the local board as to the manner in which he shall be transported to the location where his induction will be accomplished, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for induction, (3) to appear at the place where his induction will be accomplished, (4) to obey the orders of the representatives of the Armed Forces while at the place where his induction will be accomplished, (5) to submit to induction, and (6) if he is found not qualified for induction, to follow the instructions of the representatives of the Armed Forces as to the manner in which he will be transported on his return trip to the local board.

SEC. 1641.6 *Duty to have unaltered documents in personal possession.*—It is the duty of every registrant until his liability for training and service has terminated to have in his personal possession except while he is on active duty (other than active duty for training or for the sole purpose of undergoing a physical examination) in the Armed Forces (1) his Registration Certificate (SSS Form 2) and Notice of Classification (SSS Form 110) showing his current classification or (2) his Status Card (SSS Form 7) most recently issued by the local board.

(b) The failure of any person to have his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7) in his personal possession as required in paragraph (a) of this section shall be prima facie evidence of his failure to register.

(c) When a registrant is inducted into the Armed Forces, or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his documents listed in paragraph (a) of this section to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officers shall return the documents to the local board that issued them.

SEC. 1641.7 *Duty of registrant separated from active duty in Armed Forces.*—Every registrant who is separated from active duty in the Armed Forces prior to the 26th anniversary of the date of his birth, who has not discharged his current military obligation under the Military Selective Service Act, and who does not have a Registration Certificate (SSS Form 2) or Status Card (SSS Form 7) shall, within 10 days after the date of his separation, request in writing his local board to return his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7), if available, or to issue to him a duplicate thereof.

SEC. 1641.8 *Duty to return registration certificate to local board.*—Whenever a registrant at the time he receives a duplicate Registration Certificate (SSS Form 2) from his local board has in his possession any such certificate previously issued to him by the local board or thereafter finds or regains possession of any such certificate previously issued to him, it shall be the duty of the registrant to immediately return to the local board the certificate previously issued to him upon his receipt of the duplicate certificate or upon his thereafter finding or regaining possession of such certificate previously issued to him.

SEC. 641.2 *Explanation of terms.*—1. "Liability for training and service:" As used in section 1641.6 of the regulations, a person's responsibility for service imposed by the Military Selective Service Act. This liability commences when he reaches the age of 18 years and 6 months after having been required to register. This liability terminates when he reaches the age of 26 unless extended to age 35.

2. "Current military obligation under the Military Selective Service Act." As used in § 1641.7 of the regulations, for Selective Service purposes a person will be considered to have discharged his current military obligation if he is separated after having served honorably for 6 months or more on active duty other than active duty for training. Twenty-four months of assigned alternate service is required of conscientious objectors to satisfy their obligation, unless sooner released by the Director or State director of Selective Service after not less than 6 months of alternate service. Twenty-four months of service is also required for commissioned officers in the National Oceanic and Atmospheric Administration or the Public Health Service. Service in the Public Health Service after June 30, 1967, must have been in an office or bureau of the Public Health Service, including the National Institutes of Health, or on assignment to the Coast Guard, the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration.

CHAPTER 661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

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CHAPTER 661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

SEC. 661.1 *Introduction.*—Part 1661 of Selective Service regulations, effective

December 31, 1972, is quoted below for the information and guidance of personnel of the Selective Service System.

PART 1661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

SEC. 1661.1 *Purpose; definitions.*—(a) The provisions of this part govern the consideration of a claim by a registrant for classification in class 1–A–0 (sec. 1622.11 of this chapter) or class 1–0 (sec. 1622.14 of this chapter).

(b) The definitions in this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Crystallization of a registrant's beliefs.*—The registrant's becoming conscious of the fact that he is opposed to participation in war in any form.

(2) *Noncombatant service.*—Service in any unit of the Armed Forces which is unarmed at all times; any other military assignment not requiring the bearing of arms or the use of arms in combat or training in the use of arms.

(3) *Noncombatant training.*—Any training which is not concerned with the study, use or handling of arms or other implements of warfare designed to destroy human life.

(4) *Prima facie claim.*—A nonfrivolous claim, which, if true, would be sufficient on its face to warrant granting classification in class 1–A–O or class 1–O.

SEC. 1661.2 *The claim of conscientious objection.*—A claim to classification in class 1–A–O or class 1–O may be made by the registrant in writing, such document shall be placed in his file folder (SSS form 101). See section 1621.11 of this chapter.

SEC. 1661.3 *Basis for classification in class 1–A–O.*—(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to combatant training and service in the Armed Forces.

(b) A registrant's objection must be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

SEC. 1661.4 *Basis for classification in class 1–O.*—(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

(b) A registrant's objection must be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

SEC. 1661.5 *Exclusion from class 1–A–O and class 1–O.*—(a) Registrants who assert beliefs which are of a religious, moral, or ethical natural, but who are not found to be sincere in their assertions.

(b) Registrants whose stated objection to participation in war does not rest at all upon moral, ethical, or religious principle, but instead rests solely upon considerations of policy, pragmatism, expediency, or their own self-interest or well-being.

(c) Registrants whose objection to participation in war is directed against a particular war rather than against war in any form (a selective objection). If a registrant objects to war in any form, but also believes in a theocratic, spiritual war between the forces of good and evil, he may not by reason of that belief alone be considered a selective conscientious objector.

SEC. 1661.6 *Analysis of religious training and belief.*—(a) A registrant claiming conscientious objection is not required to be a member of a "peace church" or any other church, religious organization, or religious sect to qualify for a 1–A–O or 1–O classification; nor is it necessary that he be affiliated with any particular group opposed to participation in war in any form.

(b) The registrant who identifies his beliefs with those of a traditional church or religious organization must show that he basically adheres to beliefs of that church or religious organization whether or not he is actually affiliated with the institution whose teachings he claims as the basis of his conscientious objection.

(c) A registrant whose beliefs are not religious in the traditional sense, but are based primarily on moral or ethical principle should hold such beliefs with the same strength or conviction as the belief in a Supreme Being is held by a person who is religious in the traditional sense. Beliefs may be mixed; they may be a combination of traditional religious beliefs and of nontraditional religious, moral, or ethical beliefs. The registrant's beliefs must play a significant role in his life but should be evaluated only insofar as they pertain to his stated objection to his participation in war.

(d) Where the registrant is or has been a member of a church, religious organization, or religious sect, and where his claim of a conscientious objection is related to such membership, the board may properly inquire as to the registrant's membership, the religious teachings of the church, religious organization, or religious sect, and the registrant's religious activity, insofar as each relates to his objection to participation in war. The fact that the registrant may disagree with or not subscribe to some of the tenants of his church or religious organization or religious sect does not necessarily discredit his claim.

(e)(1) The history of the process by which the registrant acquired his beliefs, whether founded on religious, moral or ethical principle is relevant to the determination whether his stated opposition to participation in war in any form is sincere.

(2) The registrant must demonstrate that his religious, ethical or moral convictions were acquired through training, study, contemplation, or other activity comparable to the processes by which traditional religious convictions are formulated. He must show that these religious, moral, or ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clearly founded in traditional religious conviction.

(f) The registrant need not use formal or traditional language in describing the religious, moral or ethical nature of his beliefs. Board members are not free to reject beliefs because they find them incomprehensible or inconsistent with their own beliefs.

(g) Conscientious objection to participation in war in any form, if based on moral, ethical, or religious beliefs, may not be deemed nonreligious simply because those beliefs may influence the registrant concerning the Nation's domestic or foreign policies.

SEC. 1661.7 *Impartiality.*—Local and appeal boards may not give precedence to one religion over another, and all beliefs whether of a religious, ethical, or moral nature, are to be given equal consideration.

SEC. 1661.8 *Determination as to whether claim is prima facie.*—(a) A prima facie claim as defined in section 1661.1(b)(4) of this part must include the following:

(1) An affirmative statement (which does not on its face appear to be frivolous) that the registrant is conscientiously opposed to participation in war in any form.

(2) An affirmative statement (which does not on its face appear to be frivolous) explaining the registrant's moral, ethical, or religious basis for his claim.

(b) If the local board determines on the basis of information submitted by the registrant that a prima facie claim has been presented, it shall reopen his classification in accord with section 1625.2(a) of this chapter. If the local board determines on the basis of information submitted by the registrant that a prima facie claim has not been presented, it need not reopen the classification. See section 1625.4 of this chapter. In such case, the board should accompany its refusal to reopen with a written statement setting forth its reason(s) for deciding that the registrant failed to submit a prima facie claim. This statement will be placed in the registrant's file folder (SSS form 101), and the registrant will be notified of the board's reason(s).

SEC. 1661.9 *Considerations relevant to granting or denying a prima facie claim for classification as a conscientious objector.*—(a) If it is determined that the registrant has submitted a prima facie claim, the information in the registrant's file folder should then be evaluated to determine whether the registrant is sincere in his claim of conscientious objection. Oral statements by the registrant

at a personal appearance before the local or appeal board, and the registrant's general demeanor during such as interview, are to be taken into account in assessing his sincerity.

(b) The registrant's stated convictions should be a matter of conscience which would give him no rest or peace should he participate in war.

(c) The board should be convinced that the registrant's personal history since the crystallization of his conscientious objection is not inconsistent with his claim and demonstrates that the registrant's objection is not solely a matter of expediency. A late crystallization of beliefs does not necessarily indicate expediency.

(d) The information presented by the registrant should reflect a pattern of behavior in response to war and weapons which is consistent with his stated beliefs. Instances of violent acts or conviction for crimes of violence, or employment in the development or manufacturing of weapons of war may, if the claim is based upon or supported by a life of nonviolence, be indicative of inconsistent conduct.

(e) The development of a registrant's opposition to war in any form may bear on his sincerity. If the registrant claims a recent crystallization of beliefs, his claim should be supported by evidence of a religious or educational experience, a traumatic event, an historical occasion, or some other special situation which explains when and how his objection to participation in war crystallized.

(f) In the event that a registrant has previously claimed or been granted a deferment to work in the development of manufacturing of weapons of war or to serve as a member of a military reserve unit, it should be determined whether such a deferment was claimed or granted prior to the stated crystallization of the registrant's conscientious objector beliefs. Inconsistent classifications claimed or held prior to the actual crystallization of conscientious objector beliefs are not necessarily indicative of insincerity. But, inconsistent claims or classifications claimed or held subsequent to actual crystallization may indicate that registrant's stated objection is not sincere.

(g) If a registrant attends a personal appearance before the local or appeal board, his behavior before the local board may be relevant to the matter of the sincerity of his claim.

(1) Evasive answers to questions by board members or the use of hostile, belligerent or threatening words or actions, for example, may in proper circumstances be deemed inconsistent with a claim in which the registrant bases his objection on a belief in nonviolence. But such behavior may have less relevance to the sincerity question if the registrant bases his beliefs solely on a conscientious objection to bearing arms.

(2) Care should be exercised that nervous, frightened or apprehensive behavior at the personal appearance is not misconstrued as a reflection of insincerity.

(h) Oral response to questions by board members should be consistent with the written statements of the registrant and should generally substantiate the submitted information in the registrant's file folder (SSS form 101); any material inconsistencies should be satisfactorily explained by the registrant. It is important to recognize that the registrant need not be eloquent in his answers. But, a clear inconsistency between the registrant's oral remarks at his personal appearance and his written submission to the board may be adequate grounds, if not satisfactorily explained, for concluding that his claim is insincere.

(i) The registrant may submit letters of reference and other supporting statements of friends, relatives, and acquaintances to corroborate the sincerity of his claim, although such supplemental documentation is not essential to approval of his claim. A finding of insincerity based on these letters or supporting statements must be carefully explained in the board's decision, specific mention being made of the particular material relied upon for denial of 1-A-O or 1-O classification.

SEC. 1661.10 *Types of decisions.*—(a) The following are the types of decisions which may be made by the local and appeal board when a prima facie claim of conscientious objection has been stated.

(1) Decision to grant a claim for 1-A-O or 1-O classification as requested, based on a determination that the truth or sincerity of the registrant's prima facie claim is not refuted by any information contained in the registrant's file or obtained during his personal appearance.

(2) Decision to deny a claim for 1-A-O or 1-O classification, finding on the basis of all information before the board, that the claim fails to meet the tests specified in sections 1661.2 and 1661.3 of this part. If supported by evidence in the file the board may find that the facts presented by the registrant in support of his claim are untrue.

(3) Decision to grant a 1-A-O classification to a registrant even though he requested a 1-O classification. It should be noted that the registrant who requests classification in class 1-O should be classified in class 1-A-O only when the information presented demonstrates clearly that the registrant is opposed only to bearing arms and that he does not object to noncombatant service.

SEC. 1661.11 *Statement of reasons for denial.*—(a) Denial of a conscientious objector claim either by the local or appeal board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in sections 1623.4 and 1626.4 of this chapter. The reason(s) must, in turn, be supported by evidence in the registrant's file (which should include a summary of the interview with the registrant, if any, at his personal appearance).

(b) If the board's denial is based on statements by the registrant or on a determination that the claim is inconsistent or insincere, this should be fully explained in the statement of reasons accompanying the denial.

CHAPTER 680—MEDICAL SPECIALISTS

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680.3 Examinations.
680.4 Calls by the Secretary of Defense.
680.5 Allocations by the Director of Selective Service.
680.6 Allocations by the State director of Selective Service.
680.7 Action by local board upon receipt of allocation.
680.8 Postponement of induction.
680.9 Deferments.
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CHAPTER 680—MEDICAL SPECIALISTS

PURPOSE

The purpose of this chapter is to establish procedures for the processing of physicians, dentists, and allied specialists in the event a call is announced by the Department of Defense for this category of registrants. This type of call is referred to as a "special call."

SEC. 680.1 *Random selection sequence.*—The manner of assignment of random selection sequence for medical specialists shall be conducted in accordance with chapter 631 of the RPM, with the addition that all medical, dental, or allied specialists born before 1944 shall be assigned a birthdate sequence (random sequence number) based upon the results of the drawing held on December 1, 1969, identified as the 1970 Random Selection Sequence. The fact that a registrant's RSN was not reached under a regular call does not preclude its being reached, and his being called, under a special call for medical, dental, or allied specialists.

SEC. 680.2 *Classification.*—1. Every registrant who is or becomes a doctor of medicine, doctor of osteopathy, dentist, veterinarian, optometrist, podiatrist, or registered nurse shall be placed in class 1-AM (medical, dental, or allied specialist) unless otherwise eligible for a lower classification.

2. A physician, dentist, or allied medical specialist eligible for classification in class 1-A-O, were he not a medical specialist, will be placed in class 1-A-OM. A physician, dentist, or allied medical specialist eligible for classification in class 1-O, were he not a medical specialist, will be placed in class 1-OM.

3. Physicians, dentists, or allied medical specialists who are classified in class 1-AM, 1-A-OM, or 1-OM shall be identified in correspondence and on Selective Service forms as follows:

	Class 1-AM	1-A-OM	1-OM
Medical specialty:			
Doctor of medicine	1-AMM	1-A-OMM	1-OMM
Doctor of osteopathy	1-AMO	1-A-OMO	1-OMO
Dentist	1-AMD	1-A-OMD	1-OMD
Veterinarian	1-AMV	1-A-OMV	1-OMV
Doctor of optometry	1-AME	1-A-OME	1-OME
Doctor of podiatry	1-AMP	1-A-OMP	1-OMP
Registered nurse	1-AMN	1-A-OMN	1-OMN

SEC. 680.3 *Examinations.*—1. Local boards shall forward registrants in class 1–AM, 1–A–OM, and 1–OM for armed forces examinations in accordance with chapter 628 of the RPM. A registrant who has previously been examined as a regular registrant shall, upon being identified by the local board as a medical specialist, be forwarded for examination, regardless of a previous examination. Medical specialists are examined under medical specialists medical fitness standards rather than under standards applicable to registrants subject to regular call.

2. At the time of his armed forces examination, a medical specialist's professional qualifications are determined. The registrant whose notice of acceptability (DD Form 62) indicates that he has been professionally disqualified should be considered as having been found unacceptable by the Armed Forces Examining and Entrance Station (AFEES) preinduction examination, with "reexamination believed justified" (RBJ). The registrant shall not be reclassified 4–F but shall be retained in his present classification as long as he continues to qualify for that class. If no time period is indicated on the DD Form 62, an RBJ period of 6 months should be used. The registrant should be processed for reexamination at the termination of the RBJ period.

3. When a medical specialist fails to report for or refuses to submit to an armed forces examination or any part of the examination, he shall be processed in accordance with chapter 628 of the RPM. Notification of the medical specialist's failure to submit to Armed Forces examination should be forwarded by the local board through the appropriate State director to the commanding general of the army area who has jurisdiction over the AFEES to which the registrant was scheduled to report.

SEC. 680.4 *Calls by the Secretary of Defense.*—The Secretary of Defense may from time to time place with the Director of Selective Service a call or requisition for men in any medical, dental, or allied specialist category required for induction into the Armed Forces.

SEC. 680.5 *Allocations by the Director of Selective Service.*—Upon receipt of a call or requisition from the Secretary of Defense for men in a medical, dental, or allied specialist category to be inducted into the Armed Forces, the Director of Selective Service shall issue a call or requisition to the several States. The allocation of a call for the delivery of registrants shall specify the random sequence number cutoff for registrants in the appropriate specialty who shall be selected for induction.

SEC. 680.6 *Allocations by the State Director of Selective Service.*—The State Director of Selective Service shall allocate a call for the delivery of registrants as prescribed by the Director of Selective Service in accordance with section 680.5 of this chapter.

SEC. 680.7 *Action by Local Board upon receipt of allocation.*—1. When an allocation is received from the State Director of Selective Service, any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board shall, as provided by this section, select and issue orders to report for induction to those men, required to fill the call, from among its registrants who have been classified in class 1–AM or class 1–A–OM who have been found fully acceptable for service in the armed forces and to whom a statement of acceptability (DD Form 62) has been mailed and who are fully available for induction, except:

a. If a medical specialist in any classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an armed forces examination, he may, at such time as he is in class 1–AM or class 1–A–OM and reached for induction, be selected and ordered to report for induction to fill a special call as issued by the Department of Defense even though he has not been found acceptable for service in the armed forces and a statement of acceptability (DD Form 62) has not been mailed to him. In such case, the armed forces examination shall be performed after he has reported for induction as ordered, and he shall not be inducted until he has been found acceptable for service in the armed forces, or

b. A registrant in class 1–AM or 1–A–OM who has volunteered for induction and who has not had his acceptability determined shall be forwarded for armed forces examination at the earliest practicable date. If the registrant is found acceptable, he shall be issued an order to report for induction under the provisions of the outstanding special call.

2. As used in the order of call, the year of prime vulnerability for an alien who enters the United States after he has completed his first professional degree is the 12 months following his first year of residing in the United States. The year of prime vulnerability for all other medical specialists is 365 days immediately following the attainment of the first appropriate professional degree or diploma, or completion of internship or 1 year of equivalent training, whichever is later. The internship or 1 year of equivalent training must follow immediately upon the attainment of the appropriate professional degree.

Example 1.—A dentist attaining his professional degree on June 15, 1972, would enter his year of prime vulnerability on June 16, 1972, as internship is normally not required of a dentist.

Example 2.—A doctor of medicine or osteopathy attaining his professional degree on June 15, 1971, and completing his internship on June 30, 1972, would enter his year of prime vulnerability on July 1, 1972.

Example 3.—A medical specialist who has been admitted to the United States as a permanent resident alien after he has received the first appropriate professional degree and who has resided for 1 year in the United States as of July 1, 1972, would enter his year of prime vulnerability on July 2, 1972.

3. Medical specialists to whom orders to report for induction have been issued, and whose inductions have been postponed by the director or State director for a period of 60 days or less for purposes other than the obtaining of a commission, shall be rescheduled at the same time to a date certain within the 60-day period. If the medical specialist registrant is postponed for over 60 days, the local board shall give him not less than 30 days, nor more than 60 days notice of the rescheduled reporting date. Fully available medical specialist registrants who have not already been ordered and given postponements shall be selected and ordered to report for induction in the following categories and in the order indicated:

a. Volunteers, in the sequence in which they have volunteered for induction;

b. Nonvolunteers, within the year of prime vulnerability, in the order of their Random Sequence Number (RSN) established by random selection procedures prescribed in accordance with section 680.1 of this chapter;

c. Nonvolunteers within the first year after their year of prime vulnerability, in the order of their RSN established by random selection procedures prescribed in accordance with section 680.1 of this chapter;

d. Nonvolunteers within the second year after their year of prime vulnerability, in the order of their RSN established by random selection procedures prescribed in accordance with section 680.1 of this chapter;

e. Nonvolunteers within the third year after their year of prime vulnerability, in the order of their RSN established by random selection procedures prescribed in accordance with section 680.1 of this chapter;

f. Nonvolunteers within each succeeding year, in turn, after their year of prime vulnerability, in the order of their random sequence number established by random selection procedures prescribed in accordance with section 680.1 of this chapter, until attainment of age 35.

4. A registrant's random sequence number will be deemed to have been "reached" if it is equal to or lower than the highest random sequence cutoff number established by the Director of Selective Service for induction of registrants in the same priority selection group for the announced special call.

5. *Reduced priority selection groups.*—At the completion of a medical specialist's year in the first priority selection group, he will be eligible for assignment to the next lower priority selection group and will become less vulnerable for special call selection. Notation will be made on the registrant file folder (SSS Form 101) to show when a registrant enters the first priority selection group and also

when he enters the reduced priority selection group.

6. *Administrative processing.*—When an order to report for induction (SSS form 252) is issued under a special call to a medical specialist, in accordance with section 680.7 of this chapter, copy 3 of SSS form 252 shall be forwarded through the State director to the commanding general of the Army area having jurisdiction over the Armed Forces Examining and Entrance Station which issued the DD form 62 (or in the case of a medical specialist registrant who failed to report for an Armed Forces examination, to the commanding general of the Army area having jurisdiction over the AFEES which would have issued the DD form 62). The State director shall reproduce two copies of SSS form 252, forward one copy to the Director of Selective Service, Operations Division, attention: OOCI–3, and retain one copy. The induction order shall contain the special call number under which the registrant is being processed, and the registrant's profession (such as doctor of medicine, doctor of osteopathy, dentist, veterinarian, optometrist, podiatrists, or registered nurse). These entries shall be typed in the upper right-hand margin of the SSS form 252.

Upon receipt of the induction order of a medical specialist, the commanding general of the appropriate Army area will allocate the registrant to a military service. The Armed Force to which the registrant is allocated will offer him a Reserve commission. Upon the registrant's acceptance of the commission, record of military status of registrant (DD form 44) will be sent to the local board.

When a registered nurse has been ordered for induction, the commanding general of the appropriate Army area will, upon receipt of the copy of the induction order, forward the registrant's preinduction papers to the Office of The Surgeon General, Department of the Army, Washington, D.C. The Office of The Surgeon General will then determine the registrant's rank and will allocate him to one of the Armed Forces which is participating in the call. The appropriate Armed Force will offer the registrant a Reserve commission. Upon acceptance of a commission by the registrant, a DD form 44 will be forwarded to the local board.

The scheduled induction date of a medical specialist will be at least 30 days after the date of mailing of the order to report for induction (SSS form 252). No medical specialist will be issued an induction order with a scheduled reporting date later than the last date specified for filling the special call.

Notification of entry into active military service (DD form 53) will be forwarded to the State director by the appropriate Armed Force when a medical specialist enters upon active duty.

The State director shall routinely postpone the induction of any medical specialist who is ordered for induction under a special call and who cannot be commissioned prior to the date scheduled for the registrant's induction. If the postponement is for 60 days or less, the registrant shall be issued an SSS form 253 rescheduling his reporting date. If the postponement is in excess of 60 days, the registrant shall be issued an SSS form 264 and shall subsequently be issued an SSS form 253 not less than 30 days nor more than 60 days prior to the rescheduled reporting date. Copies of the SSS form 253 and/or 264 shall be forwarded to National Headquarters, Operations Division, attention: OOCI–3, through the State headquarters by the local board.

The commanding general of the appropriate Army area shall be notified, by fastest mail, by the State director, of the cancellation of any induction order for medical specialists. A copy of SSS form 255 (notice of cancellation) shall be forwarded to national headquarters by the local board.

Each medical specialist ordered to report for induction under the authority of a special call will be sent an explanatory letter relative to his processing (see attachment 680–1).

7. Report of availability of medical specialists will be prepared only when requested by the Director of Selective Service.

8. *Reserve obligation.*—Medical specialists who accept Reserve commissions under the provisions of a special call before attaining the age of 26 will have a minimum Reserve obligation consisting of 2 years of active military service, 3 years Ready Reserve, and 1 year of Standby Reserve. Those who accept a Reserve appointment after attaining the age of 26 have no further Reserve obligation after completing 2 years of active duty, unless otherwise obligated, provided they resign their commissions at the completion of their active duty period.

9. *Appointments for medical specialists in a Reserve or National Guard unit.*—Medical specialists selected for induction under the provisions of a special call for whom convincing evidence is received verifying that a current application for appointment as a commissioned officer in an organized unit of the Reserve or National Guard in a medical specialist capacity was in process at the time of their selection for special call, shall have their induction postponed pending completion of processing. Upon receipt of DD form 44, announcing the appointment, the registrant's classification shall be reopened and considered anew.

10. *Delivery for induction.*—Medical specialists who have been ordered under the provisions of a special call and subsequently refuse an appointment as a Commissioned Officer in one of the military services, as tendered, will be inducted in an enlisted status. If a medical specialist fails to report for or submit to induction, his file will be processed in accordance with the provisions of chapter 642 of the RPM.

SEC. 680.8 *Postponement in induction.*—1. Postponement of induction will be accomplished in accordance with chapter 632 of the RPM. The Director of Selective Service or the appropriate State director of Selective Service may postpone the induction of a medical specialist who applies or has applied for an appointment as a Reserve officer in one of the Armed Forces, in a medical, dental, or allied specialist category, until final action is taken on his application.

2. The Director and appropriate State director of Selective Service may postpone, in substantiated cases of proven community need, the induction of a medical specialist for a period of approximately 90 days, or less, to assist the community in its efforts to obtain additional medical assistance.

3. A physician who has been reached for induction under the provisions of a special call, for whom information has been submitted from the Department of Defense verifying that he is being considered for appointment in the Berry plan or the osteopathic residency deferment (ORD) program, shall have his induction postponed. Upon receipt of verification (DD form 44) that he has been appointed a Reserve commissioned officer participating in the Berry plan or the ORD program, the registrant's classification will be reopened and considered anew.

4. *Commissioned officers residency deferment program (CORD) of the Public Health Service.*—On the local board's receipt of verification of status of commissioned officers of the Public Health Service (PHS form 1867) indicating that the medical specialist has been appointed in the Reserve Corps of the Public Health Service, the board shall postpone the registrant's induction pending his entry upon active duty.

a. Registrants for whom a verification of status of commissioned officers of the Public Health Service (PHS form 1867) has been received indicating their participation in the CORD program shall have the issuance of an order to report for induction postponed.

b. Upon receipt of Public Health Service form 1867 indicating that the registrant has actually entered on active duty, the registrant's classification will be reopened and considered anew.

c. Unlike medical specialists who have been appointed as Reserve officers as members of the Berry plan or ORD programs, and therefore entitled to classification in class 1–D, Reserve commissioned officers of the Public Health Service participating in the CORD (commissioned officers residence deferment program) are not eligible for classification in class 1–D, but should remain in class 1–AM or 1–A–OM.

SEC. 680.9 *Deferments.*—1. A medical specialist should be classified in the lowest classification for which he is qualified.

2. Medical specialists who were classified into class 2–A (occupational deferment) prior to January 7, 1973, on the basis of community essentiality, may be retained in such class so long as they qualify under paragraph 3 of this section, and so long as they remain in the same position. Internship is not a basis for occupational deferment.

3. As of January 7, 1973, a medical specialist will be eligible for class 2–A

only after his year of prime vulnerability, and only if his occupation has been found by the appropriate State medical advisory committee to represent an especially critical community service in which the specialist is directly involved in patient care.

4. *Occupational deferment (class 2–A).*—Requests of registrants who are no longer within the year of prime vulnerability should be forwarded by the local board, along with any supporting documentation received, through the appropriate State director, to the medical advisory committee (MAC) of the State in which the registrant is practicing. Upon receipt of the recommendation of the MAC, the local board should review the information submitted, giving consideration to the recommendation of the MAC with regard to whether the registrant's classification should be reopened.

SEC. 680.10 *Alternate Service.*—A medical specialist registrant in class 1–OM will be ordered to alternate service in lieu of induction, in accordance with chapter 660 of the RPM, at the time he would be ordered for induction if he were in class 1–AM or 1–A–OM.

SEC. 680.11 *Volunteers.*—1. During the designated period of a special call, medical specialist registrants, not already under the jurisdiction of a medical program of the armed forces or otherwise under an armed forces commitment, may volunteer for a special call selection, by written request to the local board, if they have not attained the age of 35. Aliens admitted for temporary residence may not volunteer.

2. Medical specialists interested in joining a medical department of one of the military services in the absence of a special call may be directed to the following sources:

General information with regard to the Berry plan or ORD program:

The Assistant Secretary of Defense (Health and Environment), Attention: Berry Plan Office (or ORD program), The Pentagon, Washington, D.C. 20301.

Information requests with regard to individual services should be directed as follows:

Army: Office of the Surgeon General, Department of the Army, attention: DASG–PTP–D, Washington, D.C. 20314.

Navy: Office of the Surgeon General, Department of the Navy, Attention: Professional Division, Washington, D.C. 20390.

Air Force: Air Force Military Personnel Center/SG–SP, Department of the Air Force, Randolph Air Force Base, Tex. 78148.

Commissioned Officer Corps of the Public Health Service: Commissioned Personnel Division, Employment Operations Division, P.H.S., Parklawn Building (Room 4–35), 5600 Fishers Lane, Rockville, Md. 20852.

SAMPLE LETTER TO MEDICAL SPECIALIST REGISTRANT SELECTED FOR SPECIAL CALL

(Local Board Stamp)

To: _____
SSN: _____
Dear _____,

_____
(Date of mailing)

The Commander of the Army area in which you had your armed forces examination is the custodian of your records, even though you may now be living in another Army area. That Army Commander will contact you very soon relative to your obtaining a commission.

If you already have applied for a commission in one of the armed forces, you should immediately inform the military office with which you are corresponding that you have received an order to report for induction. Also notify the Army Commander referred to in the first paragraph above of your pending application.

Until you are actually commisioned in the armed forces, you are not within military jurisdiction, and the armed forces cannot consider any requests from you, such as a delay in call to active duty. If you have questions related to your selective service processing, you should contact any local board.

If you accept the commission tendered you, you will not be required to report for induction.

Please notify this local board immediately if you accept a commission.

_____
(Authorized signature)

CHAPTER 670—REGISTRANT INFORMATION BANK (RIB)

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CHAPTER 670—REGISTRANT INFORMATION BANK (RIB)

SEC. 670.1 *Introduction.*—The Registrant Information Bank (RIB) is an automatic data processing system that compiles information submitted by the local boards to the Computer Service Center (CSC). From this information periodic output reports dealing with individual registrant processing are prepared for local board use. In addition, statistical reports are prepared for use of local boards, State headquarters, and national headquarters.

SEC. 670.2 *Input.*—Input to the system is generaly originated by the local board. Information is typed with an optical character recognition (OCR) electric typewriter on an OCR form, the original of which is mailed to the CSC, where it is scanned (read) by an OCR scanner. In this way, input into the RIB system is accomplished.

A record for a registrant is established in RIB and his processing status is kept current in RIB by use of various OCR forms.

SEC. 670.3 *Information.*—The RIB system will contain information on all registrants born in 1953 and later years and medical specialists, regardless of year of birth. When a registrant's period of accountability terminates, as set forth in chapter 619, his record in RIB will be automatically deleted by the CSC without action by the local board.

SEC. 670.4 *Output.*—The output reports (printouts) will aid the local boards in the orderly processing of those registrants with random sequence numbers equal to or lower than the administrative processing number. The output reports will aid the State headquarters and national headquarters by providing current statistical information for use in determining available manpower and in planning.

The RIB system is not a control system and all output reports are prepared to aid in the processing of registrants and are not to be considered as directive in nature.

BYRON V. PEPITONE,
Director.

APRIL 17, 1973.

[FR Doc.73–7799 Filed 4–25–73;8:45 am]

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PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

OFFICE OF EDUCATION PROGRAMS

Proposed General Provisions

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Ch. 1]

OFFICE OF EDUCATION PROGRAMS

Proposed General Provisions

Pursuant to section 403(b)(1) of the General Education Provisions Act (20 U.S.C. 1221c(b)(1)), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend title 45, subtitle B, chapter I, of the Code of Federal Regulations by adding a new subchapter A, as set forth below, and by designating the remainder of chapter I as subchapter B.

1. *Purpose of subchapter A.*—The new subchapter A would provide across-the-board administrative and fiscal requirements for Federal programs of assistance administered by the Commissioner of Education. Adoption of these regulations would have the following advantages:

(a) A primary objective is the elimination of duplicatory, conflicting, and overlapping provisions presently contained in various Office of Education regulations. Along with the enactment of the new subchapter A, nearly all Office of Education regulations would be amended, as set forth below, to eliminate such provisions.

(b) Adoption of regulations for new programs would be facilitated, since it would not be necessary to repeat the requirements set forth in subchapter A in each individual program regulation.

(c) The proposed regulation would simplify the task under section 503 of the Education Amendments of 1972 (Public Law 92-318, enacted June 23, 1972), which requires the Commissioner to study, report to Congress, and publish in the FEDERAL REGISTER all "rules, regulations, guidelines, (and) other published interpretations (and) orders issued by him or by the Secretary of Health, Education, and Welfare (or any of their delegates) in connection with, or affecting, the administration of any (Office of Education) program * * *." Adoption of the proposed subchapter A would eliminate the necessity of reconsidering identical requirements each time a Federal program is reported to Congress and published in the FEDERAL REGISTER under section 503.

2. *Derivation of subchapter A.*—The provisions contained in the proposed regulation are derived from two primary sources—existing Office of Education regulations, and certain of the requirements set forth in Office of Management and Budget (OMB) Circular No. A-102. Thus, the proposed regulation is basically a recodification of existing rules with changes as required by the OMB circular. Regulations based on the OMB circular have an appropriate citation following their provisions—for example: (OMB Circular No. A-102, attachment E).

All of the policies and procedures contained in the OMB circular will be implemented for the Department as a whole through the issuance of a regulation by the Secretary of Health, Education, and Welfare. When such regulation takes effect, recipients will be subject to the Secretary's regulation as well as subchapter A.

3. *Scope of subchapter A.*—(a) Subchapter A, as proposed, is divided into four parts: 100, 100a, 100b, and 100c. Part 100 contains definitions which will apply to all Office of Education regulations. Part 100a contains administrative and fiscal provisions for Federal education programs under which the Commissioner provides assistance directly to recipients through grants or contracts. The Federal programs to which part 100a is applicable are set forth in § 100a.10. Part 100b contains administrative and fiscal provisions for Federal education programs under which assistance is provided through State agencies which administer these programs. The Federal programs to which part 100b is applicable are set forth in § 100b.10. Part 100c provides a uniform system of calculating indirect costs under the Federal programs listed in § 100c.1. These programs are those which contain a statutory restriction on supplanting Federal funds with non-Federal funds.

(b) As stated in §§ 100.1, 100a.10, and 100b.10, the regulations in subchapter A would apply only where they are not inconsistent with the statute and regulations governing a particular Federal education program. Therefore, the program statute and regulations must be examined in each case to be sure that no inconsistency exists. Program regulations will be kept consistent with subchapter A to the maximum extent possible.

4. *Citations of legal authority.*—(a) As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section or other division of the regulations has been placed in parentheses on the line following the text of the provision.

(b) On occasion, the following citation is used: "(20 U.S.C. 1221c(b)(1))." The intent of this citation is to indicate that the authority for the regulation involved derives implicitly from the authority to administer the programs listed in §§ 100a.10 and 100b.10, rather than from an explicit provision in a particular statute.

Opportunity for public hearing.—(a) Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations, as follows:

A hearing will take place at the U.S. Office of Education on June 5, 1973, in the auditorium of the Regional Office Building Three (ROB-3) located at 7th and D Streets SW., Washington, D.C. 20202, beginning at 9 a.m., e.s.t.

The purpose of the hearing is to receive comments and suggestions on the published materials. Interested parties are urged to submit written comments and recommendations prior to the date of the hearing to room 5717 at the above address, attention: Mr. Herbert C. Duffy, Chairman, Office of Education Task Force on section 503. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 9 a.m. and 4:30 p.m., e.s.t., Monday through Friday of each week.

Parties interested in attending the hearing should notify the Office of Education at the above address. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of 15 minutes.

The proposed rules will be discussed in the following order:

Part 100—General (definitions).
Part 100a—Direct project grant and contract programs.
Part 100b—State-administered programs.
Part 100c—Allowable costs under certain programs.

(b) As noted above, some regulations in the proposed part 100 are based on OMB circulars. Since the Office of Education is not free to modify these circulars, it is suggested that comments be limited to other provisions of the regulation. However, comments will be accepted on all matters contained in subchapter A, and those pertaining to the OMB circulars will be forwarded to the U.S. Office of Management and Budget for their consideration. Commenters should realize that no changes in subchapter A can be made directly by the Office of Education as a result of comments regarding matters covered by OMB circulars, since the circulars are binding on all Federal agencies.

6. *Program rules, regulations, guidelines, interpretations, and orders.* Over the next several months, the rules, regulations, guidelines, interpretations, and orders which govern individual Office of Education programs will be published in the FEDERAL REGISTER in accordance with section 503 of the Education Amendments of 1972. Interested parties will be provided an opportunity for a public hearing. Thirty days after all such rules, regulations, guidelines, interpretations, and orders have been republished in final form (following the public hearings), Section 503(d) provides that they will "supersede all preceding rules, regulations, guidelines, interpretations and orders issued in connection with, or affecting, any (Office of Education) program * * *."

Dated February 6, 1973.

JOHN OTTINA,
Acting U.S. Commissioner of Education.

Approved April 3, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 60—FEDERAL FINANCIAL ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL RADIO AND TELEVISION BROADCAST FACILITIES

§§ 60.3 and 60.5 [Amended]

1. Sections 60.3 (b), (d), (j), (o), and 60.5 are revoked.

2. Section 60.12 is amended by revising paragraph (a) and revoking paragraph (b) as follows:

§ 60.12 Processing applications.

(a) With respect to applications accepted for filing pursuant to § 60.8, the Commissioner may at any time establish temporary limitations on the maximum amount of Federal grants which may be approved for projects situated in each of the several States, if in his judgment such action would assist in promoting equitable distribution of such Federal grant throughout the several States.

(b) [Revoked.]

§§ 60.15 and 60.19 [Amended]

3. Sections 60.15(a), 60.17, and 60.19 are revoked.

PART 61—CONTRACTS AND GRANTS FOR PLANNING AND EVALUATION OF OFFICE OF EDUCATION PROGRAMS

§§ 61.3 and 61.4 [Revoked]

4. Sections 61.3 and 61.4 are revoked.

PART 102—STATE VOCATIONAL EDUCATION PROGRAMS

§§ 102.3 and 102.42 [Amended]; §§ 102.2, 102.44, 102.122–102.131, 102.134, 102.144, 102.146–102.147, 102.154–102.155, 102.158 [Revoked]

5. Sections 102.2, 102.3 (e), (h), (k), (l), (p), and (r), 102.42(b), 102.44, 102.122–102.131, 102.134, 102.144, 102.146, 102.147, 102.154, 102.155, and 102.158 are revoked.

PART 103—RESEARCH AND TRAINING, EXEMPLARY, AND CURRICULUM DEVELOPMENT PROGRAMS IN VOCATIONAL EDUCATION

§§ 103.3, 103.13, 103.24 [Amended]; §§ 103.2, 103.14, 103.16, 103.17, 103.27–103.28, 103.34–103.37, and 103.41–103.61 [Revoked]

6. Sections 103.2, 103.3 (b), (d), and (g), 103.13(a) (2)–(7), 103.14, 103.16, 103.17, 103.24 (a) (4)–(10) and (c), 103.27, 103.28, 103.34–103.37, and 103.41–103.61 are revoked.

PART 107—FEDERAL FINANCIAL ASSISTANCE FOR PLANNING AND EVALUATION

§ 107.1 [Amended]

§§ 107.3–107.9 [Revoked]

7. Sections 107.1 (b), (c), (e), and (g), and 107.3–107.9 are revoked.

PART 111—HEARINGS IN CONNECTION WITH SCHOOL CONSTRUCTION AND FINANCIAL ASSISTANCE IN FEDERALLY IMPACTED AREAS

§ 111.1 [Amended]

8. Section 111.1 (a), (d), and (e) are revoked.

PART 112—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF PUBLIC ELEMENTARY AND SECONDARY AFFECTED BY CERTAIN DISASTERS

§ 112.1 [Amended]

9. Section 112.1 (b) and (h) are revoked.

PART 113—FINANCIAL ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES OF LOCAL EDUCATIONAL AGENCIES AFFECTED BY CERTAIN DISASTERS

§ 113.1 [Amended]

10. Section 113.1 (b) and (f) are revoked.

PART 114—FEDERAL ASSISTANCE UNDER PUBLIC LAW 815, 81ST CONGRESS, AS AMENDED, IN CONSTRUCTION OF MINIMUM SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§ 114.1 [Amended]

11. Section 114.1 (b), and (g), and (v) are revoked.

PART 115—FINANCIAL ASSISTANCE FOR CURRENT EXPENDITURES OF LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR FREE PUBLIC EDUCATION OF CERTAIN CHILDREN RESIDING ON FEDERAL PROPERTY

§ 115.3 [Amended]

12. Section 115.3 (b) and (d) are revoked.

PART 116—FEDERAL ASSISTANCE TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

§§ 116.1, 116.21, 116.53 [Amended]

§§ 116.42, 116.46–116.48, and 116.54–116.57 [Revoked]

13. Sections 116.1 (e), (j), (k), (m), (t), (u), (x), (y), and (bb), 116.21(a)–(e), 116.42, 116.46–116.48, and 116.53(a)–(c), (e), 116.54–116.57 are revoked.

PART 117—FINANCIAL ASSISTANCE FOR SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

§§ 117.1 and 117.3 [Amended]

§§ 117.13 [Revoked]

14. Sections 117.1 (c)–(e), (g), and (j), 117.3(l), and 117.13 are revoked.

15. Section 117.20 is revised to read as follows:

§ 117.20 Acquisition of instructional materials.

Acquisition (as defined in § 100.1 of this chapter) of school library resources, textbooks, and other printed and published instructional materials may include the necessary costs of ordering, processing, and cataloging such resources, textbooks, and materials. Funds under title II of the act are not available for the rebinding or repair of such resources, textbooks, or materials. (20 U.S.C. 823)

§§ 117.21 and 117.46 [Amended]

§§ 117.26–117.30, 117.36, 117.39, 117.43–117.45 [Revoked]

16. Sections 117.21(b), 117.26–117.30, 117.36, 117.39, 117.43–117.45, and 117.46(c) are revoked.

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE COUNSELING AND TESTING PROGRAMS

§§ 118.1 118.6, 118.18, 118.22 [Amended]

§§ 118.31, 118.33–118.34, 118.41–118.43, 118.45, 118.53 and 118.55–118.58 [Revoked]

17. Sections 118.1 (b), (e), (f), (g), (o), (q), (r), and (x), 118.6(e), 118.18(d), 118.22(f), 118.31, 118.33, 118.34, 118.41–118.43, 118.45, 118.53 and 118.55–118.58 are revoked.

PART 119—FEDERAL FINANCIAL ASSISTANCE FOR STRENGTHENING STATE DEPARTMENTS OF EDUCATION

§ 119.1 [Amended]

§ 119.7 [Revoked]

18. Sections 119.1(c)–(g), (i), (k), and (l), and 119.7 are revoked.

19. The introductory sentence of § 119.8 is revised to read as follows:

§ 119.8 Federal payments.

Federal payments will be made available to the States after:

* * * * *

(20 U.S.C. 1232d.)

§ 119.22 [Amended]

§§ 119.21, 119.23–119.28 and 119.40–119.52 [Revoked]

20. Sections 119.21, 119.22(b), 119.23–119.28, and 119.40–119.52 are revoked.

PART 121—PROGRAMS FOR THE EDUCATION OF HANDICAPPED CHILDREN

§§ 121.1, 121.102, 121.106, 121.127–121.128 [Amended]

§§ 121.3–121.12, 121.110 and 121.131 and 121.133 [Revoked]

21. Sections 121.1 (a), (b–1), (d), (f)–(i), (m), (n), (p)–(r), (t), and (u), 121.3–121.12, 121–102 (d) and (g), 121.106e, 121.110, 121.127 (c) and (d), 121.128(d), and 121.131–121.133 are revoked.

PART 123—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§ 123.1 [Amended]

§§ 123.2–123.3, 123.6, 123.14, 123.21, 123.23–123.29, 123.35–123.38, and 123.44 [Revoked]

22. Sections 123.1 (d), (h), (i), (n), and (p)–(r), 123.2, 123.3, 123.6, 123.14, 123.21, 123.23–123.29, 123.35–123.38, and 123.44 are revoked.

PART 124—FINANCIAL ASSISTANCE FOR DEMONSTRATION PROJECTS FOR REDUCING THE NUMBER OF SCHOOL DROPOUTS

§ 124.1 [Amended]

§§ 124.4–124.7 [Revoked]

23. Sections 124.1 (b), (c), (e), (f), and (i)–(k), and 124.4–124.7 are revoked.

§ 124.8 [Amended]

24. The last sentence in § 124.8 reading, "The application shall also contain an assurance that none of the funds made available under section 807 of the act will be used for religious worship or instruction.", is revoked.

§ 124.15 [Amended]

§§ 124.16, 124.20–124.28 and 124.33–124.34 [Revoked]

25. Sections 124.15(a), (c), and (d), 124.16, 124.20–124.28, 124.33, and 124.34 are revoked.

PART 125—CENTERS AND SERVICES FOR DEAF-BLIND CHILDREN

§ 125.1 [Amended]

26. Section 125.1(c) is revoked.

PART 130—LIBRARY SERVICES, PUBLIC LIBRARY CONSTRUCTION, INTERLIBRARY COOPERATION

§§ 130.3, 130.5, 130.22 [Amended]

§§ 130.2, 130.31–130.41, 130.43–130.44, 130.52–130.53, 130.55 [Revoked]

27. Sections 130.2, 130.3(b), (d), (f), and (g), 130.5(b) (1)–(6) and (8)–(16), 130.22(c), 130.31–130.41, 130.43, 130.44, 130.52, 130.53, and 130.55 are revoked.

PART 131—COLLEGE LIBRARY RESOURCES PROGRAM UNDER TITLE II–A, HIGHER EDUCATION ACT OF 1965, AS AMENDED

28. Section 131.1 is revised to read as follows:

§ 131.1 Applicability.

The regulations in this part apply to grants made by the Commissioner pursuant to his authority under title II–A of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1021.)

§ 131.2 [Amended]

§§ 131.6, 131.10, 131.12 and 131.17 [Revoked]

29. Sections 131.2 (e), (f), and (n), 131.6, 131.10, and 131.12–131.17 are revoked.

PART 132—GRANTS FOR TRAINING IN LIBRARIANSHIP

30. Section 132.1 is revised to read as follows:

§ 132.1 Applicability.

The regulations in this part apply to grants by the Commissioner to institutions of higher education to assist them in training persons in librarianship under title II–B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1031.)

§ 132.2 [Amended]

§§ 132.5–132.12, 132.14 and 132.16–132.17 [Revoked]

31. Sections 132.2(b)–(e), 132.5–132.12, 132.14, and 132.16–132.27 are revoked.

PART 141—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS IN PUBLIC SCHOOLS

§ 141.1 [Amended]

§§ 141.8, 141.12–141.18, and 141.21–141.23 [Revoked]

32. Sections 141.1 (e)–(h), (k), and (l), 141.8, 141.12–141.18, and 141.21–141.23 are revoked.

PART 142—LOANS TO PRIVATE NONPROFIT SCHOOLS FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

§ 142.2 [Amended]

33. Sections 142.2 (c), (e)–(g), (j), (k), (l)–(n), and (p) are revoked.

PART 144—NATIONAL DEFENSE STUDENT LOAN PROGRAM

34. Section 144.2 (d)–(f), (v), (w), and (y) are revoked.

§ 144.2 [Amended]

PART 145—NATIONAL DEFENSE GRADUATE FELLOWSHIP PROGRAM

§ 145.1 [Amended]

35. Section 145.1 (d), (e), and (i) are revoked.

PART 147—PROCEDURES AND CRITERIA FOR RESOLVING QUESTIONS INVOLVING MORAL CHARACTER OR LOYALTY OF APPLICANTS FOR AND HOLDERS OF NDEA FELLOWSHIP

§ 147.2 [Amended]

36. Section 147.2 (e) and (f) are revoked.

PART 150—PRODUCTION AND DISTRIBUTION OF CAPTIONED FILMS FOR THE DEAF

§ 150.1 [Amended]

37. Section 150.1(f) is revoked.

PART 151—FEDERAL FINANCIAL ASSISTANCE FOR RESEARCH AND RESEARCH RELATED ACTIVITIES IN THE FIELD OF EDUCATION AND FOR CONSTRUCTION OF NATIONAL AND REGIONAL RESEARCH FACILITIES

§§ 151.2 and 151.5 [Amended]

§§ 151.4, 151.7–151.9, 151.11, 151.13–151.16, 151.18–151.23, 151.31–151.40, 151.42–151.44, 151.46–151.47 [Revoked]

38. Sections 151.2 (b), (d), (h), (j), (k), and (n), 151.4. 151.5(b), 151.7–151.9, 151.11, 151.13–151.16, 151.18–151.23, 151.31–151.40, 151.42–141.44, 151.46, and 151.47 are revoked.

PART 155—UPWARD BOUND

§§ 155.2, 155.7, 155.9 [Amended]

§§ 155.3, 155.11–155.14 [Revoked]

39. Sections 155.2 (b), (d), and (g), 155.3, 155.7 (c) and (f), 155.9(a), and 155.11–155.14 are revoked.

PART 160—TRAINING PROGRAM UNDER MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

§§ 160.2, 160.10 [Amended]

§§ 160.11–160.14, 160.16–160.17, 160.19–160.22 [Revoked]

40. Sections 160.2 (f), (q), (r), and (u), 160.10 (a), (b), (f), and (g), 160.11–160.14, 160.16, 160.17, and 160.19–160.22 are revoked.

41. In the appendix to part 160, article III, "Termination," is revoked.

PART 166—FINANCIAL ASSISTANCE FOR ADULT EDUCATION PROGRAMS

§§ 166.1, 166.13, 166.66, 166.67 [Amended]

§§ 166.4, 166.25, 166.27, 166.30, 166.33–166.42, 166.45, 166.48, 166.64–166.65, 166.68–166.79 [Revoked]

42. Sections 166.1 (e)–(g), (i), and (j), 166.4, 166.13(b), 166.25, 166.27, 166.30, 166.33–166.42, 166.45, 166.48, 166.64, 166.65, 166.66 (a)(5)–(7), (b)(2)–(4), (7), and (8), 166.67(a), and 166.68–166.79 are revoked.

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES

§ 170.1 [Amended]

43. Section 170.1(q) is revoked.

44. Paragraph (h) of § 170.1 is revised to read as follows:

§ 170.1 Definitions.

* * * * *

(h) "Equipment" (as defined in § 100.1 of this title), for the purposes of construction applications under the act, is subdivided into three categories:

* * * * *

§§ 170.5, 170.6 and 170.13 [Amended]

§§ 170.2–170.4 [Revoked]

45. Sections 170.2–170.4, 170.5(b), 170.6(a) (1) and (2), and (b), and 170.13 (a) (3) are revoked.

§ 170.14 [Amended]

46. The first sentence of § 170.14(b), reading "Applications for grants under Title I of the Act shall be submitted on forms supplied by the Commissioner, and shall contain such assurances as are required pursuant to the Act and the regulations in this part,", is revoked.

§ 170.18 [Amended]

§§ 170.19 and 170.45 [Revoked]

47. Sections 170.18 (a) and (c), 170.19, and 170.45 are revoked.

PART 171—FINANCIAL ASSISTANCE FOR ACQUISITION OF EQUIPMENT TO IMPROVE UNDERGRADUATE INSTRUCTION IN INSTITUTIONS OF HIGHER EDUCATION

§ 171.1 [Amended]

48. Section 171.1 (h), (j), (p), and (q) are revoked.

§ 171.4 [Amended]

49. The first sentence of § 171.4(b), reading "Applications for grants under this part shall be submitted on forms supplied by the Commissioner, and shall contain such assurances as are required pursuant to the Act and the regulations in this part.", is revoked.

§ 171.7 [Amended]

§§ 171.8 and 171.10 and 171.12 [Revoked]

50. Sections 171.7(b), 171.8, and 171.10–171.12 are revoked.

PART 173—FINANCIAL ASSISTANCE FOR COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

§ 173.1 [Amended]

51. Section 173.1 (b), (d), (e), (g), and (i) are revoked.

52. Section 173.14 is revised to read as follows:

§ 173.14 Fiscal procedures.

The State plan shall contain the procedures required by section 105(a)(5) of the act.

(20 U.S.C. 1005(a)(5).)

§§ 173.16, 173.23–173.33, and 173.37 [Revoked]

53. Sections 173.16, 173.23–173.30, 173.31–173.33, and 173.37 are revoked.

PART 175—COLLEGE WORK-STUDY PROGRAM

§§ 175.2, 175.16 [Amended]

§§ 175.15 and 175.17 [Revoked]

54. Sections 175.2 (d), (h), and (s), 175.15, 175.16 (b) and (c), and 175.17 are revoked.

PART 177—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

§ 177.1 [Amended]

55. Section 177.1 (d) and (i) are revoked.

PART 178—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS AND DIRECT FEDERAL LOANS TO VOCATIONAL STUDENTS

§ 178.1 [Amended]

56. Section 178.1 (d) and (i) are revoked.

PART 180—DESEGREGATION OF PUBLIC EDUCATION

§ 180.2 [Amended]

§ 180.13 [Revoked]

57. Sections 180.2(a) and 180.13 are revoked.

PART 181—EMERGENCY SCHOOL ASSISTANCE PROGRAM

§ 181.1 [Amended]

§§ 181.13–181.14, 181.16 [Revoked]

58. Sections 181.1 (a), (e), and (h), 181.13, 181.14, and 181.16 are revoked.

59. Appendix A to part 181 is revoked.

60. Subtitle B, chapter I, is amended by adding a new subchapter A, reading as follows; and by designating the remainder of chapter I as subchapter B program regulations.

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL PROVISIONS FOR OFFICE OF EDUCATION PROGRAMS

Part
100 General.
100a Direct project grant and contract programs.
100b State-administered programs.
100c Allowable costs under certain programs.
Appendix A—General grant terms and conditions—U.S. Office of Education.
Appendix B—Cost principles for State and local governments.
Appendix C—Cost principles for educational institutions.
Appendix D—Cost principles for nonprofit institutions.
Appendix E—Procurement standards.

PART 100—GENERAL

§ 100.1 Definitions.

As used in this chapter and parts 60 and 61 of this title (except as otherwise defined by an applicable statute or regulation).

"Acquisition" means assumption of ownership (including the receipt of gifts) and necessary delivery, and includes purchase, lease, or lease-purchase.

"Applicant" means an eligible party seeking Federal financial assistance. The term includes an offeror for a contract, as well as an applicant for a grant.

"Application" means applications for grants and offers from eligible parties to enter into contracts with the Federal Government.

"Budget period" means the interval of time into which an approved activity is divided for budgetary purposes.

"Commissioner" means the U.S. Commissioner of Education.

"Department" means the U.S. Department of Health, Education, and Welfare.

"Elementary school" means a day or residential school which provides elementary education, as determined under State law, and "Elementary school level" means the educational level at which elementary education is provided, as determined under State law.

"Equipment" includes machinery and includes all other items of tangible personal property necessary for the functioning of a particular facility as a facility for the provision of educational and related services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials. Equipment does not include "supplies" (as defined in this section).

"Expendable personal property" means all tangible personal property other than nonexpendable personal property (as defined in this section).

"Fellowship" means an award to a participant engaged in a regular academic program of formal education in an institution of higher education for which credits are awarded that may be used to earn an academic degree.

"Fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

"GEPA" means the General Education Provisions Act, title IV of Public Law 90–247, as amended.

"Grant period" means the period during which costs may be charged against a grant.

"Materials" means those items which with reasonable care and use may be expected to last for more than 1 year and are suitable for and are to be used in providing instruction under approved activities receiving Federal assistance. The term includes such items as audio and video tapes; discs; slides and transparencies; films and filmstrips; books; models and mockups; pamphlets; periodicals for indefinite retention in reference collections, and other printed and published materials such as maps, globes, and charts. The term does not include such items as textbooks or chemicals, glassware and other supplies which are consumed in use.

"Minor remodeling" means minor alterations in a previously completed building which are needed to make effective use of equipment or personnel. The term may also include the extension of utility lines, such as water and electricity, from points beyond the confines of the spaces in which the minor remodeling is undertaken but within the confines of such previously completed building. The term does not include building construction.

structural alterations to buildings, building maintenance, or repair.

"Nonexpendable personal property" means tangible personal property, including equipment, having a useful life of more than 1 year and an acquisition cost of $300 or more per unit.

"Nonprofit," as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Personal property" means property of any kind, tangible or intangible, except real property.

"Preschool" means the educational level from a child's birth to the time at which elementary education is provided as determined under State law.

"Private" means not under public supervision or control.

"Program" means an overall plan with respect to Federal funds made available during a fiscal year, which plan is intended to be put into effect by the recipient through one or more projects. The term does not include a Federal program of assistance.

"Project" means an activity, or set of activities designed to meet the purposes of the applicable Federal program.

"Project period" means the total period of time for which a project is approved for support with Federal funds.

"Public agency" means a legally constituted organization of government under public administrative control and direction, but does not include agencies of the Federal Government.

"Recipient" means the agency, institution, or organization receiving Federal financial assistance.

"Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12, and "Secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided, as determined under State law.

"Secretary" means the Secretary of Health, Education, and Welfare.

"Service function" means an educational service which is performed by a legal entity, such as an intermediate agency, whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

As used in this part, the term "State and local governments" shall be determined according to the following definitions:

(a) "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

(b) "Local government" means a local unit of government including specifically a county, municipality, city, town, township, school district, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

"Supplies" means those nonequipment items of tangible personal property which are consumed in use or which may not reasonably be expected to last longer than 1 year.

"Works of art" means those items, which may be in the nature of fixtures, that are incorporated in facilities primarily because of their esthetic value. The cost of a work of art which is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirements of excellence of architecture and design.

(20 U.S.C. 1221c(b)(1).)
(Sec. 403(b)(1), Public Law 90-247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.)

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

Subpart A—General

Sec.
110a.10 Scope.

Subpart B—Applications

100a.15 Applications for grants or contracts.
100a.16 Project description.
100a.17 Administrative information.
100a.18 Designation and certification of agency to administer the project.
100a.19 Cooperative arrangements.
100a.20 Effective date of approved project.
100a.26 Review of applications.
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100a.63 Financial interest prohibited.
100a.64 Commencement of project activity.
100a.76 Leasing facilities.
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100a.187 Davis-Bacon and Contract Work Hours Standards Acts.
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Subpart F—Property Management Requirements

100a.200 Nonexpendable personal property.
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100a.202 Intangible personal property of State and local governments.
100a.203 Copyrights and patents.

Subpart G—Accountability for Federal Funds

100a.277 Retention of records.
100a.278 Audits.
100a.279 Reports.
100a.280 Final accounting.
100a.281 Unexpended funds.
100a.282 Withholding of funds.
100a.283 Waiver of law prohibited.
100a.295 Termination and suspension for cause.
100a.296 Termination for convenience.

AUTHORITY.—Sec. 403(b)(1), Public Law 90-247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

Subpart A—General

§ 100a.10 Scope.

(a) Except to the extent inconsistent with an applicable statute or regulation, the provisions contained in this part apply to all Federal programs of assistance authorized under the following authorities:

(1) Special programs and projects under section 306 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 844b);

(2) Program planning and evaluation under section 411 of the General Education Provisions Act (20 U.S.C. 1222);

(3) Strengthening State and local educational agencies under title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 861);

(4) Bilingual education programs under title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 880b);

(5) Dropout prevention projects under section 807 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 887);

(6) Demonstration projects to improve school nutrition and health services for children from low-income families under section 808 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 887a);

(7) Centers and services to meet special needs of the handicapped, training personnel for the education of the handicapped, research in the education of the handicapped, instructional media for the handicapped, and special programs for children with specific learning disabilities under parts C, D, E, F, and G, respectively, of the Education of the Handicapped Act (20 U.S.C. 1421, 1431, 1441, 1451, and 1461);

(8) Special experimental demonstration projects and teacher training under section 309 of the Adult Education Act (20 U.S.C. 1208);

(9) Desegregation of public education under title IV of the Civil Rights of 1964 (42 U.S.C. 2000c–2000c–9);

(10) Dissemination, surveys, exemplary projects, and studies under section 2 of the Cooperative Research Act (20 U.S.C. 331a);

(11) Research and training, exemplary programs and projects, demonstration schools, and grants to reduce borrowing costs for schools and dormitories; and curriculum development in vocational and technical education under sections 131(a), 142(c), 151, and 153; and part I of the Vocational Education Act of 1963 (20 U.S.C. 1281(a), 1302(d), 1321, 1323, 1391);

(12) The follow-through program under section 222(a)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809 (a)(2));

(13) Emergency school aid under title VII of the Education Amendments of 1972 (20 U.S.C. 1601);

(14) Grants for noncommercial educational broadcasting facilities and the Corporation for Public Broadcasting under part IV of title III of the Communications Act of 1934 (47 U.S.C. 390);

(15) On-the-job training, redevelopment areas, correctional institutions, work experience and training programs, and training and technical assistance under sections 204(c), 241, 251, and 309, respectively, of the Manpower Development and Training Act (42 U.S.C. 2584 (c), 2610a, 2610b, 2610c, and 2619);

(16) Language development under title VI of the National Defense Education Act of 1958 (20 U.S.C. 511);

(17) Programs under the Environmental Education Act (20 U.S.C. 1531);

(18) Programs under the Drug Abuse Education Act of 1970 (21 U.S.C. 1001);

(19) Special programs and projects relating to national and regional problems under section 106 of title I of the Higher Education Act of 1965 (20 U.S.C. 1005a);

(20) College library resources and library training research under parts A and B, respectively, of title II of the Higher Education Act of 1965 (20 U.S.C. 1021, 1031);

(21) Strengthening developing institutions under title III of the Higher Education Act of 1965 (20 U.S.C. 1051);

(22) Supplemental educational opportunity grants under part A–2 of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070b);

(23) Special programs for students from disadvantaged backgrounds under part A–4 of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070);

(24) Work-study programs under title IV–C of the Higher Education Act of 1965 (42 U.S.C. 2751);

(25) Cooperative education programs under title IV–D of the Higher Education Act of 1965 (20 U.S.C. 1087a);

(26) Attracting qualified persons to the field of education, the teacher corps, fellowships for teachers and related educational personnel, improving training opportunities for personnel serving in programs of education other than higher education, training programs for higher education personnel, and training and development programs for vocational education personnel under section 504 and parts B–1, C, D, E, and F, respectively, of the Education Professions Development Act (20 U.S.C. 1091c, 1101, 1111, 1119, 1119b, 1119c);

(27) Financial assistance for the improvement of undergraduate instruction under title VI of the Higher Education Act of 1965 (20 U.S.C. 1121); and

(28) Construction of academic facilities under title VII of the Higher Education Act of 1965, except loans for construction of academic facilities under part C thereof (20 U.S.C. 1132a).

(20 U.S.C. 1221c(b)(1).)

(b) This part shall not apply to procurements by the Office of Education made in accordance with title 41 of the Code of Federal Regulations.

(Comp. Gen. Op. No. B–146285 (September 15, 1971).)

Subpart B—Applications

§ 100a.15 Applications for grants or contracts.

Any applicant eligible for a grant or contract may submit, on or before such cutoff date or dates as the Commissioner may announce for each fiscal year, an application containing such assurances and pertinent information, and in accordance with such forms and instructions, as the Commissioner may prescribe. Such applications shall be executed by the applicant or an official or representative of the applicant duly authorized to make such application.

(20 U.S.C. 1221c(b)(1); OMB Circular A–102.)

§ 100a.16 Project description.

The application shall describe: (a) The nature, duration, purpose, and plan of the proposed project; (b) the qualifications of the project director and of the professional personnel who will be involved in the project; (c) the facilities and resources that will be made available; (d) a justification of the amount of Federal funds requested; (e) the portion of the cost of the project proposed to be contributed by the applicant; (f) a proposed budget; and (g) such other information and assurances as the Commissioner may require.

(20 U.S.C. 1221c(b)(1); OMB Circular No. A–102.)

§ 100a.17 Administrative information.

The application shall contain the name of the official authorized to submit the application and the name of the individual or official who will be responsible for carrying out the project. Unless otherwise indicated in the application, the former individual or official will be deemed to be the individual or official to whom communications shall be directed, the individual or official who shall be responsible for the receipt, custody, and disbursement of Federal funds, and the individual or official who shall have ultimate responsibility for the accounting of such Federal funds.

(20 U.S.C. 1221c(b)(1); OMB Circular No. A–102.)

§ 100a.18 Designation and certification of agency to administer the project.

(a) Each project application and amendment thereto shall give the official name of the applicant, which shall be the agency responsible for carrying out the project.

(b) Each project application and amendment shall include an assurance by the applicant to the effect that the application or amendment has been adopted by the applicant.

(OMB Circular No. A–102.)

§ 100a.19 Cooperative arrangements.

(a) Eligible parties may enter into cooperative arrangements with other eligible parties, including those in another State, to apply for assistance.

(b) A joint application made by two or more applicants under a particular Federal program may have separate budgets corresponding to the programs, services, and activities performed by each of the joint applicants, or may have a combined budget. If joint applications present separate budgets, the Commissioner may make separate awards, or may award separate amounts for each of the joint applicants.

(c) In the case of each cooperative arrangement authorized under paragraph (a) of this section and receiving assistance, except where the Commissioner makes separate awards under paragraph (b) of this section, all such applicants (1) shall be deemed to be joint legal recipients of the grant or contract and (2) shall be jointly and severally legally responsible for administering the project assisted under such grant or contract.

(20 U.S.C. 1221c(b)(1), 1232c(b)(1).)

§ 100a.20 Effective date of approved project.

Federal financial participation is available only with respect to obligations incurred subsequent to the effective date of an approved project. The effective date of the project will be set forth in the notification of grant award or contract document.

(20 U.S.C. 1221c(b)(1); OMB Circulars A–21, A–87.)

§ 100a.26 Review of applications.

(a) The Commissioner, prior to disposition of applications for grants or con-

tracts, shall have discretion to obtain the review of a panel of experts (except where review by such a panel is required by statute). Any such review will be in addition to the review of an application by the Commissioner in accordance with such procedures as he may establish.

(b) Review by the Commissioner and by the panel of experts will take into account such factors as:

(1) The need for the proposed activity in the area served or to be served by the applicant;

(2) Relevance to priority areas of concern as reflected in provisions contained in the applicable Federal statutes and regulations;

(3) Adequacy of qualifications and experience of personnel designated to carry out the proposed project;

(4) Adequacy of facilities and other resources;

(5) Reasonableness of estimated cost in relation to anticipated results;

(6) Expected potential for utilizing the results of the proposed project in other projects or programs for similar educational purposes;

(7) Sufficiency of size, scope, and duration of the project so as to secure productive results; and

(8) Soundness of the proposed plan of operation, including consideration of the extent to which:

(i) The objectives of the proposed project are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(ii) Provisions are made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished;

(iii) Where appropriate, provisions are made for satisfactory inservice training connected with project services; and

(iv) Provisions are made for disseminating the results of the project and for making materials, techniques, and other outputs resulting therefrom available to the general public and specifically to all those concerned with the area of education with which the project is itself concerned.

(20 U.S.C. 1221c(b)(1).)

§ 100a.27 Disposition of applications.

(a) On the basis of the review of an application pursuant to § 100a.26, the Commissioner will either (1) approve the application in whole or in part, for such amount of funds and subject to such conditions as he may deem necessary or desirable for the completion of the approved project, (2) disapprove the application, or (3) defer action on the application for such reasons as lack of funds or a need for further review.

(b) Any deferral or disapproval of an application shall not preclude its reconsideration or resubmission.

(c) The Commissioner will notify the applicant in writing of the disposition of its application. A notification of grant award or contract document will be issued to notify the applicant of an approved project application.

(d) If the Commissioner awards a grant, the grant shall be subject to, and the grant award document will incorporate, the grant terms and conditions set forth in appendix A to this subchapter, pursuant to § 100a.150. If the Commissioner awards a contract, the contract award document shall include whatever provisions are required by Federal law or regulations, or may be deemed necessary or desirable for the achievement of the purposes of the applicable Federal program.

(20 U.S.C. 1221c(b)(1).)

§ 100a.28 Amendments.

The grant or contract must be appropriately amended prior to any material change in the administration of an approved project, or in organization, policies, or operations affecting an approved project. Substantive amendments will be subject to approval in the same manner as original applications. Project amendments may be initiated by the Commissioner if changes are made in Federal appropriations, laws, regulations, or policies governing such projects. If such amendment constitutes a partial termination of the award, the procedures contained in § 100a.295 shall apply.

(20 U.S.C. 1221c(b)(1); 1232c.)

§ 100a.29 Budget revisions and minor deviations.

(a) *State and local governments.*—(1) This paragraph applies only to recipients which are State and local governments (as defined in § 100.1 of this subchapter).

(OMB Circular No. A-102, attachment K.)

(2) As used in this paragraph:

(i) "Direct cost object class budget categories" include only the following:

(*a*) Personnel;
(*b*) Fringe benefits;
(*c*) Travel;
(*d*) Equipment;
(*e*) Supplies;
(*f*) Contractual;
(*g*) Construction; and
(*h*) Other.

(ii) "Construction" means solely or primarily for construction.

(iii) "Nonconstruction" means not solely or primarily for construction.

(OMB Circular No. A-102, exhibit M-3, 5.)

(3) For nonconstruction grants and contracts, State and local government recipients shall request prior approval promptly from the Commissioner for budget revisions whenever:

(i) The revision results from changes in the scope or the objectives of the project;

(ii) The revision indicates the need for additional Federal funding;

(iii) The budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed $10,000, or 5 percent of the budget, whichever is greater. The same criteria apply to the cumulative amount of transfers projects, functions, and activities when budgeted separately for a grant or contract, except that no transfer is permissible which could cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(iv) The budget is $100,000 or less, and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed 5 percent of the budget. The same criteria apply to the cumulative amount of transfers among projects, functions, and activities when budgeted separately for a grant or contract, except that no transfer is permissible which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(v) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs; or

(vi) The revisions pertain to the addition of items requiring approval in accordance with the provisions of appendix B to this subchapter.

(OMB Circular No. A-102, attachment K, 1-2.)

(4) Budget revisions for nonconstruction grants or contracts, other than those revisions set forth in paragraph (a)(3) of this section, do not require approval by the Commissioner. Budget revisions which do not require such approval include (i) the use of recipient funds in furtherance of project objectives over and above the recipient minimum share (if any) included in the approved budget and (ii) the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(OMB Circular No. A-102, attachment K, 2.)

(5) For construction grants and contracts, State and local government recipients shall request prior approval promptly from the Commissioner for budget revisions whenever;

(i) The revision results from changes in the scope or objective of the project; or

(ii) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(OMB Circular No. A-102, attachment K, 2.)

(6)(i) For both construction and nonconstruction grants and contracts, State and local government recipients shall notify the Commissioner promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient by more than $5,000 or 5 percent of the Federal grant or contract, whichever is greater.

(ii) The notification required in paragraph (a)(6)(i) of this section will not be required when applications for additional funding are submitted for continuing grants and contracts.

(OMB Circular No. A-102, attachment K, 2.)

(7) Within 30 days from the date of receipt of the request for budget revisions, the Commissioner will review the request and notify the recipient as to whether or not the budget revisions have been approved. If the revision is still under consideration at the end of such 30-day period, the Commissioner will in-

form the recipient in writing as to when the recipient may expect the Commissioner's decision.

(OMB Circular No. A-102, attachment K, 3.)

(b) *Recipients other than State and local governments.*—Minor deviations from the project of a recipient other than a State or local government (as defined in § 100.1) are permitted without the necessity for an approved amendment or revision where (1) they do not result in expenditures in excess of the total amount granted, (2) there is not any material change in the content or the administration of the approved project, and (c) expenditures are otherwise made in accordance with, and for kinds of expenditures authorized in, the approved application.

(20 U.S.C. 1221c(b) (1).)

§ 100a.30 Service contracts.

(a) Each project application shall provide that the activities and services for which Federal financial assistance is sought will be administered by, or under the supervision of, the applicant.

(b) The applicant shall not transfer to others responsibility in whole or in part for the use of Federal funds or for the conduct of project activities, but may enter into contracts or arrangements with others for carrying out a portion of any such activities pursuant to § 100a.80.

(c) In applying for Federal assistance, the applicant shall indicate in the application any intention it may have of entering into contracts or other arrangements with individuals or organizations to conduct any portion of any activity proposed in the application. The applicant shall not enter into any such contract or arrangement unless the intention to do so is included in the approved application or an approved amendment or revision thereto.

(20 U.S.C. 1221c(b) (1), 1232c(b) (1).)

§ 100a.31 Preliminary proposals.

Where he deems it necessary or desirable for the efficient administration of a Federal program, the Commissioner may require any applicant for assistance under such program to submit a preliminary proposal for review and approval prior to the acceptance of an application submitted under § 100a.15.

(20 U.S.C. 1221c(b) (1).)

Subpart C—Federal Financial Participation

§ 100a.40 Amount of award.

Federal assistance may be provided to meet all or part of the allowable costs of projects which meet the requirements contained in the applicable Federal statutes and regulations.

(20 U.S.C. 1221c(b) (1).)

§ 100a.41 Limitations on costs.

The amount of the award shall be set forth in the grant award or contract document. The total cost to the Federal Government will not exceed the amount set forth in the grant award or contract document or any modificatoin thereof approved by the Commissioner which meets the requirements of applicable statutes and regulations. The Federal Government shall not be obligated to reimburse the recipient for cost incurred in excess of such amount unless and until the Commissioner has notified the recipient in writing that such amount has been increased and has specified such increased amount in a revised grant award or contract document pursuant to § 100a.28. Such revised amount shall thereupon constitute the revised total cost of the performance of the grant or contract.

(31 U.S.C. 200.)

§ 100a.42 Federal obligation.

The issuance of a grant award or contract document will be regarded as an obligation of the Federal Government in the amount of the award.

(31 U.S.C. 200.)

§ 100a.43 Payments.

(a) *Payment methods and adjustments.*—Payments pursuant to grants, contracts, or other arrangements may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(b) *Violations.*—A payment under any such grant, contract, or other arrangement for expenditures which fails to meet the requirements of any of the provisions of applicable Federal statutes, regulations, or the approved project application (including any terms and conditions applicable thereto), may be taken into account in the determination of any such overpayments and any adjustments relating thereto.

(c) *Adjustment of records.*—Each recipient, in its maintenance of project expenditure accounts, records, and reports shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, resulting from Federal or State administrative reviews and audits or otherwise. Such adjustments shall be set forth in any financial reports required to be filed with the Commissioner.

(20 U.S.C. 1232c(a) (1), 1232d.)

§ 100a.44 Duration of project.

(a) The amount of the award shall remain available for obligation by the recipient during the period specified in the grant award or contract document or until otherwise suspended or terminated. Such period may be extended by revision of the grant or contract without additional funds pursuant to paragraph (b) of this section where otherwise permitted by law.

(b) When it is determined that special or unusual circumstances will delay the completion of the project beyond the period for obligation, the recipient must in writing request the Commissioner to extend such period and shall indicate the reasons therefor.

(20 U.S.C. 1221(c) (b) (1), 1232c(b) (3).)

§ 100a.45 Obligation and liquidation by recipients.

(a) Obligations will be considered to have been incurred by a recipient on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities, shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively.

(b) Obligations entered into by a recipient shall be liquidated within 1 year following the period for obligation unless the Commissioner, in writing, extends the time for so liquidating obligations, on the basis of a request, in writing, from the recipient. Such request must be made prior to the end of the initial period for liquidating obligations.

(20 U.S.C. 1232c(b) (2); 31 U.S.C. 200)

§ 100a.50 Allowable costs.

Subject to applicable Federal statutes and regulations, allowability of costs shall be determined in accordance with the principles and procedures contained in the following documents:

(a) Appendix B to this subchapter, if the recipient is a State or local government;

(b) Appendix C to this subchapter, if the recipient is an institution of higher education; or

(c) Appendix D to this subchapter, if the recipient is a nonprofit institution, agency, or organization which is not covered under paragraph (a) or (b) of this section.

(OMB Circular Nos. A-21, A-87)

Subpart D—General Requirements

§ 100a.63 Financial interest prohibited.

A person who is a public official, officer, or member of, or who is otherwise associated with, a recipient may not participate in an administrative decision with respect to the recipient's project, if such decision can be expected to result in any benefit or remuneration, including, without limitation, a royalty, commission, contingent fee, brokerage fee, or other benefit, to him or to any member of his immediate family.

(20 U.S.C. 1232c(b) (1).)

§ 100a.64 Commencement of project activity.

Projects receiving Federal financial assistance shall be commenced within a reasonable period of time subsequent to the awarding of the grant or contract.

(20 U.S.C. 1232(b) (1).)

§ 100a.76 Leasing facilites.

In the case of a project involving the leasing of a facility, the recipient shall demonstrate to the Commissioner that it will have the right to occupy, to operate, and, if necessary, to maintain and improve the leased facility during the proposed period of the project.

(20 U.S.C. 1221c(b) (1).)

§ 100a.80 Procurement standards.

Procurements by recipients shall be made in accordance with the principles

and procedures contained in appendix E to this subchapter.

(OMB Circular A-102, attachment O.)

§ 100a.98 Changes in key personnel.

If for any reason it becomes necessary to substitute the project director or other key professional staff designated in the grant, the recipient shall provide timely written notification to the Commissioner of such substitution. Such written notification shall include the name and qualifications of the successor.

(20 U.S.C. 1221c(b)(1).)

§ 100a.99 Dual compensation.

If a project staff member or consultant is involved simultaneously in two or more projects supported by Federal funds either under this chapter or otherwise, he may not be compensated for more than 100 percent of his time from Federal funds during any part of the period of dual involvement. The recipient shall not use any Federal funds or funds from other sources to pay a fee to, or travel expenses of, employees of the Department of Health, Education, and Welfare for lectures, attending program functions, or any other activities in connection with the grant or contract.

(20 U.S.C. 1221c(b)(1).)

§ 100a.100 Civil rights.

(a) Federal financial assistance is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88-352).

(42 U.S.C. 2000d)

(b) Federal financial assistance is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Public Law 92-318, title IX)

§ 100a.101 Data-collection instruments.

(a) *Definitions.*—For the purposes of this section:

(1) "Data-collection instruments" includes tests, questionnaires, inventories, interview schedules or guides, rating scales, and survey plans or any other forms which are used to collect information on substantially identical items from 10 or more respondents.

(2) "Respondents" means individuals or organizations from whom information is collected.

(b) *Clearance.*—(1) No data-collection instruments shall be used in any project unless such instruments have been approved in advance by the Commissioner.

(2) To obtain approval of data-collection instruments, an applicant for assistance shall submit the following data: (i) A statement which provides (*a*) the exact title of the data-collection instrument submitted for approval; (*b*) the purposes of the project and the relation of such instrument thereto; (*c*) the nature and size of the sample, including the method or methods of sampling; (*d*) the locale of the project; (*e*) the provisions for anonymity and confidentiality of response; (*f*) a brief indication of the nature and extent of statistical analysis of the data; (*g*) the estimated average time required of the respondent for his participation in the project; and (*h*) a single figure giving the estimated cost of the survey as a component of the project to be assisted; and (ii) five copies of each data-collection instrument to be cleared, except that copies need not be submitted of instruments which deal solely with (*a*) functions of technical proficiency, such as scholastic aptitude, school achievement, and vocational proficiency; (*b*) routine demographic information; or (*c*) routine institutional information.

(3) The Commissioner will take into account all factors specified in paragraph (b)(2)(i) of this section in any determination regarding approval of data-collection instruments. Clearance will be denied where the Commissioner determines that such instruments constitute unnecessary or offensive intrusions of privacy through inquiries regarding such matters as religion, sex, or politics.

(c) *Responsibility for collection of information.*—The applicant shall not in any way represent or imply (either in a letter of transmittal, in the data-gathering instruments themselves, or in any other manner) that the information is being collected by or for the Federal Government or any of its subdivisions. Basic responsibility for the study and the data-gathering instruments rests with the applicant.

(d) *Parental consent.*—In the case of any survey using data-collection instruments which will include children below the age of 18 as respondents, in addition to the other requirements contained in this section, the applicant for assistance shall provide assurances satisfactory to the Commissioner that informed consent will be obtained from the parents of such respondents prior to the use of such instruments.

(20 U.S.C. 1221(b)(1).)

§ 100a.107 Treatment of animals.

If animals are utilized in any project receiving assistance, the applicant for such assistance shall provide assurances satisfactory to the Commissioner that such animals will be provided with proper care and humane treatment in accordance with the Animal Welfare Act of 1970 (Public Law 89-544, as amended).

(20 U.S.C. 1221(b)(1).)

§ 100a.110 Coordination.

Each project shall be developed so as to be in coordination with other public and private programs for similar educational purposes. Such coordination shall be continuous during the period in which such project remains in effect.

(20 U.S.C. 1232c(b)(1).)

§ 100a.111 Evaluation.

Each project shall include procedures for effective evaluation of the extent to which project objectives are being met.

(20 U.S.C. 1221c(b)(1).)

§ 100a.150 General grant terms and conditions.

(a) The general terms and conditions set forth in appendix A to this subchapter are prescribed for use in connection with grants to eligible parties under any Federal program to which this part is applicable. Each grant awarded under any such program shall be governed by such general terms and conditions except to the extent that any such term or condition is inconsistent with a special term or condition made specifically applicable to such grant and set forth in the grant award document.

(b) In any case where a general or special term or condition is inconsistent with a statute or published regulation applicable to that Federal program (including a regulation contained in this part), the statute or regulation shall govern.

(20 U.S.C. 1221c(b)(1).)

Subpart E—Construction Requirements

§ 100a.155 Scope.

The provisions contained in this subpart apply to recipients of Federal financial assistance for construction under Federal programs under which construction is authorized by law.

(20 U.S.C. 1221c(b)(1).)

§ 100a.156 Definition.

For the purposes of this subpart, the term "facilities" means one or more structures in one or more locations, constructed pursuant to this subpart.

(20 U.S.C. 1221c(b)(1).)

§ 100a.157 Manner of construction.

Construction must be functional, undertaken in an economical manner, and not elaborate in design or extravagant in the use of materials in comparison with facilties of a similar type constructed in the State (or other applicable geographic area) within such period as may be designated by the Commission as appropriate for the purposes of this section.

(20 U.S.C. 1221c(b)(1).)

§ 100a.158 Timeliness of work.

The applicant shall cause work on the project to be commenced within a reasonable time after receipt of notification from the Commissioner that funds have been awarded, and the project shall be prosecuted to completion with reasonable diligence.

(20 U.S.C. 1232c(b)(1).)

§ 100a.159 Commencement of construction.

(a) Approval by the Commissioner of the final working drawings and specifications shall be obtained before the proposed construction is advertised or placed on the market for bidding.

(b) The construction shall go to final completion in accordance with the application and approved drawings and specifications.

(c) The applicant shall submit to the Commissioner for prior approval changes that materially alter the scope or costs of the project, use of space, or functional layout.

(d) The applicant shall not enter into any construction contract for the proposed construction or a part thereof until the requirements of the applicable Federal program and this section have been met.

(20 U.S.C. 1221c(b)(1).)

§ 100a.160 Civil rights assurance.

If an assurance of compliance with title VI of the Civil Rights Act of 1964 (Form HEW 441) applying to the facility described in the applicaton has not been filed, such an assurance shall be attached to the application.

(42 U.S.C. 2000d.)

§ 100a.161 Title to site.

The applicant shall have, or will obtain, a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and posession of the facilities for not less than the useful life of the facility.

(OMB Circular No. A-102, attachment N.)

§ 100a.164 Contracting.

(a) Except as otherwise provided by State or local law, all contracting for construction (including the purchase and installation of built-in equipment) shall be on a lump sum fixed-price basis; and, except as provided in paragraph (b) of this section, contracts shall be awarded on the basis of competitive bidding with award of the contract to the lowest responsive and responsible bidder.

(b) If one or more items of construction are covered by an established alternative procedure for awarding contracts, consistent with State and local laws and regulations, which is approved by the Commissioner and is designed to assure constuction in an economical manner consistent with sound business practice, such alternative procedure may be followed; provided, however, that such alternative procedure shall not give local contractors or suppliers a percentage preference over nonlocal contractors bidding for the same contract.

(20 U.S.C. 1221c(b)(1).)

§ 100a.165 Bonds and insurance.

(a) Recipients shall follow their own requirements and practices relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(b) Where the Federal Government guarantees the payment of money borrowed by the recipient, the Commissioner may at his discretion require adequate bonding and insurance if the bonding and insurance requirements of a State or local government are not deemed to be sufficient to protect adequately the interest of the Federal Government.

(c) Except where the recipient is a State or local government, the recipient's contractor shall provide, during the life of the contract, for adequate fire, public liability, property damage, and workmen's compensation insurance. Where the recipient is a State or local government, the recipient shall follow its own legal requirements and normal practices with regard to insurance.

(OMB Circular No. A-102, attachment B.)

§ 100a.168 Reports.

The applicant shall furnish progress reports and such other information relating to the proposed construction and the project as the Commissioner may require.

(20 U.S.C. 1232c(b)(3).)

§ 100a.169 Federal access to records and work.

Representatives of the Federal Government shall have access at all reasonable times to the applicant's records and to work whenever it is in preparation or progress, and the contractor will provide proper facilities for such access and inspection.

(20 U.S.C. 1232c(a)(2).)

§ 100a.170 Operation and maintenance.

The facility shall be operated and maintained in accordance with the requirements of applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

(20 U.S.C. 1221c(b)(1).)

§ 100a.171 Cost-sharing and operational funds.

Sufficient funds shall be available to meet the non-Federal share of the cost of constructing the facility (where applicable), and sufficient funds shall be available when construction is completed to assure effective operation and maintenance of the facility for the purposes for which constructed.

(20 U.S.C. 1221c(b)(1).)

§ 100a.172 Supervision and inspection.

The applicant shall provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms to the approved drawings and specifications.

(20 U.S.C. 1232c(b)(1).)

§ 100a.173 Cultural activities.

Reasonable provisions shall be made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities.

(20 U.S.C. 1221c(b)(1).)

§ 100a.184 Safety and health.

In planning for and designing facilities, the applicant shall observe nationally recognized safety and health standards and codes, including National Fire Protection Association standards and those adopted under the Occupational Safety and Health Act of 1970 (Public Law 91-576): *Provided, however,* That, to the extent that State and local codes are more stringent, they shall apply.

(29 U.S.C. 651.)

§ 100a.185 Environmental impact.

The applicant shall provide the department regional office with its assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247).

(42 U.S.C. 4332(2)(c).)

§ 100a.186 Preservation of historic sites.

Each application for Federal financial assistance for construction shall describe the relationship to and the probable effect, or lack of effect, on any district, site building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service and published with periodical updatings in the FEDERAL REGISTER. Such information is to be furnished to the Department to enable it to take into account such an effect and to consider the comments thereon of the advisory council on historic preservation, prior to providing such Federal financial assistance, as required by section 106 of Public Law 89-665.

(16 U.S.C. 470f.)

§ 100a.187 Davis-Bacon and Contract Work Hours Standards Acts.

Except as otherwise provided by law, all laborers and mechanics employed by contractors and subcontractors on construction assisted under Federal programs, including minor remodeling, shall be paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act. Such contractors and subcontractors shall comply with the provisions of 29 CFR part 3; and all con-

struction contracts and subcontracts shall incorporate the contract clauses required by 29 CFR 5.5 (a) and (c).

(20 U.S.C. 1232b; 40 U.S.C. 276a, 327–332.)

§ 100a.188 Nondiscrimination.

Construction contracts shall include the applicable provisions of Executive Order No. 11246, as amended by Executive Order No. 11375 (nondiscrimination in construction contract employment), and the applicant shall otherwise comply with the requirements of section 301 of said Executive order.

(E.O. Nos. 11246, 11375.)

§ 100a.189 Access by the handicapped.

The applicant shall require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1–1961, as modified by other standards prescribed by the Secretary or the U.S. Administrator of General Services (41 CFR 101–17.703). The applicant shall be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(20 U.S.C. 1221c(b)(1).)

§ 100a.190 Avoidance of flood hazards.

In the planning of the construction of facilities involving the use of Federal funds, the recipient shall, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 FR 10663) and such rules and regulations as may be issued by the Secretary to carry out those provisions, evaluate flood hazards in connection with such facilities and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

(E.O. No. 11296.)

§ 100a.191 Relocation assistance.

Projects receiving Federal financial assistance pursuant to this section are subject to the regulations on relocation assistance and real property acquisition policies contained in part 15 of this title.

(20 U.S.C. 1221c(b)(1).)

Subpart F—Property Management Requirements

§ 100a.200 Nonexpendible personal property.

(a) *Title.*—When nonexpendible personal property is acquired by a recipient wholly or in part with Federal funds, title shall be vested in the recipient.

(b) *Use.*—(1) The recipient shall retain such property in the grant project as long as there is a need for such property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(2) When there is no longer a need for such property to accomplish the purpose of the project, the recipient shall use the property in connection with other Federal awards it has received in the following order or priority:

(i) Other awards under Federal programs administered by the Commissioner needing the property.

(ii) Grants of other Federal agencies needing the property.

(3) When the recipient no longer has need for such property in any of its federally assisted projects, the property may be used for the recipient's own official activities in accordance with the following standards:

(i) If the property had an acquisition cost of less than $500 per unit and has been used 4 years or more, the recipient may use the property without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) For all of such property not covered under subparagraph (3)(i) of this paragraph, the recipient may use the property provided that a fair compensation is made to the Federal Government for the Federal share of the property. The amount of such compensation shall be computed by applying the percentage of Federal participation in the project to the current fair market value of the property.

(c) *Disposition.*—If the recipient has no need for the property, disposition of the property shall be made as follows:

(1) If the property had an acquisition cost of $1,000 or less per unit (except for property covered under paragraph (b)(3)(i) of this section) the recipient shall sell the property and reimburse the Federal Government in accordance with subparagraph (2)(iii) of this paragraph.

(2) If the property had an acquisition cost of over $1,000 per unit, the recipient shall request disposition instructions from the Commissioner. The Commissioner will issue instructions to the recipient within 120 days following the receipt of such request and the following procedures shall govern:

(i) If the recipient is instructed to ship the property elsewhere, the recipient will be reimbursed by the Federal Government with an amount which is computed by applying the percentage of the recipient's participation in the project to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the recipient is instructed to otherwise dispose of the property, the recipient will be reimbursed by the Federal Government for the costs incurred in such disposition.

(iii) If disposition instructions are not issued within the 120-day period specified in subparagraph (2) of this paragraph, the recipient shall sell the property and reimburse the Federal Government with an amount which is computed by applying the percentage of Federal participation in the project to the sales proceeds. The recipient may retain $100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(d) *Special property.*—Where the Commissioner determines that nonexpendable personal property with an acquisition cost of $1,000 or more and financed solely with Federal funds is unique, difficult, or costly to replace, he may reserve title to such property, subject to the following provisions:

(1) The property shall be appropriately identified in the award or otherwise made known to the recipient.

(2) The Commissioner will issue disposition instructions within 120 days after the completion of the need for the property under the project for which it was acquired. If instructions are not issued within such 120-day period, the recipient shall apply the applicable standards contained in paragraphs (b)(1), (b)(2), (b)(3)(ii), and (c)(2) of this section.

(e) *Property management standards.*—Recipients' property management standards for nonexpendable personal property shall also include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for: (i) A description of the property; (ii) manufacturer's serial number or other identification number; (iii) acquisition date and cost; (iv) source of the property; (v) percentage of Federal funds used in the purchase of the property; (vi) location, use, and condition of the property; and (vii) ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the Federal Government for the Federal share.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. The recipient shall be responsible for replacing or repairing (with funds of such recipient) property which is lost, damaged, or destroyed due to the negligence of the recipient.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(OMB Circular No. A–102, Attachment N.)

§ 100a.201 Expendable personal property.

When the total inventory value of any unused expendable personal property exceeds $500 at the expiration of need for any Federal award purposes, the recipient may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with § 100a.200(b)(3)(ii).

(OMB Circular No. A–102, Attachment N.)

§ 100a.202 Intangible personal property of State and local governments.

(a) This section applies only to recipients which are State and local governments.

(b) If any project produces patents, patent rights, processes, or inventions, in the course of work aided by Federal funds, such fact shall be promptly and fully reported to the appropriate official of the Department who shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with "Government Patent Policy ("President's Memorandum for Heads of Executive Departments and Agencies," Aug. 23, 1971, and "Statement of Government Patent Policy" as printed in 36 FR 16889).

(c) Where the project results in a book or other copyrightable material, the author or recipient is free to copyright the work, but the Commissioner reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

(OMB Circular No. A-102, Attachment N.)

§ 100a.203 Copyrights and patents.

(a) This section applies only to recipients other than State and local governments. Standards for State and local governments are contained in § 100a.202.

(b) Any material of a copyrightable nature produced with Federal assistance shall be subject to the copyright policy of the U.S. Office of Education set forth in its "Copyright Guidelines" of May 9, 1970 (35 FR 7317), or any modification thereof in effect at the time of the award.

(c) Any material of a patentable nature produced through a Federal program shall be subject to the provisions of parts 6 and 8 of this title.

(20 U.S.C. 1221c(b)(1).)

Subpart G—Accountability for Federal Funds

§ 100a.277 Retention of records.

(a) *Records.* Each recipient shall keep intact and accessible records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any) in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.*—(1) Except as provided in paragraphs (b)(2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained (i) for 3 years after the date of the submission of the final expenditure report or (ii) for grants and contracts which are renewed annually, for 3 years after the date of the submission of the annual expenditure report.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.*—Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.*—The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(e) *Audit and examination.*—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the recipient.

(OMB Circular No. A-73; OMB Circular No. A-102, Attachment C; 20 U.S.C. 1232c(a).)

§ 100a.278 Audits.

(a) State and local government recipients shall provide for audits to be made by such recipients or at their direction. Recipients other than State and local governments shall provide for independent audits of their records and activities.

(b) Such audits shall determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws and regulations.

(c) The recipient shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size and complexity of the activity.

(d) Copies of audit reports shall be made available to the Commissioner to assure that proper use has been made of the funds expended. The results of such audits will be used to review the recipient's records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to review the results of such audit.

(e) Each recipient shall use a single auditor for all of its expenditures under Federal education assistance programs, regardless of the number of Federal agencies providing such assistance.

(20 U.S.C. 1232c(b)(2); OMB Circular No. A-102, Attachment G, 2, Attachment C, 1.)

§ 100a.279 Reports.

Each recipient shall submit, in accordance with procedures established by the Commissioner:

(a) A report to be submitted at the conclusion of the project, or, if continuing, at the time of application for continuation support, describing the activities conducted under the project, and containing an evaluation of the project in terms of the project objectives;

(b) A final fiscal report pursuant to § 100a.280, containing such information as the Commissioner may require;

(c) A copy of any independent evaluations of the project, its operation and objectives, or of any other nature, if obtained; and

(d) Any other reports containing such information in such form as the Commissioner may, from time to time, require in order to carry out his functions.

(20 U.S.C. 1232c(b)(3).)

§ 100a.280 Final accounting.

(a) In addition to such other accounting as the Commissioner may require, the recipient shall render, with respect to the project, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting shall be submitted to the Commissioner within 90 days of the expiration or termination of the grant or contract, and the recipient shall remit within 30 days of the receipt of a written request therefor any amounts found by the Commissioner to be due. Such periods may be extended at the discretion of the Commissioner upon the written request of the recipient.

(20 U.S.C. 1232c(b)(3); 20 U.S.C. 1221c(b)(1).)

§ 100a–281 Unexpended funds.

In the event that the amounts previously awarded have not been obligated pursuant to the approved project and, in the judgment of the Commissioner, will not be obligated for such purposes, the Commissioner may, upon notice of the recipient, reduce the amount of the grant or contract to an amount consistent with the recipient's needs pursuant to § 100a.-295.

(20 U.S.C. 1232d.)

§ 100a.282 Withholding of funds.

The approval of a grant, or the entering into of a contract or other arrangement, and any payment pursuant thereto, shall not be deemed to waive the right of the Commissioner to withhold funds by reason of the failure of a recipient to observe, either before or after such administrative action, any Federal requirements.

(20 U.S.C. 1221c(b)(1).)

§ 100a.283 Waiver of law prohibited.

No official, agent, or employee of the Office of Education or the Department of Health, Education, and Welfare shall have the authority to waive or alter any provision of the regulations in this chapter or in parts 60 and 61 of this title, or other relevant statute or regulation, and no action or failure to act on the part of such official, agent, or employee shall operate in derogation of the Commissioner's right to enforcement of said provisions in accordance with their terms.

(43 Dec. Comp. Gen. 31 (1963).)

§ 100a.295 Termination and suspension for cause.

(a) *General.*—(1) Assistance under any Federal program to which this subpart is applicable may be terminated in whole or in part if the Commissioner determines, after affording the recipient reasonable notice and an opportunity to be heard, that the recipient has failed to carry out its approved project proposal in accordance with the applicable law and the terms of such assistance or has otherwise failed to comply with any law, regulation, assurance, term or condition applicable to the grant or contract.

(2) Subject to paragraph (c) of this section, such assistance may be suspended during the pendency of a termi-

nation proceeding initiated pursuant to this section.

(b) *Notice.*—(1) Proceedings with respect to the termination of the grant or contract shall be initiated by the mailing of a notice to the recipient setting forth the basis of the proposed termination and the procedures available to the recipient under this section.

(2) If the Commissioner determines that suspension of assistance during the pendency of such proceedings is necessary, such notice shall: (i) Inform the recipient of such determination, (ii) advise the recipient of the effective date of such suspension (which will be no earlier than the date of such notice), and (iii) offer the recipient an opportunity to show cause why such action should not be taken.

(3) (i) The notice required under paragraph (b) (2) of this section shall further advise the recipient that no new expenditures or obligations made or incurred in connection with the grant during the period of the suspension will be recognized by the Government in the event that assistance is ultimately terminated. (ii) Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the recipient's approved project, and not in anticipation of suspension or termination, will not be considered new expenditures.

(c) *Opportunity to show cause.*—If the recipient requests an opportunity to show cause why a suspension of assistance should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for such purpose.

(d) *Proceedings.*—(1) Except as otherwise provided by statute or regulation, the recipient may appeal the Government's decision to terminate, by submitting to the Commissioner, in writing, its rebuttal of the specific grounds for the proposed termination set forth in the notice of termination, within 30 days following the date of mailing of such notice by the Government, unless an extension of such period of time has been granted in writing by the Government.

(2) The Commissioner may, at his discretion, permit oral presentations by the Government and the recipient regarding the notice of termination and the recipient's written rebuttal.

(3) The Commissioner will issue a final decision in the case of such appeal after the submission of the recipient's written rebuttal, or any oral presentations permitted by the Commissioner, whichever is later.

(4) Termination of assistance under this section will be effected by the delivery to the recipient of the notice of termination under paragraph (b) of this section; or, where the recipient invokes the procedures available under paragraphs (c) and (d) (1) of this section, upon the issuance of the Commissioner's final decision under paragraph (d) (3) of this section.

(e) *Effect of termination.*—(1) In the event assistance is terminated under this section, financial obligations incurred by the recipient prior to the effective date of such termination will be allowable to the extent they would have been allowable had such assistance not been terminated, except that (i) no obligations incurred during the period in which such assistance was suspended and no obligations incurred in anticipation of suspension or termination will be allowed and (ii) the recipient shall cancel as many outstanding obligations as possible.

(2) Within 60 days of the effective date of termination of assistance under this section, the recipient shall furnish an itemized accounting of funds expended, obligated, and remaining. Within 30 days of a request therefor, the recipient shall remit to the Government any amounts found due.

(20 U.S.C. 1221c(b)(1); OMB Circular No. A-102, attachment L, 2-3.)

§ 100a.296 Termination for convenience.

The Commissioner or the recipient may terminate an award in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Commissioner will allow full credit to the recipient for the Federal share of the noncancelable obligations, properly incurred by the recipient prior to termination.

(OMB Circular No. A-102, attachment L.)

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AUTHORITY.—Sec. 403(b)(1), Public Law 90-247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

Subpart A—General

§ 100b.10 Scope.

Except to the extent inconsistent with applicable statute or regulation, the provisions contained in this part apply to all Federal programs of assistance authorized under the following authorities:

(a) Financial assistance to local educational agencies for the education of children of low-income families under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a);

(b) School library resources, textbooks, and other instructional materials under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821);

(c) Supplementary educational centers and services; guidance, counseling, and testing under title III of the Elementary and Secondary Education Act of 1965, except section 306 thereof (20 U.S.C. 841);

(d) Assistance to States for education of handicapped children under part B of the Education of the Handicapped Act (20 U.S.C. 1411);

(e) State vocational education programs, research and training in vocational education, exemplary programs and projects, and residential vocational schools—State programs; and consumer and homemaking education, cooperative vocational education programs, and

work-study programs for vocational education students under part B, sections 131(b), 142(d), and 152; and parts F, G, and H, respectively, of the Vocational Education Act of 1963 (20 U.S.C. 1262, 1281(b), 1302(d), 1322, 1341, 1351, and 1371);

(f) Programs under the Adult Education Act (except special experimental demonstration projects and teacher training under sections 309 and 314 thereof) (20 U.S.C. 1201);

(g) Programs under the Library Services and Construction Act (20 U.S.C. 351);

(h) Community service and continuing education program under title I of the Higher Education Act of 1965 (20 U.S.C. 1001);

(i) Financial assistance for strengthening instruction in science, mathematics, modern foreign languages, and other critical subjects under title III of the National Defense Education Act of 1958 (20 U.S.C. 441);

(j) Training under section 231(a) of the Manpower Development and Training Act (42 U.S.C. 2601(a)); and

(k) Attracting and qualifying teachers to meet critical teacher shortages under part B-2 of the Education Professions Development Act (20 U.S.C. 1108).

(20 U.S.C. 1221c(b)(1).)

Subpart B—State Plans

§ 100b.15 Governor's comments.

Prior to the submission to the Commissioner of any State plan, State application, or of any amendment thereto, the State agency shall afford the Governor of such State an opportunity to comment on the relationship of such State plan, application, or amendment to comprehensive and other State plans and programs. The Governor shall be afforded a period of not less than 45 days in which to make such comments. Any such comments, or, if the Governor makes no comments, a statement to that effect, shall be attached to such plan, application, or amendment when the same is submitted to the Commissioner.

(OMB Circular No. A-95.)

§ 100b.29 Budget revisions and minor deviations.

(a) *State and local governments.* (1) This paragraph applies only to recipients which are State and local governments (as defined in § 100.1 of this chapter).

(OMB Circular No. A-102, attachment K.)

(2) As used in this paragraph:

(i) "Direct cost object class budget categories" include only the following:

(a) Personnel;
(b) Fringe benefits;
(c) Travel;
(d) Equipment;
(e) Supplies;
(f) Contractual;
(g) Construction; and
(h) Other.

(ii) "Construction" means solely or primarily for construction.

(iii) "Nonconstruction" means not solely or primarily for construction.

(OMB Circular No. A-102, exhibit M-3, 5.)

(3) For nonconstruction grants and contracts, State and local government recipients shall request prior approval promptly from the State agency for budget revisions whenever:

(i) The revision results from changes in the scope or the objective of the project;

(ii) The revision indicates the need for additional Federal funding;

(iii) The budget is over $100,000 and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed $10,000, or 5 percent of the budget, whichever is greater. The same criteria apply to the cumulative amount of transfers among projects, functions, and activities when budgeted separately for a grant or contract, except that no transfer is permissible which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(iv) The budget is $100,000 or less, and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed 5 percent of the budget. The same criteria apply to the cumulative amount of transfers among projects, functions, and activities when budgeted separately for a grant or contract, except that no transfer is permissible which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(v) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs; or

(vi) The revisions pertain to the addition of items requiring approval in accordance with the provisions of appendix B to this subchapter.

(OMB Circular No. A-102, attachment K, 1-2.)

(4) Budget revisions for nonconstruction grants or contracts, other than those revisions set forth in paragraph (a)(4) of this section, do not require approval by the State agency. Budget revisions which do not require such approval include (i) the use of recipient funds in furtherance of project objectives over and above the recipient minimum share (if any) included in the approved budget and (ii) the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(OMB Circular No. A-102, attachment K, 2.)

(5) For construction grants and contracts, State and local government recipients shall request prior approval promptly from the Commissioner for budget revisions whenever:

(i) The revision results from changes in the scope or objective of the project; or

(ii) The revision increases the budgeted amounts of Federal funds needed to complete the project.

(OMB Circular No. A-102, attachment K, 2.)

(6)(i) For both construction and nonconstruction grants and contracts, State and local government recipients shall notify the State agency promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient by more than $5,000 or 5 percent of the Federal grant or contract, whichever is greater.

(ii) The notification required in paragraph (a)(6)(i) of this section will not be required when applications for additional funding are submitted for continuing grants and contracts.

(OMB Circular No. A-102, attachment K, 2.)

(7) Within 30 days from the date of receipt of the request for budget revisions, the State agency shall review the request and notify the recipient as to whether or not the budget revisions have been approved. If the revision is still under consideration at the end of such 30-day period, the State agency shall inform the recipient in writing as to when the recipient may expect the State agency's decision.

(OMB Circular No. A-102, attachment K, 3.)

(b) *Recipients other than State and local governments.*—Expenditures will not be considered ineligible for Federal financial participation solely because of minor deviations from an approved project: *Provided*, That the expenditures in question are made in connection with such project under an approved State plan (or approved State application, as the case may be), in accordance with the applicable Federal statute and regulations, and the total Federal share will not exceed the State's allotment.

(20 U.S.C. 1221c(b)(1).)

§ 100b.32 Effective dates of State plans and amendments.

(a) Federal financial participation is available only with respect to obligations incurred under an approved State plan (or State application, as the case may be), or amendments thereto. Absent any contrary notification, the date on which the State plan, application, or amendments thereto shall be considered to be in effect is the date of approval by the Commissioner, but in no event shall such effective date precede the date on which the State plan, application, or amendment was received by the Commissioner. The State agency will be apprised of the effective date in the notice of approval sent to the State agency by the Commissioner.

(b) *State plan.*—Federal funds, except funds made available expressly for the development of State plans, shall not be available for obligation with respect to binding commitments (other than those relating to personal services, utility services, travel, or the rental of equipment or facilities) entered into, or with respect to personal services, utility services, travel, or the rental of equipment or facilities rendered or performed by a State agency, prior to the effective date of the State plan (or State application, as the case may be).

(20 U.S.C. 1221c(b)(1).)

Subpart C—Federal Financial Participation

§ 100b.42 Obligation of Federal appropriations.

The notification by the Commissioner to State agencies and Federal agencies of the amounts made available for approval or obligation by those agencies will be regarded as obligating the Government of the United States in the amounts specified. Federal appropriations so obligated will remain available for use as prescribed in § 100b.45.

(31 U.S.C. 200.)

§ 100b.43 Payments.

(a) *Payment methods and adjustments.*—Payments to State agencies may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(b) *Violations.*—A payment for expenditures which fail to meet the requirements of any of the provisions of applicable Federal statutes or regulations may be taken into account in the determination of any such overpayments and any adjustments relating thereto.

(c) *Adjustment of records.*—Each State agency and other recipient, in its maintenance of expenditure accounts, records, and reports, shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, resulting from Federal or State administrative reviews and audits or otherwise. Such adjustments shall be set forth in any financial reports required to be filed with the Commissioner.

(20 U.S.C. 1232d.)

§ 100b.44 Letter of credit.

(a) Payment of Federal funds to States will ordinarily be accomplished through letter-of-credit procedures. Payment vouchers may be issued by the States as often as necessary to procure cash to meet current disbursement needs only, and under no circumstances in such amounts that will result in the accumulation of large cash balances at either the State or local levels.

(b) Continued authorization for a State to utilize the letter-of-credit payment method is dependent upon the appropriate use thereof and the furnishing of accurate report data on a timely basis.

(20 U.S.C. 1221c(b)(1).)

§ 100b.45 Obligation and liquidation by recipients.

(a) *Period for obligation.*—Except as otherwise provided by statute, Federal funds made available for a fiscal year shall remain available for obligation in accordance with paragraph (c) of this section during that fiscal year. Federal funds for construction of school facilities shall remain available for obligation for that purpose for a reasonable period of time as determined by the Commissioner.

(b) *Carryovers.*—In accordance with section 414(b) (20 U.S.C. 1225(b)) of the General Education Provisions Act (Public Law 90-247, title IV, as amended), any Federal funds made available, which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which they were made available, shall remain available for obligation and expenditure by the recipient during such succeeding fiscal year.

(c) *Determinations of obligation.*—For the purposes of this section, an obligation of funds will be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property, for the construction of facilities, or for the performance of work. However, the obligation of funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be determined on the basis of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively.

(d) *Liquidation.*—Obligations entered into and payable out of Federal funds shall be liquidated no later than the fiscal year following the fiscal year in which such funds are obligated in accordance with this section unless prior to the end of that following fiscal year the State agency reports to the Commissioner the reasons why certain obligations cannot be timely liquidated and, on the basis thereof, the Commissioner extends the time for so liquidating those obligations.

(20 U.S.C. 1232c(b)(1).)

§ 100b.50 Allowable costs.

Subject to applicable Federal statutes and regulations, allowability of costs shall be determined in accordance with the principles and procedures contained in the following documents:

(a) Appendix B to this subchapter, if the recipient is a State or local government;

(b) Appendix C to this subchapter, if the recipient is an institution of higher education; or

(c) Appendix D to this subchapter, if the recipient is a nonprofit institution, agency, or organization which is not covered under paragraphs (a) or (b) of this section.

(OMB circular Nos. A-21, A-87; 20 U.S.C. 1221c(b)(1).)

§ 100b.51 Tuition and fees.

Tuition and fees collected from students enrolled in courses may not be included as part of the Federal or non-Federal share of expenditures under any Federal program.

(20 U.S.C. 1221c(b)(1).)

§ 100b.52 Religious worship or instruction.

Federal funds shall not be used for the making of any payment for religious worship or instruction, or for the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(*Lemon* v. *Kurtzman*, 403 U.S. 602 (1971).)

Subpart D—General Requirements

§ 100b.63 Financial interest prohibited.

A person who is a public official, officer, or member of, or who is otherwise associated with a recipient may not participate in an administrative decision with respect to a project of such recipient if such decision can be expected to result in any benefit or remuneration, including, without limitation, a royalty, commission, contingent fee, brokerage fee, or other benefit, to him or to any member of his immediate family.

(20 U.S.C. 1232c(b)(1).)

§ 100b.64 Transfer of funds to recipients.

(a) State agencies shall establish policies and procedures to be used in the payment of funds to recipients (where applicable) pursuant to an approved project either: (1) As a reimbursement for actual expenditures or (2) as an advance prior to expenditures.

(b) Advances shall not be eligible for inclusion as expenditures for the purposes of earning Federal financial participation until adequate evidence of actual expenditures for approved projects has been received and verified by the State agency.

(c) Reimbursement or payment need not be uniform to all recipients, and the State agency may provide a method by which the ratio of reimbursement to expenditures in particular cases may be adjusted on the basis of comparative needs of individual recipients.

(20 U.S.C. 1232c(b)(1).)

§ 100b.65 Custody of funds.

The State agency shall provide for the receipt by the State treasurer (or, if there be no State treasurer, the officer identified by title exercising similar functions for the State) and for the proper safeguarding of all Federal funds granted to the State. The State agency shall provide that all Federal funds so received shall be expended solely for the purposes for which granted.

(20 U.S.C. 1232c(b)(2).)

§ 100b.76 Leasing facilities.

In the case of the lease of a facility, the State agency or other recipient shall have the right to occupy, and to operate, and if necessary to maintain and improve, the premises to be leased during the proposed period of the project.

(20 U.S.C. 1221c(b)(1).)

§ 100b.80 Procurement standards.

Procurements by recipients shall be made in accordance with the principles and procedures contained in appendix E to this subchapter.

(OMB Circular No. A-102, attachment O.)

§ 100b.100 Civil rights.

(a) Federal financial assistance is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions

of title VI of the Civil Rights Act of 1964 (Public Law 88-352).

(42 U.S.C. 2000d.)

(b) Federal financial assistance is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Public Law 92-318, title IX.)

§ 100b.109 Application of State rules.

Subject to the provisions and limitations of applicable Federal statutes and regulations, Federal financial participation shall be available only for expenditures made in accordance with applicable State and local laws, rules, regulations, and standards governing expenditures.

(20 U.S.C. 1221(b)(1).)

§ 100b.110 Coordination.

Each project (and each State plan) shall be developed so as to be in coordination with other public and private programs for similar educational purposes. Such coordination shall be continuous during the period in which such project or plan remains in effect.

(20 U.S.C. 1232c(b)(1).)

Subpart E—Construction Requirements

§ 100b.155 Scope.

The provisions contained in this subpart apply to recipients of Federal financial assistance for construction under Federal programs under which construction is authorized by law.

(20 U.S.C. 1221c(b)(1).)

§ 100b.156 Definition.

For the purposes of this subpart, the term "facilities" means one or more structures in one or more locations, constructed pursuant to this subpart.

(20 U.S.C. 1221c(b)(1).)

§ 100b.157 Manner of construction.

Construction must be functional, undertaken in an economical manner, and not elaborate in design or extravagant in the use of materials in comparison with facilities of a similar type constructed in the State (or other applicable geographic area) within such period as may be designated by the State agency as appropriate for the purposes of this section.

(20 U.S.C. 1221c(b)(1).)

§ 100b.158 Timeliness of work.

The applicant shall cause work on the project to be commenced within a reasonable time after receipt of notification from the Commissioner that funds have been awarded, and the project shall be prosecuted to completion with reasonable diligence.

(20 U.S.C. 1232c(b)(1).)

§ 100b.159 Commencement of construction.

(a) Approval by the State agency of the final working drawings and specifications shall be obtained before the proposed construction is advertised or placed on the market for bidding.

(b) The construction shall go to final completion in accordance with the application and approved drawings and specifications.

(c) The applicant shall submit to the State agency for prior approval changes that materially alter the scope or costs of the project, use of space, or functional layout.

(d) The applicant shall not enter into any construction contract for the proposed construction or a part thereof until the requirements of the applicable Federal program and this section have been met.

(20 U.S.C. 1221c(b)(1).)

§ 100b.160 Civil rights assurance.

If an assurance of compliance with title VI of the Civil Rights Act of 1964 (Form HEW 441) applying to the facility described in the application has not been filed, such an assurance shall be attached to the application.

(42 U.S.C. 2000d.)

§ 100b.161 Title to site.

The applicant shall have, or will obtain, a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the useful life of the facility.

(OMB Circular No. A-102, Attachment N.)

§ 100b.164 Contracting.

(a) Except as otherwise provided by State or local law, all contracting for construction (including the purchase and installation of built-in equipment) shall be on a lump-sum fixed-price basis, and, except as provided in paragraph (b) of this section, contracts shall be awarded on the basis of competitive bidding with award of the contract to the lowest responsive and responsible bidder.

(b) If one or more items of construction are covered by an established alternative procedure for awarding contracts, consistent with State and local laws and regulations, which is approved by the Commissioner and is designed to assure construction in an economical manner consistent with sound business practice, such alternative procedure may be followed: *Provided, however,* That such alternative procedure shall not give local contractors or suppliers a percentage preference over nonlocal contractors bidding for the same contract.

(20 U.S.C. 1221c(b)(1).)

§ 100b.165 Bonds and insurance.

(a) Recipients shall follow their own requirements and practices relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(b) Where the Federal Government guarantees the payment of money borrowed by the recipient, the Commissioner may at his discretion require adequate bonding and insurance if the bonding and insurance requirements of a State or local government are not deemed to be sufficient to protect adequately the interest of the Federal Government.

(c) Except where the recipient is a State or local government, the recipient's contractor shall provide, during the life of the contract, for adequate fire, public liability, property damage, and workmen's compensation insurance. Where the recipient is a State or local government, the recipient shall follow its own legal requirements and normal practices with regard to insurance.

(OMB Circular No. A-102, Attachment B.)

§ 100b.168 Reports.

The applicant shall furnish progress reports and such other information relating to the proposed construction and the project as the State agency may require.

(20 U.S.C. 1232c(b)(3).)

§ 100b.169 Federal access to records and work.

Representatives of the Federal Government shall have access at all reasonable times to the applicant's records and to work whenever it is in preparation or progress, and the contractor will provide proper facilities for such access and inspection.

(20 U.S.C. 1232c(a)(2).)

§ 100b.170 Operation and maintenance.

The facility shall be operated and maintained in accordance with the requirements of applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

(20 U.S.C. 1221c(b)(1).)

§ 100b.171 Cost-sharing and operational funds.

Sufficient funds shall be available to meet the non-Federal share of the cost of constructing the facility (where applicable), and sufficient funds shall be available when construction is completed to assure effective operation and maintenance of the facility for the purposes for which constructed.

(20 U.S.C. 1221c(b)(1).)

§ 100b.172 Supervision and inspection.

The applicant shall provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms to the approved drawings and specifications.

(20 U.S.C. 1232c(b)(1).)

§ 100b.173 Cultural activities.

Reasonable provision shall be made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities.

(20 U.S.C. 1221c(b)(1).)

§ 100b.184 Safety and health.

In planning for and designing facilities, the applicant shall observe nationally recognized safety and health standards and codes, including National Fire Protection Association standards and those adopted under the Occupational Safety and Health Act of 1970 (Public Law 91-576): *Provided, however,* That to the extent that State and local codes are more stringent, they shall apply.

(29 U.S.C. 651.)

100b.185 Environmental impact.

The applicant shall provide the Department Regional Office with its assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247).

(42 U.S.C. 4332(2)(c).)

§ 100b.186 Preservation of historic sites.

Each application for Federal financial assistance for construction shall describe the relationship to and the probable effect, or lack of effect, on any district, site building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service and published with periodical updatings in the FEDERAL REGISTER. Such information is to be furnished to the Department by the State agency to enable it to take into account such an effect and to consider the comments thereon of the Advisory Council on Historic Preservation, prior to providing such Federal financial assistance, as required by section 106 of Public Law 89-665.

(16 U.S.C. 470f.)

§ 100b.187 Davis-Bacon and Contract Work Hours Standards Acts.

Except as otherwise provided by law, all laborers and mechanics employed by contractors and subcontractors on construction assisted under Federal programs, including minor remodeling, shall be paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act. Such contractors and subcontractors shall comply with the provisions of 29 CFR part 3; and all construction contracts and subcontracts shall incorporate the contract clauses required by 29 CFR 5.5 (a) and (c).

(20 U.S.C. 1232b; 40 U.S.C. 276a, 327-332.)

§ 100b.188 Nondiscrimination.

Construction contracts shall include the applicable provisions of Executive Order No. 11246, as amended by Executive Order No. 11375 (nondiscrimination in construction contract employment), and the applicant shall otherwise comply with the requirements of section 301 of said Executive order.

(E.O. Nos. 11246, 11375.)

§ 100b.189 Access by the handicapped.

The applicant shall require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified by other standards prescribed by the Secretary or the U.S. Administrator of General Services (41 CFR 101-17.703). The applicant shall be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(20 U.S.C. 1221c(b)(1).)

§ 100b.190 Avoidance of flood hazards.

In the planning of the construction of facilities involving the use of Federal funds, the recipient shall, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 FR 10663) and such rules and regulations as may be issued by the Secretary to carry out those provisions, evaluate flood hazards in connection with such facilities and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

(E.O. No. 11296.)

§ 100b.191 Relocation assistance.

Projects receiving Federal financial assistance pursuant to this section are subject to the regulations on relocation assistance and real property acquisition policies contained in part 15 of this title.

(20 U.S.C. 1221c(b)(1).)

Subpart F—Property Management Requirements

§ 100b.200 Nonexpendable personal property.

(a) *Title.*—When nonexpendable personal property is acquired by a recipient wholly or in part with Federal funds, title shall be vested in the recipient.

(b) *Use.*—(1) The recipient shall retain such property in the grant project as long as there is a need for such property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(2) When there is no longer a need for such property to accomplish the purpose of the project, the recipient shall use the property in connection with other Federal awards it has received in the following order or priority:

(i) Other awards under Federal programs administered by the Commissioner needing the property,

(ii) Grants of other Federal agencies needing the property.

(3) When the recipient no longer has need for such property in any of its federally assisted projects, the property may be used for the recipient's own official activities in accordance with the following standards:

(i) If the property had an acquisition cost of less than $500 per unit and has been used 4 years or more, the recipient may use the property without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) For all of such property not covered under subparagraph (3)(i) of this paragraph, the recipient may use the property provided that a fair compensation is made to the Federal Government for the Federal share of the property. The amount of such compensation shall be computed by applying the percentage of Federal participation in the project to the current fair market value of the property.

(c) *Disposition.*—If the recipient has no need for the property, disposition of the property shall be made as follows:

(1) If the property had an acquisition cost of $1,000 or less per unit (except for property covered under paragraph (b)(3)(i) of this section) the recipient shall sell the property and reimburse the Federal Government in accordance with subparagraph (2)(iii) of this paragraph.

(2) If the property had an acquisition cost of over $1,000 per unit, the recipient shall request disposition instructions from the Commissioner. The Commissioner will issue instructions to the recipient within 120 days following the receipt of such request and the following procedures shall govern:

(i) If the recipient is instructed to ship the property elsewhere, the recipient will be reimbursed by the Federal Government with an amount which is computed by applying the percentage of the recipient's participation in the project to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the recipient is instructed to otherwise dispose of the property, the recipient will be reimbursed by the Federal Government for the costs incurred in such disposition.

(iii) If disposition instructions are not issued within the 120-day period specified in subparagraph (2) of this paragraph, the recipient shall sell the property and reimburse the Federal Government with an amount which is computed by applying the percentage of Federal participation in the project to the sales proceeds. The recipient may retain $100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(d) *Special property.*—Where the Commissioner determines that nonexpendable personal property with an acquisition cost of $1,000 or more and fi-

nanced solely with Federal funds is unique, difficult, or costly to replace, he may reserve title to such property, subject to the following provisions:

(1) The property shall be appropriately identified in the award or otherwise made known to the recipient.

(2) The Commissioner will issue disposition instructions within 120 days after the completion of the need for the property under the project for which it was acquired. If instructions are not issued within such 120-day period, the recipient shall apply the applicable standards contained in paragraphs (b)(1)(b)(2), (b)(3)(ii), and (c)(2) of this section.

(e) *Property management standards.*—Recipients' property management standards for nonexpendable personal property shall also include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for: (i) A description of the property; (ii) manufacturer's serial number or other identification number; (iii) acquisition date and cost; (iv) source of the property; (v) percentage of Federal funds used in the purchase of the property; (vi) location, use, and condition of the property; and (vii) ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the Federal Government for the Federal share.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. The recipient shall be responsible for replacing or repairing (with funds of such recipient) property which is lost, damaged, or destroyed due to the negligence of the recipient.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(OMB Circular No. A-102, attachment N.)

§ 100b.201 Expendable personal property.

When the total inventory value of any unused expendable personal property exceeds $500 at the expiration of need for any Federal award purposes, the recipient may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with § 100b.200(b)(3)(ii).

(OMB Circular No. A-102, attachment N)

§ 100b.202 Intangible personal property of State and local governments.

(a) This section applies only to recipients which are State and local governments.

(b) If any project produces patents, patent rights, processes, or inventions, in the course of work aided by Federal funds, such fact shall be promptly and fully reported to the Commissioner. The Commissioner shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with Government patent policy (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government patent policy as printed in 36 FR 16889).

(c) Where the project results in a book or other copyrightable material, the author or recipient is free to copyright the work, but the Commissioner reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

(OMB Circular No. A-102, attachment N.)

§ 100b.203 Publications.

Any publication or presentation resulting from or primarily related to Federal financial assistance shall contain the following acknowledgment:

> The activity which is the subject of this report was supported in whole or in part by the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred.

(20 U.S.C. 1221c(b)(1).)

Subpart G—Accountability for Federal Funds

§ 100b.277 Retention of records.

(a) *Records.*—Each State agency and other recipient shall keep intact and accessible all records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any) in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.*—(1) Except as provided in paragraphs (b)(2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of submission of the annual expenditure report to the State agency.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.*—Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.*—The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(e) *Audit and examination.*—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the recipient.

(OMB Circular No. A-73; OMB Circular No. A-102, attachment C; 20 U.S.C. 1232c(a).)

§ 100b.278 State fiscal control and audit.

(a) State and local government recipients shall provide for audits to be made by such recipients or at their direction. Recipients other than State and local governments shall provide for independent audits of their records and activities.

(b) Such audits shall determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws and regulations.

(c) The recipient shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity.

(d) Copies of audit reports shall be made available to the State agency to assure that proper use has been made of the funds expended. The results of such audits will be used to review State agency records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to review the results of such audits.

(OMB Circular No. A-102, attachment G, 2, attachment C, 1; 20 U.S.C. 1232c(b)(2).)

§ 100b.279 Reports.

(a) Each State agency shall submit, in accordance with procedures established by the Commissioner:

(1) Following the end of each fiscal year for which such assistance was received, a report of the total expenditures made during such fiscal year, and

(2) Such other reports as are required by the Commissioner to carry out his functions.

(20 U.S.C. 1232c(b)(3).)

§ 100b.280 Settlement of accounts.

The final amount to which a State is entitled for any period is determined on the basis of expenditures under the State plan (or State application, as the case may be) with respect to which Federal financial participation is authorized.

(20 U.S.C. 1221c(a)(2).)

§ 100b.281 Unexpended funds.

Whenever any portion of any allotment to any State has not been used in the State for the purpose provided for in

the Federal statute, regulations, State plan, State application, or project application, with respect to that allotment, and has not been transferred to another allotment or reallotted to other States pursuant to law in the period during which such allotment is available, a sum equal to such portion may be deducted from the next payment of funds allotted to such State.

(20 U.S.C. 1232d.)

§ 100b.282 Withholding of funds.

The approval of a State plan or State application, the approval of a grant, or the entering into of a contract or other arrangement, and any payment pursuant thereto, shall not be deemed to waive the right of the Commissioner to withhold funds by reason of the failure of the recipient to observe, either before or after such administrative action, any Federal requirements.

(20 U.S.C. 1221c(b)(1).)

§ 100b.283 Waiver of law prohibited.

No official, agent, or employee of the Office of Education of the Department of Health, Education, and Welfare shall have the authority to waive or alter any provision of the regulations in this chapter or in parts 60 and 61 of this title, or other relevant statute or regulation, and no action or failure to act on the part of such official, agent, or employee shall operate in derogation of the Commissioner's right to enforcement of said provisions in accordance with their terms.

(43 Dec. Comp. Gen. 31 (1963).)

§ 100b.284 Federal audits.

The State agency's program expenditure records will be audited by the Federal Government to determine whether the State agency has properly accounted for Federal funds.

(20 U.S.C. 1232c(a)(2).)

§ 100b.295 Termination of program.

If a State desires at any time not to participate in a Federal program, or upon termination of the program, the State shall refund to the Federal Government any unexpended or unobligated funds which have been paid to the State agency under such Federal program.

(20 U.S.C. 1232d.)

PART 100c—ALLOWABLE COSTS UNDER CERTAIN PROGRAMS

Sec.
100c.1 Scope.
100c.2 Allowable costs.
100c.3 Exceptions.

AUTHORITY: Sec. 403(b)(1), Public Law 90-247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

§ 100c.1 Scope.

Except as provided in § 100c.3, the provisions contained in this subpart are applicable to the Federal programs of assistance under the following authorities:

(a) Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a);

(b) Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821);

(c) Title III of the Elementary and Secondary Education Act of 1965 (including sec. 306 thereof) (20 U.S.C. 841);

(d) Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 880d);

(e) Part B of the Education of the Handicapped Act (20 U.S.C. 1411);

(f) Part B, sections 131(b), 142(d), and 152; and parts F, G, and H of the Vocational Education Act of 1963 (20 U.S.C. 1262);

(g) The emergency school assistance program under Public Law 91-380; and

(h) The followthrough program under section 222(a)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(2)).

(Authority cited in 45 CFR 100c.1.)

§ 100c.2 Allowable costs.

(a) *Direct costs.*—Direct costs shall be allowed pursuant to § 100a.50 or § 100b.50 of this title, as applicable.

(b) *Indirect costs.*—(1) *State educational agencies.*—A State educational agency may incur indirect costs under any Federal program listed in § 100c.1, on the basis of an indirect cost rate approved by the Department pursuant to applicable principles and procedures contained in appendix B to this subchapter.

(2) *Local educational agencies.*—(i) *Approval of rates by State educational agency.*—Each State educational agency, on the basis of a plan approved by the Department, shall approve indirect cost rates for those local educational agencies which request the establishment of such rates.

(ii) *Formula for determining rates.*—Each such rate approved for a local educational agency is to be determined annually, and shall be the percentage that the amount of the local educational agency's total expenditure for administrative and fixed charges, as defined in paragraphs (b)(2)(iii) and (b)(2)(iv) of this section, is to the total of all other expenditures (excluding capital outlay, debt service, fines, penalties, contingencies, and election expenses) incurred by that agency for the operation of schools in the most recent year for which such data are available.

(iii) *Administrative charges.*—For the purposes of this paragraph, the term "administrative" refers to those activities which have as their purpose the direction and control of the local educational agency's affairs which are district-wide and not confined to one school, subject, or phase of school operations (unless such activity is a service function (such as accounting, payroll, and personnel) normally provided at the district level but is physically located elsewhere for convenience or better management, in which case it shall be so included). Expenditures for the board of education or other governing body of the school district, for the compensation of the chief administrative officer of the school district and of each of the schools of the district, and for the operation of their immediate offices, are not to be included as administrative charges for the purposes of this paragraph and are not to be charged to the Federal program involved on an indirect or direct cost basis.

(iv) *Fixed charges.*—For the purposes of this paragraph, the term "fixed charges" shall be limited to school district contributions to retirement (including State, county, or local retirement funds, social security, and pension payments) and to property, employee, and liability insurance. Only the fixed charges applicable to the administrative charges specified in paragraph (d)(2)(iii) of this section may be included. Other items of expenditure commonly referred to as fixed charges are not to be included for the purpose of determining indirect cost rates.

(v) *Duplication of costs prohibited.*—Local educational agencies for whom such rates have been approved shall not be allowed to charge administrative and fixed charges (as defined in paras. (b)(2)(iii) and (b)(2)(iv) of this section) to the Federal program funds on a direct cost basis.

(vi) *Maximum indirect costs.*—The amount of Federal program funds to be paid for indirect costs shall not exceed the product of the direct costs incurred in connection with such Federal program multiplied by the indirect cost rate. The same indirect cost rate shall be applicable for the determination of all indirect costs to be paid from funds appropriated under such Federal program for a particular fiscal year.

(OMB circular No. A-87; 20 U.S.C. 1231c(b); 20 U.S.C. 1221c(b)(1).)

§ 100c.3 Exceptions.

(a) *Past expenditures.*—Notwithstanding any other provision contained in this subpart, no cost shall be allowable under the Federal programs listed in §§ 100c.1(e) and 100c.1(h) either on a direct cost or on an indirect cost basis, if such cost has been met in the recent past (as determined by the Commissioner) by the expenditure of State, local, or private funds.

(20 U.S.C. 1413(a)(4); 42 U.S.C. 2812(d)(1).)

(b) *State-operated projects.*—Notwithstanding § 100c.2(b)(1), indirect cost rates for programs and projects operated directly by a State agency under the Federal programs listed in § 100c.1 shall be determined in the same manner and to the same extent as for a local educational agency under § 100c.2(b)(2).

(Authority cited in 45 CFR 100c.1.)

APPENDIX A—GENERAL GRANT TERMS AND CONDITIONS, U.S. OFFICE OF EDUCATION

1. Definitions.
2. Scope and duration of the project.
3. Limitations on costs.
4. Allowable costs.
5. Accounts and records.
6. Payment procedures.
7. Reports.
8. Printing and duplicating.
9. Applicability of State and local laws and institutional procedures.
10. Copyrights.
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12. Patents.
13. Travel.
14. Personal property.
15. Contracting under grants.
16. Health and safety standards.
17. Compensation.
18. Labor standards.
19. Equal employment opportunity.
20. Use of consultants.
21. Clearance of forms.
22. Program income.
23. Change of key personnel.
24. Animal care.
25. Use of small businesses and minority-owned businesses.

1. *Definitions.* As used in the grant documents relating to this award, the following terms shall have the meaning set forth below:

a. "Commissioner" means the U.S. Commissioner of Education.

b. "Department" means the U.S. Department of Health, Education, and Welfare.

c. "Grantee" means the agency, institution or organization named in the grant as the recipient.

d. "Grants Officer" means the employee of the U.S. Office of Education who is authorized to execute and is responsible for the administration of the grant on behalf of the Government.

e. "Project Officer" means the employee of the U.S. Office of Education who is responsible for the technical monitoring of the project of the grantee as representative of the grants officer.

f. "Project Director" is the person responsible for directing the project of the grantee.

g. "Project" is the activity of program defined in the proposal approved by the Commissioner for support.

h. "Grant Period" means the period specified in the notification of grant award during which costs may be charged against the grant.

i. "Budget" means the estimated cost of performance of the project as set forth in the notification of grant award.

(20 U.S.C. 1221c(b)(1).)

2. *Scope and duration of the project.*— a. The project to be carried out hereunder shall be consistent with the proposal as approved for funding support by the Commissioner and referred to in the notification of grant award and shall be performed in accordance with applicable statutes, regulations (including 45 CFR part 100a—General provisions for direct project grant and contract programs), and the approved project proposal. No substantive changes in the project shall be made unless the grantee, at least 30 days prior to the effective date of the proposed change, submits an appropriate request therefor to the grants officer, along with the justification for the change, and this request is approved in writing by the grants officer.

b. The grant period may be extended, if otherwise permitted by law, upon timely application of the grantee to the grants officer, and if approved by him in writing prior to the end of the grant period.

(20 U.S.C. 1221c(b)(1); 31 U.S.C. 628.)

3. *Limitations on costs.*—a. The total costs to the Government for the performance of the grant shall not exceed the amount set forth in the notification of grant award or any appropriate modification thereof. The Government shall not be obligated to reimburse the grantee for costs incurred in excess of such amounts unless the grants officer has notified the grantee in writing that the amount set forth in the notification of grant award has been increased and has specified such increased amount in a revised notification of grant award. Such revised amount shall thereupon constitute the revised total cost of the performance of the grant.

b. Funds for the development and production of audio-visual materials, such as motion picture films, videotapes, filmstrips, slides sets, tape recordings, exhibits, or combinations thereof, for viewing, whether for limited or general public use, are not authorized until prior written approval is received from the grants officer.

c. In the case of educational training programs, the limitation on costs stated in conditions (3)(a) shall automatically be increased, subject to the availability of appropriations, to cover the cost of allowance for additional dependents not specified in the notification of grant award (where such allowances are otherwise authorized by statute and are allowable under the grant).

d. With respect to construction contracts, the grantee is authorized to include in initial cost estimates a project contingency fund to provide for the cost of unanticipated charges. The fund will be limited to 5 percent of construction and fixed equipment costs before bids are received, and will be reduced to 2 percent after the contracts have been awarded. (20 U.S.C. 1221c(b)(1); 31 U.S.C. 200; authority cited in 45 CFR 100a.10.)

4. *Allowable costs.*—a. Expenditures of the grantee may be charged to this grant only if they: (1) Are in payment of an obligation incurred during the grant period and (2) conform to the approved project proposal.

b. Subject to paragraph (4)(a) and applicable Federal statutes and regulations, allowability of costs incurred under this grant shall be determined in accordance with the principles and procedures set forth in the documents identified below, as amended prior to the date of the award:

(1) Appendix C to 45 CFR, subtitle B, chapter I, subchapter A, if the grantee is an institution of higher education.

(2) Appendix B to 45 CFR, subtitle B, chapter I, subchapter A, if the grantee is a State or local government agency, or

(3) Appendix D to 45 CFR, subtitle B, chapter I, subchapter A, if the grantee is a nonprofit institution, agency, or organization.

c. Indirect costs for educational training programs (except for State and local governments) will be allowed at either (1) the actual level of the organizational indirect costs or (2) 8 percent of total direct costs, including stipends and dependency allowances, whichever is the lesser.

(OMB Circular Nos. A-21, A-87; 20 U.S.C. 1231c(b), 1232c(b)(2).)

5. *Accounts and records.*—a. The grantee shall maintain accounts, records, and other evidence pertaining to all costs incurred, and revenues or other applicable credits acquired under this grant, including such records as are required under section 434 of the General Education Provisions Act (Public Law 90-247, title IV, as amended) pursuant to 45 CFR 100a.277. The system of accounting employed by the grantee shall be in accordance with generally accepted accounting principles used by State or local agencies, or institutions of higher education, or nonprofit institutions, as appropriate, and will be applied in a consistent manner so that the project expenditures can be clearly identified.

(20 U.S.C. 1232c(a)(1), (b)(2).)

b. *Cost-sharing records.*—The grantee's records shall demonstrate that any contribution made to the project by the grantee is not less, in proportion to the charges against the grant, than the percentage specified in the grant or any subsequent revision thereof.

(20 U.S.C. 1232c(a)(1).)

c. *Examination of records.*—The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee that are pertinent to the grant, at all reasonable times during the period of retention provided for in 45 CFR 100a.277 (retention of records).

(20 U.S.C. 1232c(a)(2).)

d. *Independent audit.*—(1) Each grantee shall make appropriate provision for the auditing of project expenditure records in accordance with 45 CFR 100a.278 (audits). Three copies of the reports of such audits shall be promptly forwarded by the grantee to the cognizant department regional audit director for the region in which the grantee is located.

(2) Each grantee shall use a single auditor for all of its expenditures under Federal education assistance programs, regardless of the number of Federal agencies providing such assistance.

(20 U.S.C. 1232c (b)(2), (b)(3); OMB Circular No. A-73.)

e. *Period of retention.*—Except as provided in paragraph (5)(f), all records and books of accounts related to this grant in the possession of the grantee shall be preserved by the grantee in accordance with 45 CFR 100a.277 (retention of records).

(20 U.S.C. 1232c(a)(1).)

f. *Questioned expenditures.*—Records relating to any litigation or claim arising out of the performance of this grant, or costs and expenses of this grant to which exception has been taken as a result of inspection or audit shall be retained by the grantee until the final disposition of such litigation, claim, or exception.

(20 U.S.C. 1232c(a).)

g. *Adjustments.*—The grantee shall, in maintaining project expenditure accounts, records, and reports, make any necessary adjustments to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from administrative reviews and audits by the Federal Government or by the grantee. Such adjustments shall be set forth in the financial reports filed with the grants officer.

(20 U.S.C. 1232c(a)(1), 1232d.)

6. *Payment procedures.*—Payments under the grant shall be made in accordance with the payment schedule which is set forth in the special terms and conditions, or as costs occur, at the discretion of the grants officer.

(20 U.S.C. 1232d.)

7. *Reports.*—The grantee shall submit such fiscal and other reports as may be required in the grant or by the grants officer, and in the quantity and at the time stated in the report schedule which is set forth in the special terms and conditions.

(20 U.S.C. 1232c(b)(3).)

8. *Printing and duplicating.*—All printing or duplicating authorized under this grant is subject to the limitations and restrictions contained in the current issue of the "U.S. Government Prinitng and Binding Regulations" if done for the use of the U.S. Office of Education within the meaning of those regulations.

(44 U.S.C. 501.)

9. *Applicability of State and local laws and institutional procedures.*—Except to the extent specifically provided for in this grant or applicable Federal statutes and regulations,

the grantee is subject to State and local laws, rules, regulations, and any instructional procedures which pertain to the expenditure of funds and which are designed to protect the public fisc.

(16 Comp. Gen. 948 (1937).)

10. *Copyrights.*—a. Unless the grantee is a State or local government (as defined in 45 CFR 100.1), any material of a copyrightable nature produced under the grant shall be subject to the copyright policy of the U.S. Office of Education set forth in its copyright guidelines of May 9, 1970 (35 FR 7317), or any modification thereof in effect at the time of the grant. Materials produced by trainees or fellows are not considered to be produced under the grant unless they are produced at the direction of the grantee.

b. With respect to any materials for which the securing of a copyright protection is authorized, the grantee hereby grants a royalty-free, nonexclusive and irrevocable license to the Government to publish, translate, reproduce, deliver, perform, use, and dispose of all such materials for governmental purposes.

c. To the extent the grantee has or acquires the right and permission to do so, the grantee hereby grants to the Government a royalty-free, nonexclusive and irrevocable license to use in any manner for governmental purposes, copyrighted material not first produced in the performance of this grant but which is incorporated in other materials so produced. The grantee shall advise the grants officer of any such copyrighted material known to it not to be covered by such a license. (35 FR 7317)

11. *Publications.*—a. Any publication or presentation resulting from or primarily related to the grant covered by these terms and conditions shall contain the following acknowledgement:

"The activity which is the subject of this report was supported in whole or in part by a grant from the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred."

b. Materials produced as a result of the grant may be published without prior review by the Commissioner. Five copies of such materials shall be furnished to the grants officer. If such materials are published for sale, disposition of the proceeds from such sale shall be governed by condition 22.

(20 U.S.C. 1221c(b)(1).)

12. *Patents.*—a. *Reference.*—Any material of a patentable nature produced under the grant shall be subject to the provisions contained in parts 6 and 8 of title 45 of the Code of Federal Regulations.

b. *Reports.*—All inventions made in the course of or under any Office of Education grant shall be promptly and fully reported to the Assistant Secretary (Health and Scientific Affairs), Department of Health, Education, and Welfare.

c. *Commitments.*—The grantee institution and the principal investigator shall neither have nor make any commitments or obligations which conflict with the requirements of this condition.

d. *Determination.*—Determination as to ownership and disposition of invention rights, including whether a patent application shall be filed, and if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may be issued shall be either:

(1) By the Assistant Secretary (Health and Scientific Affairs) whose decision shall be final, or

(2) Where the institution has a separate formal institutional agreement with the Office of Education or the Department, by the grantee institution in accordance with such agreement. Patent applications shall not be filed on inventions under condition 12(d)(1) without prior written consent of the Assistant Secretary (Health and Scientific Affairs) or his representative. Any patent application filed by the grantee on an invention made in the course of or under an Office of Education grant shall include the following statement in the first paragraph of the specification:

"The invention described herein was made in the course of, or under, a grant from the U.S. Office of Education, Department of Health, Education, and Welfare."

e. *Other requirements.*—(1) A complete written disclosure of each invention in the form specified by the Assistant Secretary (Health and Scientific Affairs) shall be made by the grantee promptly after conception or first actual reduction to practice, whichever occurs first under the grant. Upon request, the grantee shall furnish such duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the rights reserved to it under this condition to enable the Government to apply for and prosecute any patent application, in any country, covering each invention where the Government has the right to file such application.

(2) The grantee shall furnish interim reports (Annual Invention Statements) prior to the continuation of any grant listing all inventions made during the budget period whether or not previously reported, or certifying that no inventions were made during performance of work on the supported project or certifying that no inventions were made during that work.

f. *Supplementary patent agreements.*—The grantee shall obtain appropriate patent agreements to fulfill the requirements of this condition from all persons who perform any part of the work under the grant, except such clerical and manual labor personnel as will have no access to technical data, and except as otherwise authorized in writing by the Department.

The grantee shall insert in each subcontract or agreement having experimental, developmental, or research work as one of its purposes, a clause making this provision applicable to the subcontractor and its employees.

g. *Definitions.*—As used in this section,

(1) "Invention" or "invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States.

(2) "Made" when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of the grant.

h. *Fellows.*—Except as specifically set forth in the grant, inventions made by a fellowship recipient during the term of his award shall be subject to this condition in cases where the fellowship was awarded to support an identifiable research project. (45 CFR Parts 6 and 8)

13. *Travel.*—Travel allowances, where allowable, shall be paid in accordance with the principles contained in the applicable documents set forth in condition 4. No foreign travel is authorized under the grant unless prior approval is received from the grants officer. Travel between the United States and Guam, American Samoa, Puerto Rico, the U.S. Virgin Islands, the Canal Zone, the Trust Territory, and Canada is not considered foreign travel.

(16 Comp. Gen. 948 (1937).)

14. *Personal property.*—The grantee shall be accountable for personal property purchased with grant funds in accordance with 45 CFR Part 100a, Subpart F (Property Management Requirements).

(OMB Circular No. A-102, Attachment N.)

15. *Contracting under grants.*—Where appropriate, the grantee may enter into contracts (to the extent permitted by State and local laws) for the provision of part of the services under this grant by other appropriate public or private agencies or institutions. Such contract or agreement shall be subject to the provisions contained in 45 CFR 100a.80 (Procurement standards).

(OMB Circular No. A-102, Attachment O.)

16. *Health and safety standards.*—Whenever the grantee, acting under the terms of the grant, rents, leases, purchases, or otherwise obtains classroom facilities (or any other facilities) which will be used by students and/or faculty, the Grantee shall comply with all health and safety regulations and laws applicable to similar facilities being used in that locality for such purpose.

(20 U.S.C. 1232c(b)(1).)

17. *Compensation.*—If a staff member or consultant is involved simultaneously in two or more projects supported by funds from the Federal Government, he may not be compensated for more than a total of one hundred percent (100%) time from such Government funds for all projects during any given period of time. The grantee shall not use any grant funds or funds from other sources to pay a fee to, or travel expenses of, employees of the Office of Education for lectures, consulting, attending program functions, or other activities in connection with the grant.

(20 U.S.C. 1232c(b)(2).)

18. *Labor standards.*—a. To the extent that grant funds will be used for construction, alteration, and repair (including painting and decorating) of facilities, the grantee shall furnish the grants officer with the following in order to obtain a wage determination from the Department of Labor:

(1) A description of the alteration or repair work and the estimated cost of the work to be performed at the site;

(2) The proposed advertising and bid opening dates for the work;

(3) The city, county, and State at which the work will be performed; and

(4) The name and address of the person to whom the necessary wage determination and labor standards provisions are to be sent for inclusion in contracts.

b. All of such information shall be submitted not later than 6 weeks prior to the advertisement for bids for the alteration or repair work to be performed. The grantee shall also include or have included in all such alterations or repairs the wage determination and labor standards provisions that are provided and required by the Secretary of Labor under 29 CFR parts 3 and 5.

(20 U.S.C. 1232b, 1232c(b)(3).)

19. *Equal employment opportunity.*—With respect to repair and minor remodeling, the grantee shall comply with and provide for contractor and subcontractor compliance with the requirements of Executive Order No. 11246, as amended by Executive Order No. 11375, and as implemented by 41 CFR part 60. The terms required by Executive Order No. 11246, as so amended, will be included in any contract for construction work, or modification thereof, as defined in said Executive order.

(E.O. No. 11246, as amended.)

20. *Use of consultants.*—a. The hiring and payments to consultants shall be in accord-

ance with applicable State and local laws and regulations and grantee policies. However, for the use of and payment to consultants whose rate will exceed $100 per day, prior written approval for the use of such consultants must be obtained from the grants officer.

b. The grantee must maintain a written report for the files on the results on all consultations charged to this grant. This report must include, as a minimum: (1) The consultant's name, dates, hours, and amount charged to the grant; (2) the names of the grantee staff to whom the services are provided; and (3) the results of the subject matter of the consultation.

(c) On grants made to educational institutions for research or educational services, consultant fees may be paid to employees of the grantee institution only in unusual cases and provided one of the following sets of conditions is determined to exist:

(1) Consultation is across departmental lines and the work performed by the consultant is in addition to his regular departmental load, or

(2) Consultation involves a separate or remote operation and the work performed by the consultant is in addition to his regular departmental load.

The determination as to compliance with the above provisions may be made at the grantee level only by the head of the institution or his designated representative. In those cases where the designated representative is personally involved in the grant under consideration, this determination may only be made by the head of the institution.

(20 U.S.C. 1232c(b)(2), (b)(3).)

21. *Clearance of forms.*—a. In accordance with 45 CFR 100a.101 (Data-collection instruments), the grantee is to submit to the appropriate project officer, prior to use, 5 copies of all tests, questionnaires, interview schedules or guides, and rating scales which are to be employed in collecting data from 10 or more individuals or organizations. A brief report of related information (such as purposes of the study, relevance of the data-gathering instruments of these purposes, nature of the sample, number of respondents, burden on respondents, etc.), must accompany the copies of the instruments, in accordance with directions from the Office of Education.

b. Copies need not be submitted of conventional instruments which deal solely with (1) cognitive functions or technical proficiency (e.g., scholastic aptitude, school achievement, etc.), (2) routine demographic information, or (3) routine institutional information, but a report of the "related information" (as specified above) concerning the particular data-gathering instruments must be supplied to the program officer in order to permit appropriate monitoring and clearance.

c. Ordinary classroom tests employed in the development of a new curriculum or as part of the regular instructional routine, constituting part of the project for which funds are granted, need be neither reported nor submitted; but final tests employed in such a project, serving purposes of evaluation, must be reported; and, if significantly unusual in such essential features as content, directions, form of response, etc., 5 copies must be submitted.

(20 U.S.C. 1221c(b)(1).)

22. *Program income.* a. If the grantee is a state or local government (as defined in 45 CFR 100.1), the following conditions apply:

(1) "Program income" means gross income earned by grant-supported activities.

(2) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577). States and any agencies or instrumentalities of States will not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for project purposes.

(3) Units of local government shall return to the Federal Government interest earned on advances of grant-in-aid funds.

(4) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and, in accordance with the grant, be either added to the funds already committed to the project or deducted from total project costs for the purposes of determining the net costs on which the Federal share of costs will be based. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to the Federal Government in the absence of other specific agreements contained in this grant. The Federal share of royalties shall be computed on the same ratio basis as the Federal share of the total project cost.

(5) All other program income earned during the grant period shall be retained by the grantee and, in accordance with this grant, shall be:

(a) Added to funds committed to the project and be used to further eligible project objectives, or

(b) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(6) The grantee shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.), as a part of grant project transactions when such revenues are specifically earmarked for the project in accordance with this grant.

(OMB Circular No. A-102, Attachment E.)

b. If the grantee is not a State or local government (as defined in 45 CFR 100.1), the following conditions apply:

(1) Interest or other income earned by investment of the grant funds is termed "Investment Income." Any investment income earned by the grantee on advance funds received under this grant is to be paid to the U.S. Office of Education for deposit as miscellaneous receipts in the U.S. Treasury.

(2) Income derived by the grantee from activities supported or funded by this grant, or from the disposition of equipment (other than by sale), facilities (other than by sale), or other materials acquired or produced with grant funds, other than investment income and copyright royalty income, is termed "Grant-related Income." Grant-related income shall be disposed of, at the discretion of the Commissioner, in one of the following four ways:

(a) By using such income as a set-off against the direct Federal share of the grant while maintaining the level of expenditures provided for in the grant;

(b) By employment of the funds as a partial Federal payment under a succeeding (continuation) grant;

(c) By payment to miscellaneous receipts of the U.S. Treasury; or

(d) By using the funds to further the purposes of the grant program from which the award was made.

(3) The grantee shall obtain from the grants officer prior approval of the disposition of any facilities, services, equipment, or other materials described in condition 22.a. subject to condition 22.b.

(4) If the grantee receives any grant-related income or investment income in connection with this grant, the grantee shall maintain records of the receipt and disposition of the Federal share of such income.

(20 U.S.C. 1232c(b)(2), (b)(3); 31 U.S.C. 628; Public Law 90-577, sec. 203.)

23. *Change of key personnel.*—The project director, and other key personnel designated in the grant, are considered to be essential to the work being performed. If for any reason substitution of the director or a specified individual becomes necessary, the grantee shall provide timely written notification to the grants officer. Such written notification shall include the successor's name with a resumé of his qualifications.

(20 U.S.C. 1232c(b)(1), (b)(3).)

24. *Animal care.*—Where research animals are used in any project financed wholly or in part with Federal funds, every precaution shall be taken to assure proper care and humane treatment of such animals in accordance with the Animal Welfare Act of 1970 (Public Law 89-544, as amended).

(20 U.S.C. 1221c(b)(1).)

25. *Use of small businesses and minority owned businesses.* In order to stimulate small business enterprises and minority business enterprises and enable them to exercise a more effective role in the commercial life of the Nation, it is the policy of the Department and the Office of Education to encourage grantees to be aware of, solicit, and make use of such enterprises in the acquisition of services or products, including construction, alteration and renovation, consultant and other services, and procurement of supplies and equipment.

In carrying out this policy objective, grantees are encouraged to:

a. Become aware of those small business enterprises and minority business enterprises that are competent to perform the services or provide the products that the grantees usually acquire;

b. Ensure that such firms are included in invitations for bids or requests for proposals;

c. Make use of the advice and assistance available from Government organizations, such as the Small Business Administration, the Department's Office of Minority Business Assistance, and the Commerce Department's Office of Minority Business Enterprise; and

d. Contact the HEW regional engineer on construction, alteration, or repair projects.

(20 U.S.C. 1232c(b)(1).)

Appendix B—Cost Principles for State and Local Governments

Part I—General

A. *Purpose and scope.*—1. *Objectives.*—This appendix sets forth principles for determining the allowable costs of programs administered by State and local governments under grants from and contracts with the Federal Government. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

2. *Policy guides.*—The application of these principles is based on the fundamental premises that:

a. State and local governments are responsible for the efficient and effective administration of grant and contract programs through the application of sound management practices.

b. The grantee or contractor assumes the responsibility for seeing that federally assisted program funds have been expended and accounted for consistent with underlying agreements and program objectives.

c. Each grantee or contractor organization, in recognition of its own unique combination

of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.*—These principles will be applied in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) except those with (a) publicly financed educational institutions subject to appendix C to this subchapter and (b) publicly owned hospitals and other providers of medical care.

B. *Definitions.* 1. "Approval or authorization of the grantor Federal agency" means documentation evidencing consent prior to incurring specific cost.

2. "Cost allocation plan" means the documentation identifying, accumulating, and distributing allowable costs under grants and contracts together with the allocation methods used.

3. "Cost," as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal grantor agency as a discharge of the grantee's accountability for Federal funds.

4. "Cost objective" means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities.

5. "Federal agency" means the U.S. Office of Education.

6. "Grant" means an agreement between the Federal Government and a State or local government whereby the Federal Government provides funds or aid in kind to carry out specified programs, services, or activities. The principles and policies stated in this appendix as applicable to grants in general also apply to any federally sponsored cost reimbursement type of agreement performed by a State or local government, including contracts, subcontracts and subgrants.

7. "Grant program" means those activities and operations of the grantee which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee.

8. "Grantee" means the department or agency of State or local government which is responsible for administration of the grant.

9. "Local unit" means any political subdivision of government below the State level.

10. "Other State or local agencies" means departments or agencies of the State or local unit which provide goods, facilities, and services to a grantee.

11. "Services," as used herein, means goods and facilities, as well as services.

12. "Supporting services" means auxiliary functions necessary to sustain the direct effort involved in administering a grant program or an activity providing service to the grant program. These services may be centralized in the grantee department or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger services, and the like.

C. *Basic guidelines.*—1. *Factors affecting allowability of costs.*—To be allowable under a grant program, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. Be authorized or not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

e. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

f. Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

g. Be net of all applicable credits.

2. *Allocable costs.*—a. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

b. Any cost allocable to a particular grant or cost objective under the principles provided for in this appendix may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

c. Where an allocation of joint cost will ultimately result in charges to a grant program, an allocation plan will be required as prescribed in section J.

3. *Applicable credits.*—a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

D. *Composition of cost.*—1. *Total cost.*—The total cost of a grant program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs.*—There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is essential therefore that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the sections which follow.

E. *Direct costs.*—1. *General.*—Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

2. *Application.*—Typical direct costs chargeable to grant programs are:

a. Compensation of employees for the time and effort devoted specifically to the execution of grant programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.

c. Equipment and other approved capital expenditures.

d. Other items of expense incurred specifically to carry out the grant agreement.

e. Services furnished specifically for the grant program by other agencies, provided such charges are consistent with criteria outlined in section G of these principles.

F. *Indirect costs.*—1. *General.*—Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

2. *Grantee departmental indirect costs.*—All grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this appendix. In lieu of determining the actual amount of grantee departmental indirect cost allocable to a grant program, the following methods may be used:

a. *Predetermined fixed rates for indirect costs.*—A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

b. *Negotiated lump sum for overhead.*—A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a grantee department's indirect services cannot be readily determined as in the case of small, self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the grantee department before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

3. *Limitation on indirect costs.*—a. Federal grants may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor grants of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such grant does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this appendix, whichever is the smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this appendix, the amount not recoverable as indirect costs under a grant may not be shifted to another federally sponsored grant program or contract.

G. *Costs incurred by agencies other than the grantee*—1. *General.*—The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs (section B.12.) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

2. *Alternative methods of determining indirect cost.*—In lieu of determining actual indirect cost related to a particular service furnished by another agency, either of the following alternative methods may be used provided only one method is used for a specific service during the fiscal year involved.

a. *Standard indirect rate.*—An amount equal to 10 percent of direct labor cost in providing the service performed by another State agency (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

b. *Predetermined fixed rate.*—A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F.2.a.

H. *Cost incurred by grantee department for others*—1. *General.*—The principles provided in section G. will also be used in determining the cost of services provided by the grantee department to another agency.

J. *Cost allocation plan*—1. *General.*—A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. *Requirements.*—The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational units which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. The nature and extent of services provided and their relevance to the federally sponsored programs.

b. The items of expense to be included.

c. The methods to be used in distributing cost.

3. *Instructions for preparation of cost allocation plans.*—The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government levels as well as indirect cost proposals of individual grantee departments.

4. *Negotiation and approval of indirect cost proposals for States.*—a. The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

b. At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in a. above for the negotiation, approval, and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. Questions concerning the cost allocation plans approved under a. and b. above should be directed to the agency responsible for such approvals.

5. *Negotiation and approval of indirect cost proposals for local governments.*—a. Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

b. A list of cognizant Federal agencies assigned responsibility for negotiation, approval, and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval, and audit of the indirect cost proposal.

PART II. STANDARDS FOR SELECTED ITEMS OF COST

A. *Purpose and applicability*—1. *Objective.*—This part provides standards for determining the allowability of selected items of cost.

2. *Application.*—These standards will apply irrespective of whether a particular item of cost is treated as direct or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles stated in part I of this appendix.

B. *Allowable costs*—1. *Accounting.*—The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of Government and is not allowable.

2. *Advertising.*—Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

a. Recruitment of personnel required for the grant program.

b. Solicitation of bids for the procurement of goods and services required.

c. Disposal of scrap or surplus materials acquired in the performance of the grant agreement.

d. Other purposes specifically provided for in the grant agreement.

3. *Advisory councils.*—Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out grant programs are allowable. The cost of like organizations is allowable when provided for in the grant agreement.

4. *Audit service.*—The cost of audits necessary for the administration and management of functions related to grant programs is allowable.

5. *Bonding.*—Costs of premiums on bonds covering employees who handle grantee agency funds are allowable.

6. *Budgeting.*—Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the grantee agency's budget process, the cost of identifiable services is allowable.

7. *Building lease management.*—The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

8. *Central stores.*—The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

9. *Communications.*—Communication costs incurred for telephone calls or service, telegraph, teletype service, wide-area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

10. *Compensation for personal services.*—a. *General.*—Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries and supplementary compensation and benefits (section B.13.). The costs of such compensation are allowable to the extent that total compensation for individual employees: (1) Is reasonable for the services rendered; (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable; and (3) is determined and supported as provided in b. below. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

b. *Payroll and distribution of time.*—Amounts charged to grant programs for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used

should produce an equitable distribution of time and effort.

11. *Depreciation and use allowances.*—a. Grantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost of any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal grant programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor Federal agency.

c. Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

12. *Disbursing service.*—The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

13. *Employee fringe benefits.*—Costs identified under a. and b. below are allowable to the extent that total compensation for employees is reasonable as defined in section B.10.

a. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) Provided pursuant to an approved leave system and (2) the cost thereof is equitably allocated to all related activities, including grant programs.

b. Employee benefits in the form of employer's contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

14. *Employee morale, health and welfare costs.*—The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy, are allowable. Income generated from any of these activities will be offset against expenses.

15. *Exhibits.*—Costs of exhibits relating specifically to the grant programs are allowable.

16. *Legal expenses.*—The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

17. *Maintenance and repair.*—Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

18. *Materials and supplies.*—The cost of materials and supplies necessary to carry out the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

19. *Memberships, subscriptions and professional activities.*—a. *Memberships.*—The cost of membership in civic, business, technical and professional organizations is allowable provided: (1) The benefit from the membership is related to the grant program, (2) the expenditure is for agency membership, (3) the cost of the membership is reasonably related to the value of the services of benefits received, and (4) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

b. *Reference material.*—The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.

c. *Meetings and conferences.*—Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the grantee.

20. *Motor pools.*—The costs of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

21. *Payroll preparation.*—The cost of preparing payrolls and maintaining necessary related wage records is allowable.

22. *Personnel administration.*—Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for grant programs are allowable.

23. *Printing and reproduction.*—Costs for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature is allowable. Publication costs of reports or other media relating to grant program accomplishments or results are allowable when provided for in the grant agreement.

24. *Procurement service.*—The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities, and services for grant programs is allowable.

25. *Taxes.*—In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

26. *Training and education.*—The cost of in-service training, customarily provided for employee development which directly or indirectly benefits grant programs is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by the grantor agency.

27. *Transportation.*—Costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

28. *Travel.*—Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

C. *Costs allowable with approval of grantor agency*—1. *Automatic data processing.*—The cost of data processing services to grant programs is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of the grantor Federal agency as provided under the selected item for capital expenditures.

2. *Building space and related facilities.*—The cost of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy, without authorization of the grantor Federal agency.

a. *Rental cost.*—The rental cost of space in a privately owned building is allowable.

b. *Maintenance and operation.*—The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, is allowable to the extent they are not otherwise included in rental or other charges for space.

c. *Rearrangements and alterations.*—Cost incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities (sec. C.3) is allowable when specifically approved by the grantor agency.

d. *Depreciation and use allowances on publicly owned buildings.*—These costs are allowable as provided in section B.11.

e. *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.*—The cost of space procured under such arrangements is allowable when

specifically approved by the Federal grantor agency.

3. *Capital expenditures.*—The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the Federal grantor agency. When assets acquired with Federal grant funds are: (a) Sold, (b) no longer available for use in a federally sponsored program, or (c) used for purposes not authorized by the grantor agency, the Federal grantor agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

4. *Insurance and indemnification.*—a. Costs of insurance required, or approved and maintained pursuant to the grant agreement, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for a self-insurance program approved by the Federal grantor agency are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved selfinsurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the grantee only to the extent expressly provided for in the grant agreement, except as provided in d above.

5. *Management studies.*—The cost of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the cost of studies performed by agencies other than the grantee department or outside consultants is allowable only when authorized by the Federal grantor agency.

6. *Preagreement costs.*—Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

7. *Professional services.*—Cost of professional services rendered by individuals or organizations not a part of the grantee department is allowable subject to such prior authorization as may be required by the Federal grantor agency.

8. *Proposal costs.*—Costs of preparing proposals on potential Federal Government grant agreements are allowable when specifically provided for in the grant agreement.

D. *Unallowable costs.*—1. *Bad debts.*—Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

2. *Contingencies.*—Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

3. *Contributions and donations.*—Unallowable.

4. *Entertainment.*—Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

5. *Fines and penalties.*—Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable.

6. *Governor's expenses.*—The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable.

7. *Interest and other financial costs.*—Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

8. *Legislative expenses.*—Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

9. *Underrecovery of costs under grant agreements.*—Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

(OMB Circular No. A-87.)

APPENDIX C—COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS

PART I. PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO RESEARCH AND DEVELOPMENT UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose and scope.*—1. *Objectives.*—This appendix provides principles for determining the costs applicable to research and development work (part I) and training (part II) performed by educational institutions under grants from and contracts with the Federal Government. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular research or development or training project. The principles are designed to provide recognition of the full allocated costs of such research or training work under generally accepted accounting principles. No provision for profit or other increment above cost is intended.

2. *Policy guides.*—The successful application of these principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for agency and institutional participation in the financing of a research and development project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable.

b. Each college and university, possessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

c. Each institution, in the fulfillment of its obligations, should employ sound management practices.

d. The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities.

e. Institutions shall apply the cost principles and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments will be fully considered during the rate negotiations and audit.

3. *Application.*—The Commissioner will apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles will also be used as a guide in the pricing of fixed price contracts or lump sum agreements.

B. *Definition of terms.*—1. "Organized research" means all research activities of an institution that are separately budgeted and accounted for.

2. "Departmental research" means research activities that are not separately budgeted and accounted for. Such research work, which includes all research activities not encompassed under the term "organized research," is regarded for purposes of this document as a part of the instructional activities of the institution.

3. "Research agreement" means any valid arrangement to perform federally sponsored research, including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts for research.

4. "Other institutional activities" means all organized activities of an institution not directly related to the instruction and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar activities or auxiliary enterprises. Also included under this definition is any other category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institutions indirect costs (as defined in section E.1.) are properly allocable.

5. "Apportionment" means the process by which the indirect costs of the institution are assigned as between (a) instruction and research and (b) other institutional activities.

6. "Allocation" means the process by which the indirect costs apportioned to instruction and research are assigned as between (a) organized research and (b) instruction, including departmental research.

7. "Stipulated salary support" is a fixed or a stated dollar amount of the salary of professional or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

8. "Federal agency or sponsoring agency" means the U.S. Office of Education.

C. *Basic considerations*—1. *Composition of total costs.*—The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in section C.5.

2. *Factors affecting allowability of costs.*—The tests of allowability of costs under these principles are: (a) They must be reasonable; (b) they must be allocable to research agreements under the standards and methods provided herein; (c) they must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or

exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

3. *Reasonable costs.*—A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) Whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the research agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and research agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including Government research.

4. *Allocable costs.*—a. A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the institution in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the institution and, in the light of the standards provided in this appendix, is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items is specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular research agreement under the standards provided in this appendix may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

5. *Applicable credits.*—a. The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs. Typical examples of such transactions are: Purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See sections F.6., J.10.b., and J.37. for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.*—Costs incurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs such as pension plans, FICA and any other costs specifically disbursed in behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of such institutions, subject to the following:

a. Such costs meet the requirements of sections C.1. through C.5.

b. Such costs are properly supported by cost allocation plans in accordance with appendix B to this part.

c. Such costs are not otherwise borne directly or indirectly by the Federal Government.

D. *Direct costs.*—1. *General.*—Direct costs are those costs which can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to research agreements.*—Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

E. *Indirect costs.*—1. *General.* Indirect costs are those that have been incurred for common or joint objectives and therefore cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions such costs normally are classified under the following functional categories: General administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

2. *Criteria for distribution.*—a. *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.*—The overall objective of the allocation and apportionment process is to distribute the indirect costs described in section F to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in section E.1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c. below. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in d. below.

c. *General considerations on cost groupings.*—The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in b. above and d. below.

(2) Where any types of expense ordinarily treated as general administration and general expenses or departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organize research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in section B.4.) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(6) The number of separate cost groupings within a functional category should be held within practical limits after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. *Selection of distribution method.*—(1) Actual conditions must be taken into account in selecting the method or base to be

used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under b. above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results that are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (a) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (b) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (c) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (d) be performed specifically at the institution at which the results are to be used, and (e) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. *Administration of limitations on allowances for research costs.*—Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this appendix, the amount not recoverable under that research agreement may not be charged to other research agreements.

F. *Identification and assignment of indirect costs.*—1. *General administration and general expenses.*—a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution; i.e., solely to (1) instruction, (2) organized research, or (3) other institutional activities. The general administration and general expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category may be apportioned and allocated on the basis of total expenditures exclusive of capital expenditures in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the institution; otherwise the distribution of general administration and general expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

2. *Research administration expenses.*—a. The expenses under this heading are those that have been incurred by a separate organization or identifiable administrative unit established solely to administer the research activity, including such functions as contract administration, security, purchasing, personnel administration, and editing and publishing of research reports. They include the salaries and expenses of the head of such research organization, his assistants, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the research organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to research administration is supported as required by section J.7. The research administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be allocated to organized research and, where necessary, to departmental research or to any other benefiting activities on any basis reflecting the proportion fairly applicable to each. (See section E.2.d.)

3. *Operation and maintenance expenses.*—a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture, and equipment; and care of grounds and maintenance and operation of buildings and other plan facilities. The operation and maintenance expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be apportioned and allocated to applicable cost objectives in a manner consistent with the guides provided in section E.2. on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows: (1) Where actual space and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records; (2) where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost objectives normally will suffice as a means for effecting distribution of the amounts of operation and maintenance expenses involved; or (3) where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of facilities by research personnel and others, including students.

4. *Library expenses.*—a. The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under section C.5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder. Costs incurred in the purchases of rare books (museum-type books) with no research value should not be allocated to Government-sponsored research.

b. The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in section E.2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students, and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

5. *Departmental administration expenses.*—a. The expenses under this heading are those that have been incurred in academic deans' offices, academic departments, and organized research units such as institutes, study centers, and research centers for administrative and supporting services which benefit common or joint departmental activities or objectives. They include the salaries and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments, divisions, or organized research units, and their administrative staffs together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like provided such supporting services cannot be directly identified with a specific research project, with an instructional activity or with any other institutional activity. The salaries of other members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by section J.7. The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The distribution of departmental administration expenses should be made through use of selected bases applied to cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

6. *Setoff for indirect expenses otherwise provided for by the Government.*—a. The items to be accumulated under this heading are the reimbursements and other receipts from the Federal Government which are used by the institution to support directly, in whole or in part, any of the administrative or service (indirect) activities described in the foregoing (secs. F.1. through F.5.). They include any amounts thus applied to such activities which may have been received pursuant to an institutional base grant or any similar contractual arrangement with the Federal Government other than a research agreement as herein defined (sec. B.3.).

b. The sum of the items in this group shall be treated as a credit to the total indirect cost pool before it is apportioned to organized research and to other activities. Such setoff shall be made prior to the determination of the indirect cost rate or rates as provided in section G.

G. *Determination and application of indirect cost rate or rates.*—1. *Indirect cost pools.*—a. Subject to b. below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

b. In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under a. above and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

2. *The distribution base.*—Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section G.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demontsrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.*—A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted research activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.*—Public Law 87-638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carryforward provisions.*—When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carryforward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

H. *Simplified method for small institutions.*—1. *General.*—a. Where the total direct cost of all federally supported work under research and educational service agreements at an institution does not exceed $1 million in a fiscal year (excluding direct payments by the institution to participants under educational service agreements for stipends, support, and similar costs requiring little, if any, indirect cost support), the use of the abbreviated procedure described in 2. below may be used in determining allowable indirect costs. Under this abbreviated procedure, the institution's most recent annual financial report and immediately available supporting information, with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable both to federally supported research and educational service agreements.

b. The rigid formula approach provided under this abbreviated procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Abbreviated procedure.*—a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under 2.b.(1) and 2.b.(2) have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established under 2.a. the amount of salaries and wages included under 2.b.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool 2.b. by the amount of the distribution base 2.c.

e. Apply the indirect cost rate established to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

J. *General standards for selected items of cost.*—Sections J.1. through J.46. provide standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern.

1. *Advertising costs.*—The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for (a) the recruitment of personnel required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs, as set forth

in J.32.; (b) the procurement of scarce items for the performance of the research agreement; or (c) the disposal of scrap or surplus materials acquired in the performance of the research agreement. Cost of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in sections D and E are observed.

2. *Bad debts.*—Any losses, whether actual or estimated arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Capital expenditures.*—The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement. Government funds shall not be used for the acquisition of land, or any interest therein, except with the specific prior approval of the sponsoring agency.

4. *Civil defense costs.*—Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in section J.10. Costs of local civil defense projects not on the institution's premises are unallowable.

5. *Commencement and convocation costs.*—Costs incurred for commencements and convocations apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

6. *Communication costs.*—Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

7. *Compensation for personal services.*—a. *General.*—Compensation for personal services covers all remuneration paid currently or accrued to the institution for services of employees rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see section J.39), and pension plan costs (see section J.23). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

b. *Payroll distribution.*—Amounts charged to organized research for personal services, except stipulated salary support, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of personal service costs to: (1) Instruction, (2) organized research, and (3) indirect activities as defined in section E.1., or (4) other institutional activities as defined in section B.4., will be provided as described in c., d., e., and f., below.

c. *Stipulated salary support.*—As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professorial staff, any part of whose compensation is chargeable to Government-sponored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

d. *Direct charges for personal services under payroll distribution.*—The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either: (1) An adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual investigators, deans, departmental chairmen or supervisors having first-hand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

e. *Direct charges for personal services under stipulated salaries.*—The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off-period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in section K will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member: (1) Was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

f. *Indirect personal services costs.*—Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

g. *General guidance for charging personal services.*—Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

h. *Nonuniversity professional activities.*—A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where university-wide policies do not adequately define the permissible extent of consultantships or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities and (2) nonuniversity professional activities. If the sponsoring agency should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

i. *Salary rates for academic year.*—Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of

the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided for in the research agreement or approved in writing by the sponsoring agency.

j. *Salary rates for periods outside the academic year.*—Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with other subsections of J.7.

k. *Salary rates for part-time faculty.*—Charges for work performed on Government research by faculty members having only part-time appointments for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

8. *Contingency provisions.*—Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Deans of faculty and graduate schools.*—The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

10. *Depreciation and use allowances.*—a. Institutions may be compensated for the use of buildings, capital improvements, and usable equipment on hand through use allowances or depreciation. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not considered. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides and, secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved. Amortization methods once used should not be changed for a given building or equipment unless approved in advance by the cognizant Federal agency.

c. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable and needed equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable and needed equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

d. Where the depreciation method is followed, adequate property record must be maintained and periodic inventory (a statistical sampling basis is acceptable) must be taken to insure that properties for which depreciation is charged do exist and are needed. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that, under d above, would be viewed as fully depreciated: *Provided, however,* That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

11. *Employee morale, health, and welfare costs and credits.*—The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.*—Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other facilities.*—The costs of permanent equipment or other facilities are allowable where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement. Total expenditures for permanent equipment may not exceed 125 percent of the amount allotted for the permanent equipment category by the sponsoring agency (through an approved budget or other document) except with approval. The term "permanent equipment" shall mean an item of property which has an acquisition cost of $200 or more and has an expected service life of 1 year or more.

a. *General purpose equipment.*—Approval must be obtained to acquire with Government funds any general purpose permanent equipment, i.e., any items which are usable for activities of the institution other than research, such as office equipment and furnishings, air conditioning, reproduction or printing equipment, motor vehicles, etc., or any automatic data processing equipment.

b. *Research equipment.*—Approval must be obtained to acquire with Government funds any item of permanent research equipment costing $1,000 or more.

14. *Fines and penalties.*—Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the contracting officer.

15. *Insurance and indemnification.*—a. Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) Types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as

spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the research agreement, except as provided in d above.

16. *Interest, fundraising, and investment management costs.*—a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are not allowable under Government research agreements.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable under Government research agreements.

d. Costs related to the physical custody and control of moneys and securities are allowable.

17. *Labor relations costs.*—Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

18. *Losses on other research agreements or contracts.*—Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

19. *Maintenance and repair costs.*—Costs incurred for necessary maintenance, repair or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

20. *Material costs.*—Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

21. *Memberships, subscriptions and professional activity costs.*—a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

22. *Patent costs.*—Costs of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable (see also section J.33).

23. *Pension plan costs.*—Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

24. *Plant security costs.*—Necessary expenses incurred to comply with Government security requirements, including wages, uniforms and equipment of personnel engaged in plant protection, are allowable.

25. *Preresearch agreement costs.*—Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

26. *Professional services costs.*— a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to b. and c. below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include: (1) The past pattern of such costs, particularly in the years prior to the award of Government research agreements; (2) the impact of Government research agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization or the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the research agreement.

27. *Profits and losses on disposition of plant, equipment, or other capital assets.*—Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall not be considered in computing research agreement costs.

28. *Proposal costs.*—Proposal costs are the costs of preparing bids or proposals on potential Government and non-Government research agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.*—Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

30. *Rearrangement and alteration costs.*—Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

31. *Reconversion costs.*—Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable.

32. *Recruiting costs.*—a. Subject to b., c., and d. below: *And provided,* That the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Royalties and other costs for use of patents.*—Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent

is considered to be unenforceable, or the patent has expired.

34. *Sabbatical leave costs.*—Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all appertaining activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

35. *Scholarships and student aid costs.*—Costs of scholarships, fellowships and other forms of student aid apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, any tuition remissions to such students for work performed are allocable to such research agreements provided consistent treatment is accorded such costs. (See section J. 39.)

36. *Severance pay.*—a. Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover and which otherwise meet the condtions of a. above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

37. *Specialized service facilities operated by institution.*—a. The costs, including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, in-use, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of b. or c. below, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under section C.5.

b. The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommodation sales of computer services will be charged at not less than the above rates; however, if the rates charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this paragraph, it is not necessary that the rates charged for services be equal to the cost of providing those services during any 1 fiscal year.

c. In the absence of an acceptable arrangement for direct costing as provided in b. above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with the cognizant Federal agency in order to assure equitable distribution of the indirect costs.

38. *Special services costs.*—Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

39. *Staff benefits.*—a. Staff benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all institutional activities, including organized research, in proportion to the relative amount of time or effort actually devoted to each. (See sec. J.34. for treatment of sabbatical leave.)

b. Staff benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, the pension plan (see sec. J.23.), tuition or remission of tuition for individual employees or their families (see sec. J.35.), and the like, are allowable provided such benefits are granted in accordance with established institutional policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

40. *Student activity costs.*—Costs incurred for intramural activities, student publications, student clubs, and other student activities, apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

41. *Student services costs.*—Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health, and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, a proportion of student services costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

42. *Taxes.*—a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs, will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or created to an institution incident to a refund of tax, interest and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

43. *Transportation costs.*—Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

44. *Travel costs.*—a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c., d., e., and f., below, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

f. Expenditures for domestic travel may not exceed $500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval.

45. *Termination costs applicable to research agreements.*—a. Termination of research agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this appendix in the case of termination.

b. The cost of common items of materials reasonably usable on the institution's other work will not be allowable unless the insti-

tution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this appendix, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other government agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) Accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. *Certification of charges.*—To assure that expenditures for research grants and contracts are proper and in accordance with the research agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under research agreements will include a certification, signed by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payments requested) are for appropriate purposes and in accordance with the agreements set forth in the application and award documents."

PART II. PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO TRAINING AND OTHER EDUCATIONAL SERVICES UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose.*—This part extends the scope of part I to cover the determination of costs incurred by educational institutions under Federal grants and contracts for training and other educational services.

B. *Application.*—The Commissioner will use parts I and II of this appendix as a basis for determining allowable costs under grants and cost reimbursement type contracts with educational institutions for work performed under federally supported educational service agreements.

C. *Terminology.*—The following definitions are to be used in determining the indirect cost of federally sponsored training and other educational services under this part:

1. *Educational service agreement* means any grant or contract under which Federal financing is provided on a cost reimbursement basis for all or an agreed portion of the costs incurred for training or other educational services. Typical of the work covered by educational service agreements are summer institutes, special training programs for selected participants, professional or technical services to cooperating countries, the development and introduction of new or expanded courses, and similar instructional oriented undertakings, including special research training programs, that are separately budgeted and accounted for by the institution.

The term does not extend to (a) grants or contracts for organized research, (b) arrangements under which the Federal financing is exclusively in the form of scholarships, fellowships, traineeships, or other fixed amounts such as a cost of education allowance or the normal published tuition rates and fees of an institution, or (c) construction, facility and exclusively general resource or institutional type grants.

2. *Instruction* means all of the academic work other than organized research carried on by an institution, including the teaching of graduate and undergraduate courses, departmental research (see section B.2. of part I) and all special training or other instructional oriented projects sponsored by the Federal Government or others under educational service agreements.

D. *Student administration and services.*—In addition to the five major functional categories of indirect costs described in section F of part I, there is established an additional category under the title "Student administration and services" to embrace the following:

1. The expenses in this category are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to section J.2. The student administration and services category also includes the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the cost of the operation and maintenance of the physical plant, and charges representing use allowance or depreciation applicable to the buildings and equipment utilized in the performance of the functions included in this category.

2. The expenses in this category are generally applicable in their entirety to the instruction activity. They should be allocated to applicable cost objectives within the instruction activity, including educational service agreements, when such agreements reasonably benefit from these expenses. Such expenses should be allocated on the basis of population served (computed on the basis of full-time equivalents including students, faculty, and others as appropriate) or other methods which will result in an equitable distribution to cost objectives in relation to the benefits received and be consistent with guides provided in section E.2. of part I.

E. *Direct costs of educational service agreements.*—Direct costs of work performed under educational service agreements will be determined consistent with the principles set forth in section D of part I.

F. *Indirect costs of the instruction activity.*—The indirect costs of the instruction activity as a whole should include its allocated share of administrative and supportive costs determined in accordance with the principles set forth in section D above and in section F of part I. Such costs may include other items of indirect cost incurred solely for the instruction activity and not included in the general allocation of the various categories of indirect expenses. Costs incurred for the institutions by State and local governments are allowable as provided for in section C.6. of part I.

G. *Indirect costs applicable to educational service agreements.*—The individual items of indirect costs applicable to the instruction activity as a whole should be assigned to (1) educational service agreements and (2) all other instructional work through use of appropriate cost groupings, selected distribution bases, and other reasonable methods as outlined in section E.2. of part I. A single indirect pool may be used for all educational service agreements provided this results in a reasonably equitable distribution of costs among agreements in relation to indirect support services provided. However, when the level of indirect support significantly varies for work performed either on campus or off campus under a particular agreement or group of agreements, separate cost pools should be established consistent with the principles set forth in section G.1.b. of part I. Where direct charges are provided for under educational service agreements for such things as commencement fees, student fees, and tuition, the related indirect costs, through separate cost groupings, should be excluded from the indirect costs allocable to the service agreements.

H. *Indirect cost rates for educational service agreements.*—An indirect cost rate should be determined for the educational service agreement pool or pools, as established under section G above. The rate in each case should be stated as the percentage which the amount of the particular educational service agreement pool is of the total direct salaries and wages of all educational service agreements identified with such pool. Indirect costs should be distributed to individual agreements by applying the rate or rates established to direct salaries and wages for each agreement. When a fixed rate is negotiated in advance of a fiscal year, the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation as in sections G.4. and G.5. of part I.

J. *General standards for selected items of cost.*—The standards for selected items of cost as set forth in sections J.1. through J.46. of part I applicable to research agreements will also be applied to educational

service agreements with the following modifications:

1. *Commencement and convocation costs (J.5.).*—Expenses incurred for convocations and commencements apply to the instruction activity as a whole. Such expenses are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

2. *Compensation for personal services (J.7.).*—Charges to educational service agreements for personal services will normally be determined and supported consistent with the provisions of section J.7. of part I. However, the provision for stipulated salary support will not be used for educational service agreements. Also, charges may include compensation in excess of the base salary of a faculty member for the conduct of courses outside the normal duties of such member provided that: (a) Extra charges are determined at a rate not greater than the basic salary rate of the member; (b) salary payments for such work follow practices consistently applied within the institution; and (c) specific authorization for such charges is included in the educational service agreement.

3. *Scholarships and student aid costs (J.35.).*—Expenses incurred for scholarship and student aid are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

4. *Student activity costs (J.40.).*—Expenses incurred for student activities are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

5. *Student services costs (J.41.).*—Expenses incurred for student services are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

(OMB Circular No. A-21.)

Appendix D—Cost Principles for Non-Profit Institutions

A. *Purpose and scope.*—1. *Objectives.*—This appendix provides principles for determining the costs applicable to grants and contracts awarded by the Commissioner and performed by non-profit organizations other than educational institutions, hospitals and State and local government organizations. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a partcular project. The principles are designed to provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles.

2. *Definition of non-profit institution.*—(a) A non-profit institution for purposes of this document is any corporation, foundation, trust, association, cooperative or other organization other than (i) educational institutions, (ii) hospitals, and (iii) State and local governmental agencies, bureaus or departments, which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, which is not organized primarily for profit and which uses all income exceeding costs to maintain, improve and/or expand its operations.

The charter or or other legally binding authority for the existence of the institution must provide that no part of the net earnings, properties or other assets of the institution, on dissolution or otherwise shall inure to the benefits of any private person or individual including any member, employee, officer, director or trustee of the institution, and that, on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation or other organization formed and operated as a non-profit institution, as defined herein, as the board of directors or trustees may determine. Institutions which have received tax exemptions as non-profit institutions from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(b) For purposes of this document, the terms non-profit and not-for-profit as they are descriptively applied to institutions shall be considered synonymous provided the requirements of 2(a) are met.

3. *Policy Guides.*—The successful application of these principles requires development of mutual understanding between representatives of nonprofit institutions and of the Federal Government as to their scope, applicability, and interpretation. It is recognized that the arrangements for agency and institutional participation in the financing of a project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable, that each institution should be expected to employ sound management practice in the fulfillment of its obligation, and that each grantee or contractor organization in recognition of its own unique combination of staff, facilities, and experience should be responsible for employing whatever form of organization and management techniques as may be necessary to assure proper efficient administration.

4. *Application.*—These principles shall be applied in determining cost incurred in the performance of all grants and cost-reimbursement type contracts awarded by the Commissioner. The principles shall also apply to cost-reimbursement type contracts performed under grants and cost-reimbursement type subcontracts and shall be used as a guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. *Basic considerations.*—1. *Composition of total cost.*—The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits. In ascertaining what constitutes costs, any generally accepted accounting method of determining or estimating costs that is equitable under the circumstances may be used.

2. *Factors affecting allowability of costs.*—Factors to be considered in determining the allowability of individual items of cost include (a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this document or otherwise included in the grant/contract as to types or amounts of cost items.

3. *Definition of reasonableness.*—A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with institutions or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant/contract;

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and grant/contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the public at large, the Government, his employees, his clients, shareholders or members and the fulfillment of the purposes for which the institution was organized; and

(d) Significant deviations from the established practices of the institution which may unjustifiably increase the grant/contract costs.

4. *Definition of allocability.*—A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a grant/contract, project, product, service, process, or other major activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government grant/contract if it:

(a) Is incurred specifically for the grant/contract;

(b) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

Where an organization utilizes the standards of accounting and financial reporting for voluntary health and welfare organizations (or comparable generally accepted accounting standards peculiar to its particular organizational structure or activity) to allocate costs to nonfederally supported activities it must also use such standards to allocate costs to Federal grants/contracts.

5. *Applicable credits.*—The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost, received by or accruing to the grantee/contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

C. *Direct costs.*—1. A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with the grant/contract are direct costs of the grant/contract and may be charged directly thereto. Costs identified specifically with other work of the institution are direct costs of that work and are not to be charged to the grant/contract either directly or indirectly. Items charged as direct cost to Government-supported projects must be charged in a uniform manner to all other work of the institution in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the institution's established accounting system provides for the treatment of certain items of cost as direct costs of the institution, then the same items must be considered direct

costs to Government-supported projects and may not be included in the indirect cost pool.

2. Certain types of cost, or costs associated with certain activities are not reimbursable as a charge to a grant/contract. These unallowable costs or activities are identified in section G. Even though a particular activity or cost is designated as unallowable for purposes of computing costs charged to Government work, it nonetheless must be treated as a direct cost or activity if a portion of the institution's indirect cost (as defined in section D) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in section D.2. In general, an unallowable institutional activity shall be treated as a direct function when it (1) includes salaries of personnel, (2) occupies space, and (3) is serviced by an indirect cost grouping(s). Thus the costs associated with the following types of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls, subscriptions, publications and related functions.

(b) Providing services and information to members, legislative or administrative bodies or the public.

(c) Promotion, lobbying and other forms of public relations.

(d) Meetings and conferences except those held to conduct the general administration of the institution.

(e) Fund raising.

(f) Maintenance, protection ,and investment of special funds not used in operation of institutions.

(g) Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, etc.

(h) Other activities performed primarily as a service to a membership, clients, or the public.

3. This definition shall be applied to all items of cost of significant amount unless the institution demonstrates that the application of any different current practice achieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in section D.

D. *Indirect costs.*—1. An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant/contract or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. The overall objective of the allocation process is to distribute the indirect costs of the institution to its various major activities or cost objectives in reasonable proportions with the benefits provided to those activities or cost objective. Because of the diverse natures and purposes of organizations falling within the definition of a nonprofit organization, it is impractical to specifically identify those functions which constitute major activities for purposes of identifying and distributing indirect costs. Such identification will be dependent upon an institution's purpose-in-being, the services it renders to the public, its clients and/or members, the amount of effort devoted to fund raising activities, public relations, and membership activities, etc (see sec. C.2.).

2. Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the groupings on the basis of the benefits accruing to the several cost objectives. Subgrouping may be required where there is no single equitable distribution base for all the elements of cost comprising a group. Actual conditions must be taken into account in selecting the method or base to be used in distributing the expenses assembled under each of the individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to the cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided: (1) It can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to the cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

4. A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

E. *Determination and application of indirect cost rate or rates.*—1. *Indirect cost pools.*—(a) Subject to (b) below, indirect costs allocable to an institution's direct functions should be treated as a common pool, and the costs in such common pool should then be distributed to the individual projects benefiting therefrom by use of a single rate.

(b) In some instances a single rate for use across the board on all activities at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of work at the institution. For this purpose, a particular segment of work may be that performed under a single grant/contract or it may consist of work under a group of grants/contracts performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that: (1) Such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (2) the volume of work to which such rate would apply is material in relation to other activity at the institution.

2. *The distribution base.*—Indirect costs should be distributed to each applicable project on the basis of direct salaries and wages, total direct costs or other basis which results in an equitable distribution. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section E.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the base selected.

F. *Application of principles and procedures.*—1. Costs shall be allowed to the extent that they are reasonable (see B.3.) allocable (see B.4.) and determined to be allowable in view of the other factors set forth in paragraph B.2. and section G. These criteria apply to all of the selected items of cost which follow notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

2. Costs of all subcontracts under a grant or cost-reimbursement type contract are subject to those Federal cost regulations and policies appropriate to the subcontract involved. Thus if the subcontract is for supplies or services with a nonprofit institution other than an educational institution, hospital or State and local governmental unit, this document would apply; if the subcontract is for supplies or services with a commercial organization, Federal Procurement Regulation Part 1.15.2 would apply; if the subcontract is with an educational institution, OMB Circular No. A-21 (Federal Procurement Regulation Part 1.15.3) would apply.

3. Selected items of cost are treated in section G. However, section G does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in section G is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this document and, where appropriate, the treatment of similar or related selected items.

G. *General standards for selected items of cost.*—Sections G-1 through G-46 provide standards to be applied in establishing the allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern. Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with nonprofit institutions which are so diverse in nature and not subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that institutions entering into grants or contracts with the Government seek agreement in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such action may also be initiated by the Government. Examples of costs on which advance agreements may be particularly important are:

1. Compensation for personal services;
2. Consultant fees;

3. Deferred maintenance costs;
4. Excess facility costs;
5. Materials, services and supplies sold between organizations or divisions under common control;
6. Preaward costs;
7. Publication and public information costs;
8. Royalties;
9. Training and educational costs;
10. Travel costs, as related to special or mass personnel movement, and to the class of air travel accommodations allowable;
11. Use charge for fully depreciated assets;
12. Depreciation or use charge on assets donated to the institution by third parties.

1. *Advertising costs.*—(a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, trade papers, outdoor advertising, dealer cards and window displays, conventions, exhibits, free goods and samples, and the like.

(b) The only advertising costs allowable are those which are solely for: (1) The recruitment of personnel required for the performance by the institution of obligations arising under the grant/contract, when considered in conjunction with all other recruitment costs, as set forth in G.36.; (2) the procurement of scarce items for the performance of the grant/contract; or (3) the disposal of scrap or surplus materials acquired in the performance of the project. Costs of this nature, if incurred for more than one Government award or for both Government work and other work of the institution, are allowable to the extent that the principles in paragraphs B.3., B.4., and section D are observed.

2. *Bad debts.*—Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs, are unallowable.

3. *Bidding or proposal costs.*—Bidding or proposal costs are the immediate costs of preparing bids or proposals on potential Government and non-Government contracts or projects or applications for financial assistance under Federal grant and contract programs, including development of scientific, engineering and cost data necessary to support the institution's bids, proposals or applications. Bidding costs of the current accounting period are allowable as part of the indirect cost pool. Costs of past accounting periods are unallowable. Bidding costs do not include any of those costs described in sections G.16 and G.30.

4. *Bonding costs.*—(a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. *Civil defense costs.*—(a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire fighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures), undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the institution.

(b) Costs of capital assets under (a) above are allowable through depreciation or use charges in accordance with G.10.

(c) Contributions to local civil defense funds and projects are unallowable.

6. *Compensation for personal services.*—(a) *Definition.*—Compensation for personal services includes all remuneration paid currently or accrued in whatever form and whether paid immediately or deferred for services rendered by employees of the institution during the period of grant/contract performance. It includes, but is not limited to, salary, wages, directors' and executive committee members' fees, bonuses, incentive awards, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans.

(b) *Allowability.*—Except as otherwise specifically provided in this subsection, the costs of compensation for personal services are to be treated as allowable to the extent that:

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the performance of grant or contract work, result in internally consistent treatment of employees in like situations, and effectively relate compensation paid within the organization to that paid for similar services outside the organization;

(2) Total compensation of individual employees is reasonable for the services rendered; and

(3) Costs are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(c) *Reasonableness.*—(1) When the institution is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the institution's other activities;

(2) When the institution is predominantly engaged in federally sponsored activities, and in cases where the kind of employees required for the federally sponsored activities are not found in the institution's other activities, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the institution competes for the kind of employees involved.

(d) *Review and approval of compensation of individual employees.*—In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special considerations in determining allowability.*—Certain conditions require special consideration and possible limitation as to allowability for grant and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to shareholders, members, trustees, directors, associates, officers or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an institution's compensation policy resulting in a substantial increase in the institution's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The institution's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor management agreements that, as applied to work in the performance of Government grants or contracts are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government grant or contract involving significantly different circumstances and conditions of employment (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph unless:

(1) The institution has been permitted an opportunity to justify the costs; and

(2) Due consideration has been given to whether there are unusual conditions pertaining to the Government work which impose burdens, hardships, or hazards on the institution's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(g) (1) In addition to the general requirements set forth in (a) through (f) of this subsection, certain forms of compensation are subject to further requirements as specified in (2) through (9) below.

(2) *Salaries and wages.*—Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, see G.25. as it relates to compensation for overtime.

(3) *Incentive compensation.*—Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc. are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the institution and the employees before the services were rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payment. Awards and incentive compensation when deferred are allowable to the extent provided in (4) below.

(4) *Deferred compensation.*—(a) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans, except that it does not include normal end of accounting period accruals for regular salaries and wages. It includes (i) contributions

to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

(b) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the grant/contract period; (ii) it is, together with all other compensation paid to the employee, reasonable in amount; (iii) it is paid pursuant to an agreement entered into in good faith between the institution and its employees before the services are rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effore the services are rendered, or pursuant (iv) the benefits of the plan are vested in the employees or their designated beneficiaries and no part of the deferred compensation reverts to the employer institution; (v) in the case of past service pension costs, it is amortized over a period of 10 years or more; and (vi) for a plan which is subject to approval by the Internal Revenue Service, it falls within the criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service.

(c) In determining the cost of deferred compensation allowable under the grant or contract, appropriate adjustments shall be made for credits or gains, including those arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the institution; forfeitures which inure to the benefits of other employees covered by a deferred compensation plan with no reduction in the institution's costs will not normally give rise to an adjustment in grant/contract costs. Adjustments for normal employee turnover shall be based on the institution's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the institution can demonstrate that its contributions take into account normal forfeitures. Adjustments for possible future adnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within (i) above, may be made the subject of agreement between the Government and the institution either as to an equitable adjustment or a method of determining such adjustment.

(d) In determining whether deferred compensation is for services rendered during the agreement period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(5) *Fringe benefits.*—Fringe benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the institution.

(6) *Severance pay.*—See G.40.

(7) *Training and education expenses.*—See G.44.

(8) *Location allowances.*—(a) "Location allowances," sometimes called "supplemental pay" or "incentive pay," are compensation in addition to normal wages or salaries and are paid by institutions to especially compensate or induce employees to undertake or continue work at locations which may be isolated or in an unfavorable environment. Location allowances include extra wage or salary payments in the form of station allowances, extended per diem, or mileage payments for daily commuting; they also include such benefits as institution-furnished housing. Payment of location allowances shall be allowed as costs under grants and cost-reimbursement type contracts, or recognized in pricing fixed-price type contracts, only with prior approval in writing from the awarding agency and only where and so long as the isolation or unfavorable environment of the site makes such payments necessary to the accomplishment of the work without unacceptable delays. Whether the site is so isolated, or its environment is so unfavorable, as to require location allowances is to be determined in the light of (a) its location and climate; (b) the availability and adequacy of housing within reasonable commuting distance; and (c) the availability and adequacy of education, recreational, medical, and hospital facilities. The extent to which compensation includes location allowances is to be determined by comparing it with (a) the institution's normal compensation policy, including pay scales at its principal operating locations; (b) pay scales of other organizations and concerns operating at or near the site; and (c) compensation paid by other concerns within the same field for similar services elsewhere.

(b) Locations for which location allowances are paid shall be reviewed at least once a year to determine whether such allowances should continue to be allowed.

(9) *Support of salaries and wages.*—(a) Direct charges for professionals must be supported by either:

(i) an adequate appointment and workload distribution system, accompanied by monthly reviews performed by responsible officials and a reporting of any significant change in workload distribution of each professional (i.e., an exception reporting system) or

(ii) a monthly after-the-fact certification system which will require persons in supervisory positions having firsthand knowledge of the services performed to report the distribution of effort (i.e., a positive reporting system). Such reports must account for the total salaried effort of the persons covered. Consequently, a system which provides for the reporting only of effort applicable to federally sponsored activities is not acceptable.

(b) Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(c) Allowable indirect personal services costs will be supported by the institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government representatives.

7. *Capital expenditures.*—The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment are unallowable except as provided for in the grant/contract.

8. *Contingencies.*—(a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the institution's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., pension funds, sick leave and vacation accruals, etc. In such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the institution and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage (see, for example, G.17., G.21., and G.40.).

9. *Contributions and donations.*—(a) Contributions and donations by the grantee/contractor are unallowable.

(b) The value of donated services or goods provided by individual volunteers or members of volunteer organizations is not an allowable cost; however, the fair market value of donated services or goods utilized in the performance of a direct cost activity as defined in C.1. and C.2. shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect cost.

10. *Depreciation and use allowances.*—(a) Institutions may be compensation for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular institution's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

(b) Depreciation or a use allowance on assets donated by third parties is allowable. However, any limitations on the amount of depreciation which would have applied to the donor as a result of restrictions contained in this section shall also apply to the recipient organization.

(c) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings, and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and second, the

cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to the grant or contract is developed from the amount thus amortized for the base period involved.

(d) Normal depreciation on an institution's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of cost provided that the amount thereof is computed:

(1) Upon a property cost basis which could have been used by the institution for Federal income tax purposes, had such institution been subject to the payment of income tax; and

(2) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

(a) The straight line method;

(b) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (a) above;

(c) The sum-of-the-years-digits method; and

(d) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (b) above.

(e) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(f) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes. (See G.13.)

(g) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated; provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(h) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

(i) Depreciation and/or use charges should usually be allocated to all activities as an indirect cost.

11. *Employee morale, health, welfare costs and credits.*—(a) Employee morale, health and welfare activities are those services or benefits provided by the institution to its employees to improve working conditions, employer-employee relations, employee morale and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this paragraph, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations or similar types of services for the institution's employees at or near its facilities.

(b) Except as limited by (c) below, the aggregate of costs incurred on account of all activities mentioned in (a) above, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under (b) above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conductive to accomplishment of the above objective; are not allowable, except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (i) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could enconomically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

(d) In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (but see (e)).

(e) Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under (b) above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

12. *Entertainment costs.*—Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see G.11. and G.43.).

13. *Excess facility costs.*—(a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below:

(1) Facilities means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the institution.

(2) Idle Facilities means completely unused facilities that are excess to the institution's current needs.

(3) Idle Capacity means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. (A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.)

(4) Costs of Idle Facilities or Idle Capacity are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The cost of idle facilities are unallowable except to the extent that:

(i) They are necessary to meet fluctuations in workload; or

(ii) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, grantee/contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed 1 year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see G.42.(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

14. *Fines and penalties.*—Costs of fines and penalties resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the grant or contract instructions in writing from the awarding agency.

15. *Fringe benefits.*—See G.6.(g)(5).

16. *Independent research and development.*—(a) An institution's independent research and development (IR&D) is that research and development which is not sponsored by the Government or a non-Govern-

ment organization or agency under a grant/contract or other arrangement.

(b) Basic research, for the purpose of this document, is that type of research which is directed toward increase of knowledge within a particular discipline. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this document consists of that type of effort which (1) is normally derived from the results of basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materials, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research, does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as defined in (c) below. Census research, for the purpose of this document, is that type of activity devoted to the compilation and interpretation of statistical and other analytical information acquired through survey (e.g., interview, circularization of questionnaires), observations or from books, treatises, articles, or other sources relative to specifically defined activities, occurrences or conditions for the purpose of accomplishing some scientific end.

(c) "Development" is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance requirements, but exclusive of manufacturing and production engineering.

(d) Independent research and development will be treated in a manner consistent with the treatment of sponsored research and development. Accordingly, an institution's I R & D shall be allocated its proportionate share of indirect costs on the same basis that indirect costs are allocated to sponsored research and development.

(e) The cost of an institution's I R & D, including its proportionate share of indirect costs, is unallowable.

17. *Insurance and indemnification.*—(a) Insurance includes insurance which the institution is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the institution maintains in connection with the general conduct of its business.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage or profit;

(c) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the institution's business, or (ii) all or substantially all of the institution's operations at any one separate location in which the grant or contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily responsible for the direction and/or execution of the project supported by the grant or contract.

(d) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see G.6.).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant or contract, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.

(c) Indemnification includes securing the institution against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in (a)(3) above.

18. *Interest and other financial costs.*—(a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Where substantial effort or time is devoted to fund raising and investment activities as described in (b) and (c) in relation to other functions of an institution, such activities shall be considered as a major activity of the institution and shall be allocated its share of indirect costs in accordance with section D (see also C.2.).

19. *Labor relations costs.*—Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

20. *Losses on other grants or contracts.*—Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract.

21. *Maintenance and repair costs.*—(a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see G.10.):

(1) Normal maintenance and repair costs are allowable;

(2) Extraordinary maintenance and repair costs are allowable, provided such are allocated to the periods to which applicable for purposes of determining grant or contract costs.

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the institution's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

22. *Materials costs.*—(a) The cost of consumable supplies, serum, drugs, fabricated parts, and other materials necessary to carry out the objectives of a grant or contract, whether purchased outside or manufactured by the institution are allowable subject to the provisions (b) through (e) below. The cost may include such collateral items as inbound transportation and intransit insurance.

In computing these costs, consideration will be given to reasonable overruns, spoilage, or defective work if consistent with the nature of the project being performed and the recognized practice of the industry.

(b) Costs of material shall be suitably adjusted for applicable portions of income and other credits, including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and material returned to vendors. Such income and other credits shall either be credited directly to the cost of the material involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from difference between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the grant or contract.

(d) When the materials are purchased specifically for and identifiable solely with performance under a grant or contract, the actual purchase cost thereof should be charged to that grant or contract. If material is issued from stores, any generally recognized method of pricing such material is acceptable if that method is consistently applied and the results are equitable. When estimates of material costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materials, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price interorganization transfers of materials, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public"; or

(2) It is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity:

Provided, That in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary or affiliate of the institution under a common control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the awarding agency.

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of grant or contract requirements.

23. *Organization costs.*—Expenditures, such as incorporation fees, attorney's fees, accountant's fees, brokers' fees, fees to promoters and organizers, in connection with (a) organization or reorganization of a business or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

24. *Other business expenses.*—Included in this item are such recurring expenses as preparation and publication of reports to members and trustees, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

25. *Overtime, extra-pay shift and multi-shift premiums.*—Premiums for overtime, extra-pay shift, and multi-shift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;

(b) Is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;

(c) Is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual grant or contract project, or program, or for a division, department, or branch, as most practicable.

Overtime for which overtime premiums would be at Government expense should not be approved under an award where the institution is already obligated, without the right to additional compensation, to meet the required delivery date.

Where overtime premiums or shift premiums are being paid at Government expense in connection with the performance of Government grant or contract, the continued need therefor should be subject to periodic review by the awarding agency.

26. *Patent and copyright costs.*—Costs of preparing disclosures, reports, and other documents required by the grant/contract and of searching the art to the extent necessary to make such disclosures, are allowable. In accordance with the conditions of the grant or contract relating to patents or copyrights, costs of preparing documents and any other costs, in connection with the filing of a patent application or copyright where title is conveyed to the Government, are allowable. However, similar costs incurred in connection with patents or copyrights where title is not conveyed to the Government are unallowable (see G.39.).

27. *Pension plans.*—(See G.6.(g)–(4).)

28. *Plant protection costs.*—Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection, (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements are allowable.

29. *Plant reconversion costs.*—Plant reconversion costs are those incurred in the restoration or rehabilitation of the institutions' facilities to approximately the same condition existing immediately prior to the commencement of the grant or contract work, fair wear and tear excepted. Reconversion costs are unallowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon in writing before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other grants or contracts.

30. *Preaward costs.*—Preaward costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrence is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the prior written approval of the awarding agency.

31. *Professional service costs—legal, accounting, scientific and other.*—(a) Costs of professional services rendered by the member of a particular profession who are not employees of the institution are allowable, subject to (b), (c), and (d) below, when reasonable in relation to the services rendered (but see G.23.).

(b) Factors to be considered in determining the allowability of costs in a particular case include:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the institution's capability in the particular area;

(3) The past pattern of such costs, particularly in years prior to the award of Government work;

(4) The impact of Government work on the institution's business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the institution's total business is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants/contracts;

(6) Whether the service can be performed more economically by employment rather than by contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Government grants contracts;

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, termination provisions).

(c) Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the grant or contract.

32. *Profits and losses on disposition of plant, equipment, or other capital assets.*—Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall be excluded in computing grant or contract costs.

33. *Public information services costs.*—Public information services cost includes the cost associated with promotions, public relations, pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(a) Inform or instruct individuals, groups or the general public about health or social problems.

(b) Interest individuals or groups in participating in a service program of the institution.

(c) Provide stewardship reports to State and local government agencies, benefactor foundations and associations, etc.

(d) Appeal for funds.

(e) Disseminate the results of sponsored and non-sponsored research or other activity to the scientific community.

To the extent that the costs incurred for any of these purposes are identifiable with a particular cost objective they should be charged to the objective to which they relate.

If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all major activities of the institution except that costs related to fund raising appeals are unallowable as costs of grants and contracts.

Public information service costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

34. *Publication and printing costs.* Publication costs include the costs of printing (including the processes of composition, platemaking, presswork, binding, and the end products produced by such processes), distribution, promotion, mailing and general handling.

Publication costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

35. *Rearrangement and alteration costs.*—Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when written approval has been given in advance by the awarding agency.

36. *Recruitment costs.*—(a) Subject to (b), (c), and (d) of this G. 36., and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help-wanted advertising that (1) includes color, (2) includes advertising material for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help-wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as grantee or contractor to the Government, or in excess of the standard practices in comparable institutions, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

37. *Relocation costs.*—(a) Relocation costs, for the purpose of this document, are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to cost of (i) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (ii) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (iii) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (iv) other necessary and reasonable expenses normally incident to relocation, such as cost of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (v) loss on sale of home; and (vi) acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to (c) below, relocation costs of the type covered in (a) (i), (ii), (iii), and (iv) above are allowable, provided: (i) The move is for the benefit of the employer; (ii) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (iii) the costs are not otherwise unallowable under the provisions of G.36. or any other paragraph of this document; and (iv) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions: (i) The transition period for incurrence of costs of the type covered in (a) (ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (ii) allowance for cost of the type covered in (a) (iii) above shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in (a) (iii) and (iv) above are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in (a) (v) and (vi) above are not allowable.

38. *Rental costs (including sale and leaseback of facilities).*—(a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities.

(b) Charges in the nature of rent between planta, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance; provided that no part of such costs shall duplicate any other allowed costs.

(c) Unless otherwise specifically provided in the grant or contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the grantee/contractor would have received had it retained legal title to the facilities.

(d) Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not exceed the amount the institution would have received had legal title to the facilities been vested in it.

(e) The allowability of rental costs under unexpired leases in connection with terminations is treated in G.42.(e).

39. *Royalties and other costs for use of patents and copyrights.*—(a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent or rights thereto, necessary for the proper performance of the grant or contract applicable to grant products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's length bargaining, e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the institution;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded, or

(3) Royalties paid under an agreement entered into after the award of the grant or contract.

(c) In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

40. *Severance pay.*—(a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by: (1) Law; (2) employer-employee agreement; (3) established policy that constitutes, in effect, an implied agreement on the institution's part; or (4) circumstances of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the institution's facilities; or, where the institution provides for accrual of pay for normal severances such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

41. *Taxes.*—(a) Taxes are certain charges levied by Federal, State, or local governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income taxes and similar levies against income of the institution derived from activities unrelated to the project supported by the grant or contract.

(2) Taxes in connection with financing, refinancing, or refunding operations (see G.18.).

(3) Taxes from which exemptions are available to the institution directly or available to the institution base on an exemption afforded the Government except when the awarding agency determines that the administrative burden incident to obtaining the exemption outweights the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government grants or contracts. (Taxes on property used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erropeous assessment exists, are allowable provided the institution, prior to payment of such taxes:

(1) Promptly requests instructions from the awarding agency concerning such taxes, and

(2) Takes all action directed by the awarding agency arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to: (i) Determine the legality of such assessment, or (ii) secure a refund of such taxes.

Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the nonpayment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident

to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest or penalties.

42. *Termination costs.*—Grants and contracts terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the remainder of this document in termination situations.

(a) *Common items.*—The cost of items reasonably usable on the institution's other work shall not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, the awarding agency should consider the institution's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the institution shall be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allocable to the terminated portion of the project should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) *Costs continuing after termination.*—If in a particular case, despite all reasonable efforts by the institution certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this document, except that any such costs continuing after termination due to the negligence or willful failure of the institution to discontinue such costs shall be considered unallowable.

(c) *Initial costs.*—Initial costs, including starting load and preparatory costs, are allowable, subject to the following:

(1) Starting load costs are costs of a nonrecurring nature arising in the early stages of operation, investigation or production and not fully absorbed because of the termination. Such costs may include the cost of labor and material, and related indirect cost attributable to such factors as:

(a) Excessive spoilage resulting from inexperienced labor;

(b) Idle time and subnormal production occasioned by testing and changing methods of processing;

(c) Employee training; and

(d) Unfamilarity or lack of experience with the project, materials, manufacturing processes and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated project including costs of initial plant rearrangement and alterations, management and personnel organization, production planning and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the institution's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cost incurred during the early stages of the project.

(4) When the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the project immediately prior to termination; however, if the project includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one project shall not be allocated to other projects.

(d) Loss of useful value.

Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery or equipment is not reasonably capable of use in the other work of the institution;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency; and

(3) The loss of useful value as to any one terminated project is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the project bears to the entire terminated project and other Government projects for which the special tooling and special machinery and equipment was acquired.

(e) *Rental costs.*—Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated project less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the project and such further period as may be reasonable; and

(2) The institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the project, and of reasonable restoration required by the provisions of the lease.

(f) *Settlement expenses.*—Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the project, and

(b) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the project.

(g) *Subcontractor claims.*—Subcontractor claims, including the allocable portion of claims which are common to the project and to other work of the institution are generally allowable.

43. *Trade, business, technical, and professional activity costs.*—(a) *Memberships.*—This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) *Subscriptions.*—This item includes cost of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) *Meetings and conferences.*—This item includes costs of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

44. *Training and educational costs.*—(a) The costs of training courses taken by a bona fide employee to acquire basic skills which he should bring to the job or to qualify a person for duties other than those related

(b) Costs of on-the-job training and part-time education, at an undergraduate or postgraduate college level, related to the job requirements of bona fide employees, identified in (1) through (5) below, are allowable.

(1) Training materials;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and

(5) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materials and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time scientific and medical education at a postgraduate (but not undergraduate) college level related to the job requirements of bona fide employees for a total period not to exceed 1 school year for each employee so trained, are allowable when approved in writing by the awarding agency.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

45. *Transportation costs.*—Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see G.22.).

Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or contract shall be treated as a direct cost.

46. *Travel costs.*—(a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by institution personnel in a travel status while on official business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used does not result in an unreasonable charge. The difference in cost between first-class and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific grant or contract performance are allowable and may be charged to the grant or contract in accordance with the principle or direct costing (see secton C).

(e) Costs of personnel movement of a special or mass nature are allowable only

when authorized or approved in writing by the sponsoring agency.

(20 U.S.C. 1221c(b)(1); 31 U.S.C. 628.)

APPENDIX E—PROCUREMENT STANDARDS

1. This appendix provides standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction, and other services with Federal funds. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive orders.

2. The standards contained in this appendix do not relieve the recipient of the contractual responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to the Federal Government regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant or contract. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

3. Recipients may use their own procurement regulations which reflect applicable State and local law, rules and regulations provided that procurements made with Federal funds adhere to the standards set forth as follows:

a. The recipient shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal funds. Recipient's officers, employees or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the recipient, officers, employees, or agents, or by contractors or their agents.

b. All procurement transactions regardles of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

c. The receipient shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(1) Proposed procurement actions shall be reviewed by recipient officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the recipients to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

(4) The type of procuring instruments used (i.e., fixed price contracts, cost-reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the Federal program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (6) below is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the recipient, price and other factors considered. (Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the recipient. Any or all bids may be rejected when it is in the recipient's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(6) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the recipient if:

(a) The public exigency will not permit the delay incident to advertising;

(b) The material or service to be procured is available from only one person or firm; (All contemplated sole-source procurements where the aggregated expenditure is expected to exceed $5,000 shall be referred to the Commissioner for prior approval.)

(c) The aggregate amount involved does not exceed $2,500;

(d) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(e) The material or services are to be procured and used outside the limits of the United States and its possessions;

(f) No acceptable bids have been received after formal advertising;

(g) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; and

(h) Otherwise authorized by law, rules, or regulations. Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(7) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(8) Procurement records or files for purchases in amounts in excess of $2,500 shall provide at least the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(9) A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

4. The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subgrants:

a. Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contracts' terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts, amounts for which are in excess of $2,500, shall contain suitable provisions for termination by the recipient including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. In all contracts for construction or facility improvement awarded in excess of $100,000, recipients shall observe the bonding requirements promulgated by the Commissioner in regulations.

d. All contracts and subgrants in excess of $10,000 shall include provisions for compliance with Executive Order No. 11246, entitled "Equal Employment Opportunity," as supplemented in Department of Labor regulations (41 CFR, part 60). Each contractor or subgrantee shall be required to have an affirmative action plan which declares that it does not discriminate on the basis of race, color, religion, creed, national origin, sex, and age and which specifies goals and target dates to assure the implementation of that plan. The recipient shall establish procedures to assure compliance with this requirement by contractors or subgrantees and to assure that suspected or reported violations are promptly investigated.

e. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (20 CFR part 3). This act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Commissioner.

f. All construction contracts awarded by recipients, subgrantees, and subcontractors, in excess of $2,000, shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, part 5). Under this act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Commissioner.

g. Where applicable, all contracts awarded by recipients, subgrantees, and subcontrac-

tors in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permisaible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

h. Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Commissioner and the recipient. The contractor shall be advised as to the source of additional information regarding these matters.

i. All negotiated contracts (except those of $2,500 or less) awarded by recipients shall include a provision to the effect that the recipient, the Commissioner, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific Federal program for the purpose of making audit, examination, excerpts, and transcriptions.

j. Each contract of an amount in excess of $2,500 awarded by a recipient, subgrantee, or subcontractor shall provide that the contractor will comply with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. The provision shall advise the contractor that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the recipient shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorized by the Cost of Living Council regulations or standards. Violations shall be reported to the Commissioner and the local Internal Revenue Service field office.

k. Contracts and subgrants of amounts in excess of $100,000 shall contain a provision which requires that the contractor or subgrantee agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the Commissioner and the Regional Office of the Environmental Protection Agency.

(OMB Circular No. A–102, attachment 0.)

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