AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

federal register

THURSDAY, OCTOBER 18, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 201

Pages 28919–29061

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federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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Title 3—The President

PROCLAMATION 4251

Drug Abuse Prevention Week, 1973

By the President of the United States of America

A Proclamation

No problem faced by America is more insidious than the problem of drug abuse. It strikes at the heart of our national well-being, destroying lives, breeding crime, dividing families, and shredding the fabric of mutual trust and concern which is the hallmark of a decent society.

In the past four years, I have given the highest priority to the work of eliminating this danger to our Nation. That effort is now bearing fruit.

Improved law enforcement is reducing illicit narcotics supplies. International cooperation has increased the number of seizures of heroin, opium, and other narcotics. Arrests of drug traffickers and pushers are rising, while drug-related crimes in our major cities have begun to decline. Increased resources for the rehabilitation of addicts have resulted in a decrease in narcotics-related deaths. New treatment facilities are providing for addicts an avenue of escape from the tyranny of drugs.

These indices of progress are heartening, for they demonstrate that we can eliminate drug abuse as America's public enemy number one and that we are on the way to meeting that objective.

But our recent success should not cause us to slacken on our pace in this battle. Rather, it should inspire us to redouble our efforts with a view to achieving final victory.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week of October 21–27, 1973, as Drug Abuse Prevention Week.

Drug Abuse Prevention Week this year will provide the fourth annual observance of our national commitment to remove drug abuse as a threat to our national life. As the family is the keystone of American life, the theme of Drug Abuse Prevention Week 1973 will be *The American Family—A Response to Drug Abuse*. I hope that our people will give particular emphasis at this time to the role of the family in strengthening our Nation's moral fiber. And let us remember, too, that lasting success

in the battle against drug abuse will come only if all members of our national family work closely together in this historic struggle.

I call upon officials at every level of government, upon educators, medical professionals, and communicators, upon the business community and the civic groups of our Nation, upon the churches and the clergy, and upon all who bear the special trusts of parenthood and care of the young, to rededicate themselves during this week to the total banishment of drug abuse from American life.

I again urge every American to commit himself wholeheartedly, beginning now, to this supremely important humanitarian cause.

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

Richard Nixon

[FR Doc.73-22413 Filed 10-17-73;11:42 am]

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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 303—EXEMPTIONS

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Retail Exemption

The United States Department of Agriculture, pursuant to the authority conferred by the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and by the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), hereby amends § 303.1(d)(2)(iii) of the meat inspection regulations (9 CFR 303.1(d)(2)(iii)) and § 381.10(d)(2)(iii) of the poultry products inspection regulations (9 CFR 381.10(d)(2)(iii)) by increasing the $10,000 per year limitation in effect with respect to sales of product by an exempt "retail store" to nonhousehold consumers to $18,000 per year.

Statement of considerations. The definition of an exempted "retail store" in § 303.1(d)(2)(iii) of the meat inspection regulations and section 381.10(d)(2)(iii) of the poultry products inspection regulations provides, among other things, that the total dollar value of sales of product to consumers other than household consumers must not exceed $10,000 per year if the store is to be eligible for exemption from the requirements of Federal inspection. When the meat inspection regulations were revised on October 3, 1970, and the poultry products inspection regulations on May 16, 1972, the limit of $10,000 per year in sales of meat and poultry products to consumers other than household consumers by an exempted retail store was considered reasonable and practical. Recently, however, several questions have been raised regarding the $10,000 limitation in effect on retail sales to nonhousehold consumers. Most of these questions were based on the continuing rise in meat and poultry prices since the regulations were revised in October 1970 and in May 1972. In today's market, and also for the foreseeable future, the present dollar limitation is rapidly reducing the volume of products an exempted retail store is allowed to sell to nonhousehold consumers.

According to the latest data available to the Department, the weighted average retail price increase of red meat as of May 1973 was more than 45 percent over the prices paid in December 1970. The weighted average retail price increase of poultry products as of May 1973 was 35 percent over the prices paid in July 1972. It is anticipated that unless sudden changes in the present marketing pattern occur, further retail price increases will be forthcoming for at least some months to come.

The economic trend and thrust are now such that the Department must make a fair adjustment to the $10,000 limitation that is no longer considered reasonable by amending the existing regulations. The Department believes that a new yearly limitation of $18,000 is justifiable since it allows for on-going price fluctuations and unexpected marketing changes. The amendment will not result in circumventing the basic intent of consumer protection in the Federal Meat Inspection Act or Poultry Products Inspection Act.

Accordingly, after due consideration of all relevant facts and information relating to this matter, section 303.1(d)(2)(iii) of the meat inspection regulations (9 CFR 303.1(d)(2)(iii)) is hereby amended by changing the figure "$10,000" to "$18,000."

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 37 FR 28464, 28477.)

Further, § 381.10(d)(2)(iii) of the poultry products inspection regulations (9 CFR 381.10(d)(2)(iii)) is hereby amended by changing the figure "$10,000" to "$18,000."

(Sec. 14, 71 Stat. 451, as amended, 21 U.S.C. 463, 464; 37 FR 28464, 28477.)

These amendments relieve certain restrictions imposed by the present regulations. It does not appear that public participation in rulemaking proceedings in connection with these amendments would make additional information available to the Department. Further, these amendments must be made effective without undue delay in order to accomplish their purpose. Therefore, 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 these amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication hereof in the FEDERAL REGISTER.

These amendments shall become effective October 18, 1973.

Done at Washington, D.C., on October 12, 1973.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-22157 Filed 10-17-73;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305 is amended to show that one additional position of Special Assistant to the Deputy Secretary is excepted under Schedule C.

Effective on October 18, 1973, § 213.3305 (a)(9) is amended as set out below.

§ 213.3305 Department of the Treasury.

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

(9) Two Special Assistants to the Deputy Secretary.

* * * * * *

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

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

[FR Doc.73-22278 Filed 10-17-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development; Correction

In the FEDERAL REGISTER (FR Doc. 73-20385) of September 25, 1973 on page 26675, paragraph (j) was added to § 213.3384 in error. The paragraph should have appeared as follows:

§ 213.3384 Department of Housing and Urban Development.

* * * * * *

(l) *Office of the Assistant Secretary for Policy Development and Research.* * * *

(2) One Secretary to the Department Assistant Secretary for Policy Development.

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

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

[FR Doc.73-22277 Filed 10-17-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-WA-20]

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

Designation of Additional Control Area

On July 31, 1973, a notice of proposed rule making (NPRM) was published in

the FEDERAL REGISTER (38 FR 20348) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area within the offshore airspace adjacent to the States of Massachusetts and Rhode Island.

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., December 6, 1973, as hereinafter set forth.

Section 71.163 (38 FR 344) Nantucket, Mass., additional control area is added as follows:

NANTUCKET, MASS.

That airspace extending upward from 2,000 feet MSL bounded on the north by a line extending from Lat. 41°06'00" N., Long. 69°-55'30" W. easterly to 41°06'00" N., Long. 68°-00'00" W.; on the east by a line extending from Lat. 41°06'00" N., Long. 68°00'00" W. southerly to Lat. 41°00'00" N., Long. 68°-00'00" W.; on the southeast by a line extending from Lat. 41°00'00" N., Long. 68°00'00" W. southwesterly to Lat. 39°53'30" N., Long. 68°57'00" W.; on the southwest by a line extending from Lat. 39°53'30" N., Long. 68°-57'00" W. northwesterly to point of beginning.

This amendment is made under the authority of sec. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510) and Executive Order 10854 (24 FR 9565) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 5, 1973.

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

[FR Doc.73-22245 Filed 10-17-73;8:45 am]

[Airspace Docket No. 72-WE-34]

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

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area and Alteration of Continental Control Area

On June 18, 1973, a supplemental notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (38 FR 15852) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate two new joint-use restricted areas in the vicinity of Fallon, Nev., and included them in the continental control area; also lower the altitude of R-4804 Twin Peaks, Nev., and R-4812 Sand Springs, Nev.; and reduce the boundaries, designated altitudes, and time of designation of R-4813 Carson Sink, Nev.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Three comments were received.

There were 50 comments received on the initial Notice and only three comments on the Supplemental Notice. Of the three received, one was withdrawn subsequent to the closing of the comment period. The other two comments were from pilots based at Reno, Nev., who conduct en route operations to areas east of Fallon. Their objections were that the proposed VFR corridors were too restrictive to their operations. It was their opinion that the corridors were not of sufficient height and width.

The Navy has stated that they will provide direct transit through the proposed Dixie Valley Restricted Area whenever activities actually in progress do not preclude such transit. Two points of communications contact are to be established, one through the Navy Fallon Tower and a second, Echo Whiskey control, on the Electronics Warfare Range (EW) within the Dixie Valley areas. A local telephone point of contact will also be established.

The Navy has given the FAA its assurance that they intend to make a workable system which will be responsive to the radio requests by pilots. If found necessary, additional radio frequencies will be obtained for use by the Navy for contacting civil aircraft. It is the FAA's opinion that the direct transit provision is reasonable and offsets the stated objections.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

1. Section 71.151 (38 FR 341) is amended as follows:

a. "R-4816N Dixie Valley, Nev." is added.

b. "R-4816S Dixie Valley, Nev." is added.

2. Section 73.48 (38 FR 656) is amended as follows:

a. In R-4804 Twin Peaks, Nev., the designated altitudes are amended to read as follows:

Designated altitudes. Surface to but not including Flight Level 180 excluding that portion from the surface to and including 2,000 feet AGL which lies north of and within 1-nautical-mile from U.S. Highway 50 between the intersections of U.S. Highway 50 with Longitudes 118°25'30" West and 118°09'50" West.

b. In R-4812 Sand Springs, Nev., the designated altitudes are amended to read as follows:

Designated altitudes. Surface to but not including Flight Level 180 excluding that portion from the surface to and including 2,000 feet AGL which lies north of and within 1-nautical-mile from U.S. Highway 50 between the intersections of U.S. Highway 50 with Longitudes 118°25'30" West and 118°09'50" West.

c. In R-4813 Carson Sink, Nev., the boundaries, designated altitudes, and time of designation are amended to read as follows:

Boundaries. Beginning at Lat. 39°51'00" N., Long. 118°38'00" W.; to Lat. 40°01'00" N., Long. 118°15'00" W.; to Lat. 40°01'00" N., Long. 118°01'00" W.; to Lat. 39°58'00" N., Long. 118°01'00" W.; to Lat. 39°38'00" N., Long. 118°17'00" W.; thence via the arc of a 15-nautical-mile radius circle centered at Lat. 39°52'36" N., Long. 118°20'27" W.; to Lat. 39°45'50" N., Long. 118°38'00" W.; thence to point of beginning.

Designated altitudes. Surface to but not including Flight Level 180.

Time of designation. 0600 to 2400 local time, Monday through Saturday.

d. "R-4816N Dixie Valley, Nev." is added.

Boundaries. Beginning at Lat. 39°51'00" N., Long. 118°00'00" W.; to Lat. 39°51'00" N., Long. 117°31'00" W.; to Lat. 39°34'00" N., Long. 117°39'30" W.; to Lat. 39°34'00" N., Long. 118°12'30" W.; to point of beginning.

Designated altitudes. 1500 feet AGL to but not including Flight Level 180.

Time of designation. 0700 to 2100 local time, Monday through Saturday.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commanding Officer, Naval Auxiliary Air Station, Fallon, Nev.

e. "R-4816S Dixie Valley, Nev." is added.

Boundaries. Beginning at Lat. 39°34'00" N., 09°50" West.
Long. 118°12'30" W.; to Lat. 39°34'00" N.,
Long. 117°39'30" W.; to Lat. 39°18'00" N.,
Long. 117°47'30" W.; to Lat. 39°18'00" N.,
Long. 118°13'15" W.; to Lat. 39°17'00" N.,
Long. 118°21'00" W.; to Lat. 39°30'00" N.,
Long. 118°15'30" W.; to point of beginning.

Designated altitudes. 500 feet AGL to but not including Flight Level 180 excluding that portion from 500 feet AGL to and including 2,000 feet AGL which lies north of and within 1-nautical-mile from U.S. Highway 50 between the intersections of U.S. Highway 50 with Longitudes 118°25'30" West and 118°09'50" Wes.

Time of designation. 0700 to 2100 local time, Monday through Saturday.

Controlling agency. Federal Aviation Administration, Oakland ARTC Center.

Using agency. Commanding Officer, Naval Auxiliary Air Station, Fallon, Nev.

These amendments are made under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 10, 1973.

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

[FR Doc.73-22246 Filed 10-17-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-828; Amdt. 5]

PART 261—FILING OF AGREEMENTS

Oral and Informal Contracts and Agreements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on November 7, 1973.

By ER-824,[1] 38 FR 27384, the Board adopted amendment No. 4 to Part 261. In taking such action, the Board redesignated previous § 261.1 as § 261.1a, and made certain amendments to the text so as to correct certain obsolete references. In so doing, certain language in old § 261.1(a)(2) was inadvertently not carried forward into § 261.1a(a)(2). This amendment corrects that oversight.

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective November 7, 1973. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends Part 261 of the Economic Regulations (14 CFR Part 261) effective November 7, 1973, as follows:

Amend § 261.1a(a)(2) to read as follows:

§ 261.1a Who shall file.

(a) * * *

* * * * *

(2) *Oral and informal contracts and agreements.* In the case of oral or memorandum contracts and agreements, if the required number of copies of memoranda thereof are filed by any carrier which is a party to such contract or agreement, any other air carrier which is a party shall be deemed to have complied with this requirement if it transmits to the Board within the time prescribed by § 261.4 a signed statement to the effect that it concurs in such filing.

* * * * *

(Sec. 204(a) Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

[SEAL] RICHARD LITTELL,
General Counsel.

[FR Doc.73-22253 Filed 10-17-73;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2456]

PART 13—PROHIBITED TRADE PRACTICES

Amerada Hess Corp. et al.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets;* 13.5-20 Federal Trade Commission Act. Subpart—Cutting off supplies or Service: § 13.610 *Cutting off supplies or service.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46) Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended (15 U.S.C. 45, 18)) [Cease and desist order, Amerada Hess Corporation, et al., New York, New York, Docket C-2456, September 18, 1973.]

[1] Adopted September 28, 1973.

In the matter of Amerada Hess Corporation, a corporation, Clarco Pipe Line Company, a corporation, VGS Corporation, Robert M. Hearin, individually and as an officer of First National Bank of Jackson, Jackson, Mississippi, and as a Director of VGS Corporation, and as a Director of Amerada Hess Corporation, and Leon Hess, individually and as an officer and Director of Amerada Hess Corporation.

Consent order requiring a New York City based refiner-transporter of petroleum products, among other things to divest itself entirely of Clarco Pipe Line Co., transporter of crude oil; and restraining a Burlington, Vt., manufacturer of asphalt, with operations in the State of Mississippi, from acquiring any asphalt refineries shipping asphalt in or into Mississippi. The order further prohibits two corporations and two individuals, in perpetuity, from owning or controlling any equity or debt interest in Clarco except for those already existing.

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

Order.—For the purposes of this Order, the definitions below shall apply:

"Respondent Amerada Hess" refers to Amerada Hess Corporation, a corporation, its subsidiaries, affiliates, successors, and assigns.

"Respondent Clarco" refers to Clarco Pipe Line Company, a corporation, its subsidiaries, affiliates, successors and assigns.

"Respondent VGS" refers to VGS Corporation, a corporation, its subsidiaries, affiliates, successors and assigns.

"Person" means any individual, corporation, partnership, association, firm, or other business or legal entity.

I. *It is ordered,* That respondent Amerada Hess, its officers, directors, agents, representatives, and employees shall, within twelve (12) months from the date of service upon it of this Order, divest absolutely and in good faith, subject to the approval of the Federal Trade Commission, all stock, voting rights, assets, properties, rights and privileges, tangible and intangible, including, but not limited to, all plants, pipelines, equipment, machinery, inventory, and customer lists acquired by respondent Amerada Hess as a result of its acquisition of the stock of respondent Clarco, together with all additions and improvements thereto, of whatever description.

II. *It is further ordered,* That respondent Amerada Hess shall be restrained, forthwith and for a period ending eighteen (18) months from the date of the divestiture ordered by Paragraph I of this Order, from expanding its pipeline system to such existing crude oil production as it obtained from Messrs. Stack and Chisholm; and, further, that any pipelines, equipment, machinery, and inventory which were removed from respondent Clarco's pipeline at the time of, or subsequent to, acquisition by respondent Amerada Hess and utilized on respondent Amerada Hess' pipeline shall be returned to respondent Clarco along with any improvements, additions, replacements and alterations thereto.

III. *It is further ordered,* That none of the stock, voting rights, assets, properties, rights or privileges described in Paragraph I of this Order shall by such divestiture be transferred, directly or indirectly, to any person who has been an officer, director, employee, or agent of respondent Amerada Hess, or has owned or controlled, directly or indirectly, more than one (1) percent of the outstanding shares of respondent Amerada Hess or respondent VGS at any time from the date of the first acquisition by respondent Amerada Hess of respondent Clarco's stock.

IV. *It is further ordered,* That, pending divestiture, respondent Clarco shall be operated as if a common carrier for the transportation of crude oil between all existing points of delivery on its lines and Soso, Mississippi, with transportation charges not to exceed those posted by respondent Clarco at the time of its acquisition by respondent Amerada Hess.

V. *It is further ordered,* That, after divestiture, respondent Clarco shall be prohibited from having as directors, managers, accountants or other managing officials any person having been employed or retained, in any manner, by respondent Amerada Hess or respondent VGS, or who acted as an officer of respondent Clarco at any time from the date of respondent Amerada Hess' first acquisition of respondent Clarco's stock until the time of divestiture, except such persons who were officers of respondent Clarco prior to such acquisition.

VI. *It is further ordered,* That respondent Clarco shall be prohibited, for a period of ten (10) years from the date of service upon it of this Order, from refusing, directly or indirectly, to transport crude oil for any customer to any destination to which it delivered crude oil for such customer prior to January 1, 1971.

VII. *It is further ordered,* That respondent VGS, its officers, directors, agents, representatives, and employees shall be restrained, for a period of ten (10) years from the date of service upon it of this Order, from acquiring any asphalt refineries shipping asphalt in or into Mississippi; provided, however, that nothing in this paragraph shall preclude respondent VGS from exercising options or other rights held by it as of July 6, 1973 with respect to the asphalt refinery at Lumberton, Mississippi leased by it as of the date of service of this Order.

VIII. *It is further ordered,* That respondents Amerada Hess, VGS, Robert M. Hearin, and Leon Hess are prohibited,

in perpetuity, from owning or controlling in any manner, directly or indirectly, any equity or debt interest in respondent Clarco, except for debt interests existing at the date of service of this Order.

IX. *It is further ordered,* That, with respect to the divestiture required herein, nothing in this Order shall be deemed to prohibit respondent Amerada Hess from accepting consideration which is not entirely cash and from accepting and enforcing a loan, mortgage, deed of trust or other security interest for the purpose of security to respondent Amerada Hess full payment of the price, with interest, received by it in connection with such divestiture; provided, however, that should respondent Amerada Hess by enforcement of such security interest, or for any other reason, regain direct or indirect ownership or control of the divested plants, land or equipment, said ownership or control shall be redivested, subject to the provisions of this Order, within one (1) year from the date of reacquisition.

X. *It is further ordered,* That, pending divestiture, respondent Amerada Hess shall not make or permit any deterioration in any of the plants, machinery, buildings, equipment or other property or assets of respondent Clarco, which may impair respondent Clarco's present market value, unless such value is restored prior to divestiture.

XI. *It is further ordered,* That respondents Amerada Hess, Clarco, and VGS shall not acquire, directly or indirectly, through joint ventures or otherwise, without the prior approval of the Federal Trade Commission, the whole or any part of the stock or share capital of any person engaged in the transportation and refining of crude oil produced in the States of Mississippi or Alabama, or any of such persons' assets (other than crude oil) which are related to the transportation or refining of crude oil produced in either of such states.

XII. *It is further ordered,* That respondents shall, within sixty (60) days from the date of service upon them of this Order and every sixty (60) days thereafter until the divestiture ordered by Paragraph I hereof is effected, submit to the Federal Trade Commission a detailed written report of their actions, plans and progress in complying with the provisions of this Order, and fulfilling its objectives. All compliance reports shall include, among other things that are from time to time required, a summary of all discussions and negotiations with any person or persons who are potential owners or managers of the assets to be divested, the identity of all such persons, copies of all communications to and from such persons, and all internal memoranda, reports, and recommendations concerning divestiture.

XIII. *It is further ordered,* That respondents Amerada Hess, Clarco, and VGS shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in their corporate structures, such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in said respondents which may affect compliance obligations arising out of this Order.

Issued: September 18, 1973.

By the Commission.

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

[FR Doc.73-22174 Filed 10-17-73;8:45 am]

[Docket No. C-2455]

PART 13—PROHIBITED TRADE PRACTICES

Carpeteria, et al.

Subpart—Advertising falsely or misleading: § 13.30 *Composition of goods;* 13.30–75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements;* 13.73–90 Textile Fiber Products Identification Act; § 13.155 *Prices;* 13.155–15 Comparative; 13.155–70 Percentage savings; 13.155–100 Usual as reduced, special, etc.; § 13.285 *Value.* Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051–20 Adequate. Subpart—Misbranding or mislabeling: § 13.1185 *Composition;* 13.1185–80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act. Subpart — Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements;* 13.1623–80 Textile Fiber Products Identification Act; § 13.1775 *Value;*—Prices; § 13.1785 *Comparative;* § 13.1825 *Usual as reduced or to be increased;* § 13.1823 *Terms and conditions;* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition;* 13.1845–70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–70 Textile Fiber Products Identification Act. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2070 *Special or trial offers, savings and discounts;* § 13.2080 *Terms and conditions.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717 (15 U.S.C. 45, 70)) [Cease and desist order, Classic Carpet Center, Inc. trading as Carpeteria, et al., Fairfax, Va., Docket C-2455, Sept. 17, 1973.]

In the matter of Classic Carpet Center, Inc., a corporation, trading and doing business as Carpeteria, and Michael J. Lightman and William R. Lightman, individually and as officers of said corporation.

Consent order requiring a Fairfax, Virginia, retailer of carpets and floor coverings, among other things to cease misrepresenting the word "sale;" misrepresenting percentage savings; falsely advertising the value of carpet remnants; misrepresenting the availability of supplies and prices to competitors; misrepresenting the amount, type, or extent of credit terms respondents may arrange for its customers; falsely advertising and misbranding its textile fiber products; and failing to maintain adequate records.

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

I. *It is ordered,* That respondents Classic Carpet Center, Inc., a corporation, trading and doing business as Carpeteria, or under any other trade name or names, its successors and assigns, and its officers, and Michael J. Lightman and William R. Lightman, individually, and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distributon of carpeting and floor coverings, or any other article of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Sale", or any other word or words of similar import or meaning not set forth specifically herein unless the price of such merchandise, being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

2. (a) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise or services have been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise or services in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise or services at the compared price or some higher price.

(c) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise or services, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price or a higher price and unless respondents have in good faith conducted a market survey or obtained a similar

representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise or services of like grade and quality.

3. Advertising or otherwise representing a compared value price for carpet remnants or rugs (a) unless the carpet remnants or rugs being advertised are of the same grade and quality as the carpets with which such advertised prices are compared; and (b) without disclosing in immediate conjunction therewith that the carpet remnants or rugs are usually sold for less than wall-to-wall prices, and that the compared value is based on the wall-to-wall price of carpeting of the same grade and quality.

4. Representing, directly or by implication, orally or in writing, that purchasers of respondents' merchandise will save any stated dollar or percentage amount without fully and conspicuously disclosing, in immediate conjunction therewith, the basis for such savings representations.

5. Failing to maintain and produce for inspection or copying for a period of three (3) years, adequate records (a) which disclose the facts upon which any savings claims, sale claims and other similar representations as set forth in Paragraphs One, Two, and Four of this order are based, and (b) from which the validity of any savings claims, sale claims and similar representations can be determined.

6. Representing, directly or by implication, orally or in writing, that carpet dealers or other floor coverings establishments cannot purchase carpets, floor coverings or any other merchandise at the same prices or from the same sources which are available to respondents.

7. Representing, directly or by implication, orally or in writing, that purchasers of respondents' products are granted easy or assured credit terms by financial institutions with which respondents deal; or misrepresenting, in any manner, the amount, type, extent or any other facet of the credit terms respondents arrange or may arrange for their purchasers.

II. *It is further ordered*, That respondents Classic Carpet Center, Inc., a corporation, trading and doing business as Carpeteria, or under any other trade name or names, its successors and assigns, and its officers, and Michael J. Lightman and William R. Lightman, individually, and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from.

1. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Falsely and deceptively advertising textile fiber products by:

(a) Making any representations by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale, or offering for sale, of such textile fiber product unless the same information required to be shown on the stamp, tag, label or other means of identification under section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

(b) Failing to set forth in advertising the fiber content of floor covering containing exempted backings, fillings or paddings, that such disclosure related only to the face, pile or outer surface of such textile fiber products and not to the exempted backings, fillings or paddings.

(c) Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

(d) Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

It is further ordered, That respondents shall maintain for at least a one (1) year period, following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of obtaining leads for the sale of carpeting or floor coverings, or utilized in the advertising, promotion or sale of carpeting or floor coverings and other merchandise.

It is further ordered, That respondents, for a period of one (1) year from the effective date of this order, shall provide each advertising agency utilized by respondents and each newspaper publishing company, television or radio station or other advertising media which is utilized by the respondents to obtain leads for the sale of carpeting or floor coverings and other merchandise, with a copy of the Commission's News Release setting forth the terms of this order.

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

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

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

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

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

Issued: September 17, 1973.

By the Commission.

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

[FR Doc.73-22175 Filed 10-17-73;8:45 am]

[Docket No. C-2076-o]

PART 13—PROHIBITED TRADE PRACTICES

Helix Marketing Corp., et al.

Subpart—Threatening suits not in good faith: § 13.2264 *Delinquent debt collection.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45)) [Modifying order, Helix Marketing Corporation, et al., Docket C-2076-o, September 25, 1973.]

In the Matter of Helix Marketing Corporation, a Corporation, Gramont Company, Inc., a Corporation, the Helix Company, Inc., a Corporation, Royal Crown Hosiery Company of Illinois, Incorporated, a Corporation, Gramont Company Incorporated of Philadelphia, a Corporation, Gramont Company Incorporated, a Corporation, Gramont Company, Inc. of St. Louis, a Corporation, the Helix Co., Inc., a Corporation, Royal Crown Company, Inc., a Corporation, William T. Comfort, Jr., and Jacob M. Levine, Individually and as Officers or Directors of Said Corporations or Any of Them

The order reopening proceedings and modifying order to cease and desist is as follows:

It is ordered, That the proceedings in this matter be reopened and that subparagraphs (c), (d), and (g) of paragraph 3 of the Order to Cease and Desist issued against respondents on November 3, 1971, be modified to read as follows:

(c)(1) Legal action will be taken against a delinquent debtor unless payment is made on a delinquent account; provided, however, that it shall be a defense in any enforcement proceeding brought hereunder for respondents to establish that they do, in fact, take such legal action when payment is not made in all cases in which the representation is made.

(c)(2) Legal action may be taken against a delinquent debtor unless payment is made on a delinquent account; provided, however, that it shall be a defense in any enforcement proceeding brought for respondents to establish that they do in fact take such legal action against a majority of debtors to whom the representation is made who do not make payment on such delinquent accounts; and provided further that it shall not be a violation of this subsection for respondents to represent that they may refer the account of a delinquent debtor to an attorney to determine what action is appropriate, if, in fact, they can establish that they do in fact refer the accounts of delinquent debtors to an independent attorney for evaluation of what action is appropriate in a majority of cases in which such representation is made and payment is not made on an account.

(d) Legal action has been taken and suit filed against a delinquent debtor; provided, however, that it shall be a defense in any enforcement proceeding brought hereunder for respondents to establish that prior to making the representation respondents had, in fact, taken legal action and filed suit against the delinquent debtor.

(g) Accounts are or may be turned over to collection agencies; provided, however, that it shall be a defense in any enforcement proceeding brought hereunder for respondents to establish that they do, in fact, turn a majority of delinquent accounts over to independent collection agencies in cases in which such representations are made and payment is not made on the account.

Issued September 25, 1973.

By the Commission.

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

[FR Doc.73-22176 Filed 10-17-73;8:45 am]

[Docket No. C-2457]

PART 13—PROHIBITED TRADE PRACTICES

Lear Siegler, Inc.

Subpart—Advertising falsely or misleadingly: § 13.20 *Comparative data or merits;* § 13.175 *Quality of product or service;* § 13.195 *Safety;* 13.195-60 Product. Subpart—Misrepresenting oneself and goods—Goods: § 13.1575 *Comparative data or merits;* § 13.1710 *Qualities or properties.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46) Interprets or applies sec. 5 38 Stat. 719, as amended (15 U.S.C. 45)) [Cease and desist order, Lear Siegler, Inc., Santa Monica, California, Docket C-2457, September 24, 1973.]

In the matter of Lear Siegler, Inc., a corporation.

Consent order requiring a Santa Monica, California, manufacturer of safety helmets and other products, among other things to cease making unsubstantiated claims regarding the safety and/or superiority of its polycarbonate motorcycle helmets. Respondent is further required to send to each of its customers a sufficient quantity of new cartons to replace those cartons bearing the statement "World's Finest Helmet" in their possession and to reimburse its customers for their expenses incurred in repacking the helmets in the new cartons.

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

It is ordered, That Lear Siegler, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, shall forthwith cease and desist from representing orally, in writing, visually or in any other manner, directly or by implication that:

1. Its polycarbonate motorcycle helmets are the finest, safest, or best motorcycle helmets;

2. Any product presently manufactured or manufactured in the future by Bon-Aire Division of Lear Siegler, for as long as such product is manufactured by Bon-Aire or any other division or subsidiary of Lear Siegler, is comparable or superior to any other product with respect to safety or has met or passed any safety standard or test;

Provided, however, such representations may be made if they are fully substantiated by competent, controlled scientific tests conducted by experts, the results of which are available for inspection by the general public.

It is further ordered, That respondent shall forthwith send by certified mail return receipt requested to each of its customers, including wholesalers, distributors and retailers that have purchased motorcycle helmets packaged in cartons bearing the statement "World's Finest Helmet" or words of similar import and meaning, a sufficient quantity of new cartons to replace those cartons bearing the statement "World's Finest Helmet" in the possession of respondent's customers. Respondent shall also send, together with the new cartons, instructions that:

1. The new cartons are to replace cartons bearing the statement "World's Finest Helmet";

2. Respondent will reimburse its customers for their reasonable expenses incurred in repacking the motorcycle helmets in the new cartons;

3. Respondent's customers are requested to send new cartons and instructions to their customers, if their customers possess respondent's helmets in cartons bearing the statement "World's Finest Helmet" for purposes of sale, directly or indirectly, to the public. These materials will be furnished by respondent;

4. The old cartons are to be destroyed; and

5. Respondent is taking this action pursuant to a consent agreement with the Federal Trade Commission.

Respondent shall also send a follow-up letter to its customers to ascertain the extent of their compliance with the above-stated instructions.

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

It is further ordered, That respondent shall forthwith distribute, to each of the wholesale customers of Bon-Aire Division of Lear Siegler, a copy of this order and the accompanying complaint.

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

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

Issued: September 24, 1973.

By the Commission.

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

[FR Doc.73-22177 Filed 10-17-73;8:45 am]

[Docket No. 8901]

PART 13—PROHIBITED TRADE PRACTICES

Trans-American Collections, Inc., et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1888 *Respondent's interest.* Subpart—Simulating another or product thereof: § 13.2210 *Designs, emblems or insignia.* Subpart—Threatening suits not in good faith: § 13.2264 *Delinquent debt collection.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).) [Cease and desist order, Trans-American Collections, Inc., et al., Bloomington, Illinois, Docket 8901, September 26, 1973.]

In the matter of Trans-American Collections, Inc., a corporation, and Wayne E. Martin and Eleanor G. Martin, individually and as officers of said corporation.

Consent order requiring a Bloomington, Illinois, seller of debt collection services, among other things to cease using materials which simulate telegraphic communications; using materials which misrepresent the nature, content or purpose of any communication; threatening debt collection suits, not in good faith; failing to include a notice to the effect that communications are only a reminder notice and that respondent, Trans-American, cannot accept monies nor will it take any action regarding this claim; and furnishing to others means and instrumentalities of misrepresentation or deception.

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

It is ordered, That respondents, Trans-American Collections, Inc., a corporation, its successors and assigns, and its officers, and Wayne E. Martin and Eleanor G. Martin, individually and as officers of said corporation, and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division or other device in connection with the offering for sale, sale or distribution of any service or printed matter for use in the collection, or attempting to collect, or assisting in the collection of or inducing or attempting to induce, the payment of delinquent accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, or placing in the hands of others for use, envelopes, letters, forms, or any other materials which appear to be, or simulate, telegraphic communications;

2. Using, or placing in the hands of others for use, envelopes, letters, forms, or any other materials which misrepresent the nature, contents, or purpose of any communication;

3. Representing directly or by implication that:

(a) Respondents are prepared to institute, or cause to be instituted, legal proceedings in the collection of delinquent debts.

(b) Legal action with respect to an allegedly delinquent account has been, or is about to be, or may be initiated.

(c) Nonpayment of the delinquent account will adversely affect the credit rating of the debtor.

Provided, however, that it shall be a defense in any enforcement proceeding initiated under this Paragraph 3 for the respondents to establish that such representations are factually correct.

4. Failing clearly and conspicuously to disclose in each letter, form or notice to delinquent, or alleged delinquent, debtors the following statement:

This communication is only a reminder notice. Trans-American Collections, Inc., cannot accept monies nor will it take any action, legal or otherwise, regarding this claim.

This statement shall be made in prominent type, of a size no smaller than the basic body copy in the letter, form or notice, and in red ink to contrast with the text of the letter to be printed or written in black or blue ink, or in black or blue ink if the text of the letter is printed or written in red.

The respondents may use the term "collections" in their corporate name.

5. Making any statement or statements in any letter, form or notice to delinquent, or alleged delinquent, debtors which is/are inconsistent with, negate/s or contradict/s, the affirmative disclosure required by Paragraph 4.

6. Placing in the hands of others the means and instrumentalities to represent any of the matters prohibited in Paragraph 3 or which fail to comply with the requirements of Paragraph 4 or 5 of this Order.

It is further ordered, That the respondent corporation shall distribute a copy of this Order to each of its operating officers, agents, representatives or employees engaged in any aspect of the offering for sale, sale or distribution of any service or printed matter for use in the collection, or attempting to collect, or assisting in the collection of or inducing or attempting to induce the payment of delinquent accounts, and that said respondent secure a signed statement acknowledging receipt of said Order from each such person.

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

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

Issued: September 26, 1973.

By the Commission.

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

[FR Doc.73-22178 Filed 10-17-73;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-474; Order 493]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Order Adopting Certain Definitions To Standardize End Use Classification; Correction

SEPTEMBER 27, 1973.

In FR Doc. 73-20957, issued September 21, 1973 and published in the FEDERAL REGISTER October 3, 1973 (38 FR 27351), on page 27353 in line 3 of the paragraph in § 2.78 labeled *Commercial*, insert a comma after "local"; in line 4, insert "state," before the word "and."

In the paragraph of § 2.78 labeled *Process gas*, line 2, insert the word "not" between the words "are" and "technically."

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-22205 Filed 10-17-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SUCCINIC ACID 2,2-DIMETHYLHYDRAZIDE

A petition (FAP 4H5041) was filed by Uniroyal Chemical, Division of Uniroyal, Inc., Bethany, CT 06525, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the plant regulator succinc acid 2,2-dimethylhydrazide in dried prunes at 135 parts per million resulting from application of the plant regulator to growing plums. (For a related document, see this issue of the FEDERAL REGISTER, page 28937.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348). Pesticide and food additive tolerances for residues of the plant regulator succinc acid 2,2-dimethylhydrazide have previously been established.

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerance should be established.

Therefore, pursuant to provisions of the act (sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), Part 121 is amended by adding the following new section to Subpart D:

§ 121.1253 Succinic acid 2,2-dimethylhydrazide.

A tolerance of 135 parts per million is established for residues of the plant regulator succinic acid 2,2-dimethylhydrazide in dried prunes resulting from application of the plant regulator to the growing raw agricultural commodity plums.

Any person who will be adversely affected by the foregoing order may at any time Nov. 19, 1973 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW, Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date.—This order shall become effective Oct. 18, 1973.

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4).)

Dated October 15, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22280 Filed 10-17-73;8:45 am]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1602—RECORDS AND REPORTS

Extension of Deadline for Filing Apprenticeship Information Report EEO–2

Notice is hereby given that the deadline for filing Apprenticeship Information Report EEO–2 as required by 29 CFR 1602.15 is extended from September 30, 1973 to November 30, 1973. The period during which statistics for Report EEO–2 must be obtained remains unchanged. Signed at Washington, D.C. this 15th day of October 1973.

WILLIAM H. BROWN III,
Chairman, Equal Employment Opportunity Commission.

[FR Doc.73-22225 Filed 10-17-73;8:45 am]

PART 1602—RECORDS AND REPORTS

Extension of Deadline for Filing Local Union Report EEO–3

Notice is hereby given that the deadline for filing Local Union Report EEO–3 as required by 29 CFR 1602.22 is extended from November 30, 1973 to December 31, 1973. The period during which statistics for Report EEO–3 must be obtained remains unchanged. Signed at Washington, D.C., this 15th day of October 1973.

WILLIAM H. BROWN III,
Chairman, Equal Employment Opportunity Commission.

[FR Doc.73-22226 Filed 10-17-73;8:45 am]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1912a—NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Pursuant to authority in sections 7 and 8 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656, 657), a new 29 CFR Part 1912a is hereby established to revise and codify the procedures used by the National Advisory Committee on Occupational Safety and Health (see 36 FR 23277). The Committee was established by the Act to make recommendations to the Secretary of Labor and the Secretary of Health, Education, and Welfare, relating to the administration of the Act. The new Part is intended to comply with the provisions of the recently enacted Federal Advisory Committee Act (Pub. L. 92–463) and Office of Management and Budget Circular A–63, which require advisory committees used by federal agencies to adhere to certain basic methods of operation and administration.

Notice of proposed rule making, public rulemaking procedures, and delay in effective date have been omitted in the adoption of this new Part 1912a as it relates solely to agency management and procedure.

The new Part 1912a reads as follows:

Sec.
1912a.1 Purpose and scope.
1912a.2 Membership.
1912a.3 Terms of membership.
1912a.4 Meetings.
1912a.5 Advice and recommendations.
1912a.6 Quorum.
1912a.7 Notice of meetings.
1912a.8 Contents of notice.
1912a.9 Assistance to the committee.
1912a.10 Presence of OSHA officer or employee.
1912a.11 Minutes; transcript.
1912a.12 Charter.
1912a.13 Subcommittees and subgroups.
1912a.14 Petitions for change in the rules; complaints.

AUTHORITY: Secs. 7(a), 8(g), Pub. L. 91-596, 84 Stat. 1597, 1600 (29 U.S.C. 556(a), 657(g)).

§ 1912a.1 Purpose and scope.

(a) Section 7(a) of the Williams-Steiger Occupational Safety and Health Act of 1970 establishes a National Advisory Committee on Occupational Safety and Health (hereinafter referred to as the Committee), to advise, consult with, and make recommendations to the Secretary of Labor and the Secretary of Health, Education, and Welfare, on matters relating to the administration of the Act.

(b) This Part 1912a sets forth the procedures used by the Committee in fulfilling its responsibilities. They are intended to comply with the requirements of the Federal Advisory Committee Act (Pub. L. 92–463), which obligates advisory committees used by federal agencies to adhere to certain basic methods of operation and administration.

§ 1912a.2 Membership.

The Committee is a continuing advisory body of 12 members. Two members will represent management, two members will represent labor, two members will represent the occupational health professions, two members will represent the occupational safety professions, and four members will represent the public. The Secretary of Health, Education, and Welfare will designate the two members representative of the occupational health professions and two of the members representative of the public. All the members will be selected upon the basis of their experience and competence in the field of occupational safety and health. All the members will be appointed by the Secretary of Labor, who will designate one of the public members as Chairman.

§ 1912a.3 Terms of membership.

Commencing on July 1, 1973, the terms of membership shall be divided into two classes, each consisting of six members. Members of the first class shall be appointed for a term of one year. Members of the second class shall be appointed for a term of two years. Thereafter, members shall be appointed for regular terms of two years. At all times the Committee shall be composed of representatives of management, labor, and occupational safety and health professions, and of the public. Each member of the Committee shall serve his full term unless he resigns or becomes unable to serve in the judgment of the Secretary of Labor because of disability or because he ceases to be qualified to serve on the Committee because he is found by the Secretary of Labor no longer to meet the representational requirements of the Act. In such cases, the Secretary of Labor may appoint for the remainder of the unexpired term a new member who meets the same representational requirements, and is designated in the manner, of his predecessor.

§ 1912a.4 Meetings.

(a) The Committee shall hold no fewer than two meetings during each calendar year and, it is contemplated that no more than six meetings a year will be held. No meeting shall be held except at the call of or with the advance approval of:

(1) The Secretary of Labor, or his duly authorized representative; or

(2) The Secretary of Health, Education, and Welfare, or his duly authorized representative.

(b) An agenda shall be approved in advance by the person calling or approving the meeting, in consultation with the Chairman or his delegate. No particular form for the agenda is prescribed. Members of the Committee may propose items for the agenda to the Chairman.

§ 1912a.5 Advice and recommendations.

Any advice or recommendations of the Committee shall be given or made with approval of a majority of all Committee members present. The Chairman shall include in any report of such advice or recommendations any concurring or dissenting views as well as abstentions and absences. Any member may submit his own advice and recommendations in the form of individual views with respect to any matter which has been considered by the Committee.

§ 1912a.6 Quorum.

(a) A majority of the members of the Committee shall constitute a quorum, except that at least one management representative-member, one labor representative-member and one member representing the public must be included in the majority which constitutes the quorum.

(b) In an absence of brief duration of its Chairman, the Committee may designate a public member to preside at any meeting thereof. In case of an extended absence, the Secretary of Labor or his delegate shall appoint a public member to preside.

§ 1912a.7 Notice of meetings.

Public notice of any meeting of the Committee shall be given by the person calling the meeting in accordance with § 1912a.4 or at his direction at least seven (7) days in advance of the meeting; except when it is impractical to do so, or in an emergency situation, in which event shorter advance notice may be given. Such notice shall be given by publication in the FEDERAL REGISTER as much in advance of the meeting as circumstances will permit. In addition, notice may be given by such other means as press releases.

§ 1912a.8 Contents of notice.

(a) Notices of meetings shall describe fully or summarize adequately the agenda.

(b) The notice shall announce that the meeting is open to the public.

(c) The notice shall indicate that interested persons have an opportunity to file statements in written form with the Committee. The notice shall specify when the statements are to be filed with the Committee.

(d) In the discretion of the Chairman of the meeting, oral statements may be made before the Committee by interested persons after taking into consideration the number of persons in attendance, the nature and extent of their proposed individual participation, and the time, resources, and facilities available to the Committee. As a general policy, time for such presentations will be made available only at subcommittee meetings. The time for a meeting of the full committee does not normally permit the reception of such presentations without substantially intruding upon the frequently limited time that the members may be able to devote to the meeting. The person calling the meeting may provide in the notice of the meeting that summaries of any proposed oral presentations be filed in advance of the meeting.

§ 1912a.9 Assistance to the committee.

(a) At the request of the Committee or the person calling a meeting, the Assistant Secretary of Labor for Occupational Safety and Health may make available to the Committee any needed experts or consultants. Any expert or consultant so made available may participate in the deliberations of the Committee with the consent of the Committee.

(b) The Assistant Secretary shall furnish the Committee an executive secretary. He shall also furnish such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

(c) The Solicitor of Labor shall provide such legal assistance as may be necessary or appropriate for the Committee to carry out its functions in accordance with the requirements of this part.

§ 1912a.10 Presence of OSHA officer or employee.

The meetings of all advisory committees shall be in the presence of an officer or employee of the Federal Government referred to in § 1912a.4. Such officer or employee shall be empowered to adjourn any meeting whenever he determines adjournment to be in the public interest.

§ 1912a.11 Minutes; transcript.

(a) Detailed minutes of the Committee meetings shall be prepared, and shall be certified as accurate by the Chairman. In addition to the minutes there shall be kept verbatim transcripts of the Committee meetings.

(b) The minutes shall include at least the following:

(1) A list of the Committee members and agency employees who were present at the meeting;

(2) Any significant conclusions reached which are not recommendations;

(3) Any written information made available for consideration by the Committee, including copies of all reports received, issued, or approved by the Committee;

(4) Any recommendations made by the Committee and the reasons therefor;

(5) an explanation of the extent, if any, of public participation, including a list of interested persons who presented oral or written statements; and an estimate of the number of the members of the public who attended the meeting.

§ 1912a.12 Charter.

The Committee shall operate in accordance with its charter. In accordance with section 14(b)(2) of the Federal Advisory Committee Act, there shall be filed on behalf of the Committee a charter in accordance with section 9(c) thereof upon the expiration of each successive two-year period following December 28, 1970, the date of enactment of the Occupational Safety and Health Act.

§ 1912a.13 Subcommittees and subgroups.

(a) The Chairman may appoint from among the members of the Committee any number of subcommittees for the purpose of assisting the Committee in carrying out its functions. All the provisions of this part regarding the conduct of Committee meetings are applicable to the conduct of subcommittee meetings. For example, any meeting of subcommittees shall be open to the public, and notice of subcommittee meetings shall be published in the FEDERAL REGISTER.

(b) The purpose of any subcommittee is to give advice and make recommendations solely to the full Committee and under no circumstances may any subcommittee act outside this purpose. The Chairman may appoint any member of a Subcommittee to act as Chairman.

(c) Subcommittee shall operate in accordance with the Committee's charter and the procedures set forth in this Part.

(d) The Chairman may appoint temporary informal subgroups from among the members to perform such services as assisting the Committee or the Chairman by gathering technical information or for suggesting schedules, plans, agenda, terms or methods of operation.

§ 1912a.14 Petitions for changes in the rules; complaints.

(a) Any interested person shall have the right to petition for the issuance, amendment, or repeal of rules published in this part. Any such petition will be considered in a reasonable time. Prompt notice shall be given of the denial in whole or in part of any petition. Except in affirming a prior denial or when the denial is self-explanatory the notice shall be accompanied by a brief statement of the reasons therefor.

(b) Any advisory committee member or any other aggrieved person may file a written complaint with the Assistant Secretary alleging noncompliance with the rules in this Part. Any complaint must be timely filed, but in no case shall any complaint be filed later than thirty (30) days following the day on which the act of alleged noncompliance occurred. Any complaint shall be acted upon promptly and a written notice of the disposition of the complaint shall be provided to the complainant.

(c) Complaints and petitions should make reference to this § 1912a.14 and be filed and addressed as follows:

Assistant Secretary of Labor for Occupational Safety and Health
United States Department of Labor
Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of July, 1973.

PETER J. BRENNAN,
Secretary of Labor.

Signed at Washington, D.C. this 12th day of October, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare

[FR Doc.73-22224 Filed 10-17-73;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER P—RECORDS

PART 290—AVAILABILITY TO THE PUBLIC OF DEFENSE CONTRACT AUDIT AGENCY INFORMATION

Release of Records

The purpose of this amendment to § 290.6 (a), (b), (c), and (f) is to delete the title Executive Officer and substitute Deputy for Resources Management.

Section 290.6 *Procedures for the release of records* has been revised to read as follows:

§ 290.6 Procedures for the release of records.

(a) Requests for access to, or copying of, Defense Contract Audit Agency records which are not available to the public in public reference facilities of the Defense Contract Audit Agency may be filed in person, or by mail, with the Deputy for Resources Management, DCAA, between 8:15 a.m. and 4:15 p.m., Monday through Friday, or with any Regional Manager, DCAA, during the local working hours of the DCAA Region involved. Requests must be in writing.

(b) Upon receipt of a request for a record, the Deputy for Resources Management, or Regional Manager to whom the request is made, shall make an initial determination within ten working days as to whether the requested record is:

(1) Described with sufficient specificity as to make it an identifiable record pursuant to 5 U.S.C. 552(a)(3).

(2) Exempt from public inspection and copying under the provisions of 5 U.S.C. 552(b).

(c) Prior to making an initial determination, the Deputy for Resources Management, or Regional Manager, shall consult with Counsel, DCAA. Requests for documents containing potentially newsworthy material shall be brought to the attention of appropriate Department of Defense public affairs officers.

(d) If it is determined that the record is adequately identified and releasable pursuant to 5 U.S.C. 552, it shall be made available promptly to the requesting party.

(e) In the event that the record is not identified with sufficient specificity, the person making the request shall be so advised and requested to further identify the record. For a record to be considered "identifiable" it must exist at the time of the request. There is no obligation to "create" a record for the purpose of satisfying a request for information. When the information requested exists in the form of several records at several locations, the applicant should be referred to those sources if gathering the information would be burdensome.

(f) Where it is determined that the record is subject to exemption under 5 U.S.C. 552(b), and that in the public interest should be withheld from public disclosure, the Deputy for Resources Management, DCAA, or the Regional Manager concerned, shall notify the applicant that the request is denied, and inform him fully of the statutory basis for the denial and of the applicant's right to appeal to the Director, DCAA, in accordance with § 290.9.

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

OCTOBER 15, 1973.

[FR Doc.73-22257 Filed 10-17-73;8:45 am]

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER I—MILITARY PERSONNEL

PART 881—APPOINTMENT IN COMMISSIONED GRADES—RESERVE OF THE AIR FORCE AND UNITED STATES AIR FORCE (TEMPORARY)

Correction

In FR Doc. 73-20444 appearing at page 26891 in the issue for Thursday, September 27, 1973, make the following changes:

1. At the end of the form in § 881.30 (a)(14) insert "(Date)" under the leaders to the right of the signature line.

2. Section 881.32(b)(2)(iii) should read as follows:

(iii) Individuals applying under Subparts E, F, and H of this part, and § 881.72.

3. The table in § 881.34 should read as follows:

Rule	A	B
	If an applicant—	Then he may not be tendered an appointment until (note 1)—
1	Is an immigrant alien physician or dentist.	A report of a background investigation (BI) under AFR 205-32, USAF Personnel Security Program, has been completed and a favorable report rendered.
2	Has a father, mother, sisters, brothers, spouse, or children residing in one of the countries listed in AFR 205-32, atch 6.	
3	Is a U.S. citizen and has resided or traveled in a country listed in AFR 205-32, atch 6, for 30 or more continuous days after dates indicated (note 2).	
4	Made entries on DD Form 98 that provide reasons for belief that the appointment may not be clearly consistent with the interest of National security.	
5	Is not listed in rules 1-4.	A National Agency Check (NAC) has been completed and a favorable decision rendered.
6	Is an Air Force member under consideration for appointment with a Limited National Agency Check (LNAC).	
7	Has a break in service or employment after a prior investigation under AFR 205-32.	A NAC has been completed and a favorable decision rendered if the break in service or employment exceeds 1 year.

NOTE 1. Individuals applying for appointment in any of the corps of the medical services for assignment to Ready Reserve units (USAFR and ANGUS) may be appointed prior to completion of the appropriate personnel security investigation provided the following Certificate of Understanding is submitted with the application:

I understand that my appointment as a commissioned officer in the Reserve of the Air Force is being accomplished prior to completion of the required security investigation. I further understand that if as a result of completion of the postcommissioning investigative procedures I am determined unacceptable for appointment as a commissioned officer, I will be discharged from the United States Air Force and that I will receive an Honorable Discharge Certificate.

NOTE 2. Travel or residence in these countries under the auspices of the U.S. Government will not be considered.

4. In the seventh line of § 881.53(d) "this" should read "his".

PART 881—APPOINTMENT IN COMMISSIONED GRADES—RESERVE OF THE AIR FORCE AND UNITED STATES AIR FORCE (TEMPORARY)

Corrections

Part 881, Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations, as published, FR Doc. 73-20444, 38 FR 26891, Thursday, September 27, 1973, is corrected as follows:

1. Section 881.22(d)(5) is redesignated to § 881.22(d)(4).

2. Section 881.30 is corrected as follows:

a. The third sentence of paragraph (a) is changed to read "Officers already designated as judge advocates or assigned to the Judge Advocate General's Department who apply for reappointment under Subpart D need not submit documents previously submitted if they are still current."

b. The word "autmentee" in subparagraph (22) of paragraph (a) should be changed to read "augmentee."

3. Section 881.50 is corrected by changing the paragraph (c) subparagraphs as follows:

§ 881.50 [Amended]

* * * * *

(c) *Qualification and requirements.*
(1)(i) Age and grade: * * *
(ii) * * *
(2) * * *

(i) Applicant must possess 120 semester * * *

* * * * *

4. Section 881.83, which was omitted should be added, to read as follows:

§ 881.83 Physical therapist (AFSC 9236).

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved school, college or university and have completed a physical therapy course acceptable to the Surgeon General, USAF; or

(2) Possess a bachelor's degree in physical therapy from an approved school, college, or university.

(b) *Appointment in higher grades.* Applicant must possess all the qualifications in paragraph (a) of this section and be further qualified by acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' professional experience in medical institutions following certification. Applicants with more than 3 years' applicable experience who do not meet the qualifications for appointment in the grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years' service.

(2) *Captain.* At least 6 years' professional experience in medical institutions following certification, 3 of which must have been in supervisory or administrative capacity. The maximum amount of constructive service that may be awarded upon appointment as captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

By order of the Secretary of the Air Force.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.73-22089 Filed 10-17-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—MILITARY PERSONNEL

[CGD-73-22R]

PART 40—CADETS OF THE COAST GUARD

Appointment as Cadet, U.S. Coast Guard

The purpose of this amendment to Part 40 of Title 33 of the Code of Federal Regulations is to correct a typographical error in the form of Statement of Obligation printed in 33 CFR 40.13(d).

14 U.S.C. 182(b) reads in pertinent part as follows:

* * * may be ordered to active duty to serve in that grade or rating for such period of time as the Secretary prescribes, but not for more than four years.

In the text printed in the Code of Federal Regulations, the words "as the Secretary prescribes" were left out. 33 CFR 40.13(d) reads, therefore: "may be ordered to active duty to serve in that grade or rating for such a period of time, not to exceed 4 years." The addition of the omitted words has no legal effect because the antecedent to the word "such" can be found in the first paragraph of the Statement or it can be implied, and, in any event, the last words, "not to exceed 4 years," constitute a clear boundary that reduces the range of possible misunderstandings or controversies to insignificant technical details of no impact on the service obligation.

A stylistic correction of a form related to active duty determined by a statute is "a matter relating to agency management or personnel" (5 U.S.C. 553(a)). Accordingly, "notice and public procedure thereon" and effective date provisions of 5 U.S.C. 553 (b) and (d) do not apply to this situation.

In consideration of the foregoing, Part 40 of Chapter I of Title 33 of the Code of Federal Regulations is amended as follows:

1. By inserting in § 40.13(d), in the second line from the end, after the words "for such a period of time" the words, "as the Secretary prescribes."

((14 U.S.C. 182, 632; 49 U.S.C. 1655(b)(1)); 49 CFR 1.4(b) and 1.46(b).)

Effective date.—This amendment becomes effective on October 18, 1973.

Dated October 11, 1973.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc.73-22236 Filed 10-17-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

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

Succinic Acid 2,2-Dimethylhydrazide

A petition (PP 2F1271) was filed by Uniroyal Chemical, Division of Uniroyal, Inc., Bethany, CT 06525, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the plant regulator succinic acid 2,2-dimethylhydrazide in or on the raw agricultural commodities plums (fresh prunes) at 55 parts per million, brussells sprouts at 20 parts per million, melons at 5 parts per million, and peppers at 1 part per million.

Subsequently, the petitioner amended the petition by decreasing the proposed tolerances on plums (fresh prunes) and melons from 55 parts per million and 5 parts per million, respectively, to 50 parts per million and 3 parts per million. (For a related document, see this issue of the FEDERAL REGISTER, page 28933.)

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The plant regulator is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.246 is amended by adding four new paragraphs "50 parts per million * * *", "20 parts per million * * *", "3 parts per million * * *", and "1 part per million * * *", as follows:

§ 180.246 Succinic acid 2,2-dimethylhydrazide; tolerances for residues.

* * * * *

50 parts per million in or on plums (fresh prunes).

* * * * *

20 parts per million in or on brussels sprouts.

* * * * *

3 parts per million in or on melons.

* * * * *

1 part per million in or on peppers.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before November 19, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date.—This order shall become effective on October 18, 1973.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2).)

Dated October 15, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22281 Filed 10-17-73;8:45 am]

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

Sodium Chlorate

On the initiative of the Administrator a notice was published in the FEDERAL

REGISTER of September 10, 1973 (38 FR 24667), proposing that the desiccant sodium chlorate, when used with urea as a fire retardant, be exempted from the requirement of a tolerance in or on the raw agricultural commodity sorghum grown for seed only. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.1020 is amended by adding a new paragraph as follows:

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate, when used with urea as a fire retardant, is exempted from the requirement of a tolerance for residues in or on sorghum grown for seed only when used in accordance with good agricultural practice as a desiccant in sorghum seed production.

Any person who will be adversely affected by the foregoing order may at any time on or before November 19, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date.—This order shall become effective on October 18, 1973.

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

Dated: October 15, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-22282 Filed 10-17-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 51—COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PART 51-5—PROCUREMENT REQUIREMENTS AND PROCEDURES

Military Resale Commodities

Affected military departments have informed the Committee that § 51-5.6(b) of the revised Committee regulations (38 FR 16316) could adversely affect their commissary programs. This amendment will permit military departments to retain their current policies regarding commissary operations while continuing the priority afforded workshops under Public Law 92-28 in the stockage of military resale commodities in commissaries.

1. Paragraph (b) of § 51-5.6 is revised to read as follows:

§ 51-5.6 Military resale commodities.

* * * * *

(b) Authorized resale outlets shall stock military resale commodities in as broad a range as is practicable. Comparable brand name items procured from commercial sources may also be stocked to meet patron demand, but not to the exclusion of military resale commodities.

* * * * *

Effective date: October 25, 1973.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-22022 Filed 10-17-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19706]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Report and Order Concerning Primary Supply Voltage

In the matter of amendment of Part 83 to reduce the minimum required power output and designate the primary supply voltage to be used to determine the minimum power required for compliance with title III, part III of the Communications Act and to designate the nominal primary supply voltage for type acceptance.

1. On March 19, 1973, we released a notice of proposed rulemaking in this Docket. The notice was published in the FEDERAL REGISTER on March 26, 1973 (38 FR 7816). The notice provided for the filing of comments and reply comments by specified times that have now passed.

2. Comments were filed by Columbian Hydrosonics, Inc. (CHI), Land Mobile Section, Communications and Industrial Electronics Division, Electronic Industries Association (EIA), and by NARCO KONEL (Konel). No reply comments were filed.

3. CHI suggested that the nominal primary supply voltage should be 13.6 V., since the inclusion of other power consuming devices such as blowers or lights and losses in filters, antenna changeover circuitry, etc., can raise the power consumption over 6 amperes and the 13.6 V. would be more realistic. They also suggest that the test voltage be measured at the interface between the equipment and the power cord.

4. EIA agrees in principle with the proposals, however, they believe some of the rules are unnecessarily restrictive. EIA also proposes, in parallel with the recommended standard recently adopted by the Radio Technical Commission for Marine Services [1], that 13.6 V. be adopted for uniformity. EIA recommends that 80 percent of the nominal voltage (11.0 V.) be adopted. They also state that there are other environmental conditions which affect the power output, and while regulator circuitry may stabilize the output at 15 watts, other conditions may cause the power to drop below 15 watts. EIA asserts that transmitters without regulator circuitry have power outputs of less than 15 watts but over 10 watts under conditions of 85 percent voltage. This reduced power would only represent a degradation of approximately 3 percent of the nominal 30 mile range.

5. Konel suggested that the Commission adopt the standard power supply voltage of 13.6 V. Konel refers, also, to the above-mentioned VHF receiver standard of the Radio Technical Commission for Marine Services and the value of 13.6 V. set forth therein, and proposes the Commission adopt this value (13.6 V.) to prevent confusion. Konel objected to the use of 85 percent of 13.8 V. (11.73) rather than 12.0 V. which the emergency source of energy aboard a vessel could readily meet. Konel believes that the Commission inspector might require a demonstration at the 11.73 V. when there is 12.0 V. available and to avoid this possibility proposed to add a phrase in the proposed § 83.518(c)(2) as follows:

> The transmitter has been demonstrated, or is of a type which has been demonstrated, to the satisfaction of the Commission as capable with a primary voltage equal to (a) 85 percent of the nominal value; or in lieu thereof, has (b) demonstrated in accordance with the requirements of § 83.524 of delivering not less than 15 watts * * *

Konel states that there have been similar misinterpretation by inspectors when performing tests on SSB transmitters under § 83.517. They further suggest that the Commission resolve problems relating to §§ 83.517 and 83.518 at the same time. While amendment of section 83.517 falls outside of the scope of this proceeding, we concur with Konel that changes to § 83.518 are necessary to to avoid such misinterpretations and to clarify the various matters involved. Accordingly, much of subject matter considered in the following pages and rule changes set forth in the attached Appendix are directed to implementing Konel's suggestion.

6. On the basis of comments by CHI, EIA and Konel and the work performed by the Radio Technical Commission for Marine Services, we are persuaded that a primary supply voltage of 13.6 volts should be adopted. The selection of this voltage is a satisfactory solution to a part of the problem, the other parts of which are discussed in the paragraphs

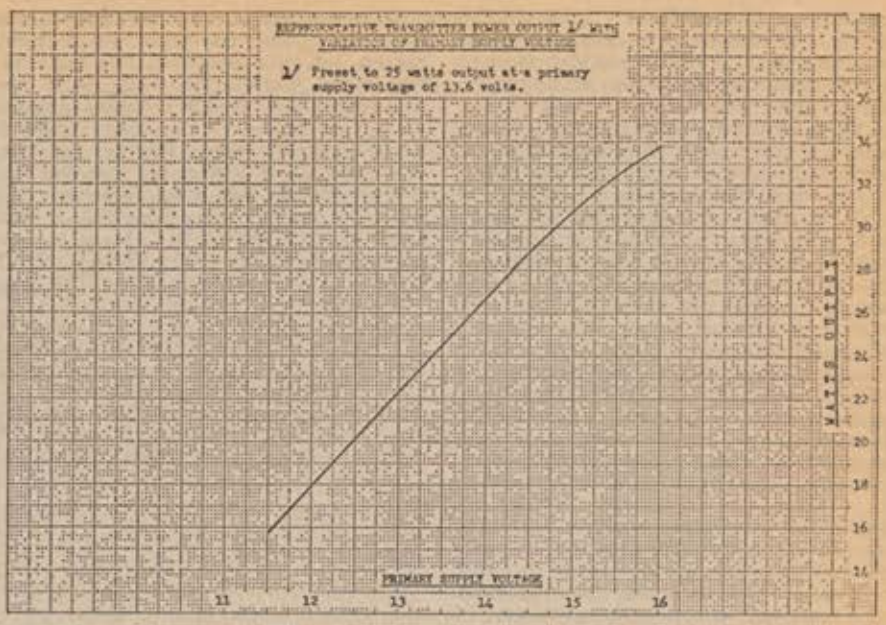
[1] See "Minimum Standards for VHF Receivers in the Maritime Mobile Service," Radio Technical Commission for Marine Services.

which follow. In considering the whole problem, it is necessary to take into account, as mentioned by Konel, the matter of FCC inspection of vessels subject to title III, part III of the Communications Act.

7. If the rules are to be enforceable on a practical basis, it is necessary that a number of steps be taken. For design purposes, it is necessary that the transmitter output power be related to a nominal voltage, where both the power output and nominal voltage are defined. Thus, at the nominal primary supply voltage, 13.6 V. as discussed above, the transmitter output would be 25 watts. For practical reasons, a tolerance must be assigned to the 25 watt output power value, to take into account variations in design approach between the various manufacturers. A practical tolerance for 25 watts is +0 dB and −1 dB, thus, for type acceptance purposes the set manufacturer would adjust the set at 13.6 V. to an output power of 25 watts, +0 −1 dB. For the FCC Inspector, where lower values of primary supply voltage will be noted, he will require a sliding scale for power output, depending upon the primary supply voltage existing aboard the vessel being inspected. The matter of this sliding scale is discussed in paragraphs 16 and 17, below.

8. Since the FCC inspector, in inspecting a radio installation installed pursuant to Part III of Title III of the Communications Act, will infrequently if ever find the supply voltage to be 13.6 V., it is necessary to provide a basis for determining the acceptability of an installation when the primary supply voltage is other than 13.6 V. It is evident that a wide range of primary supply voltages will be encountered, depending on whether the engine/generator/voltage regulator is operative or inoperative, or the vessel's battery is in use and charged or discharged. As discussed above, at voltages above 13.6 V. we can expect full output power from the transmitter to be available. The problems in the past have all concerned output power available with a primary supply voltage of less than 13.6 V., that is, when the transmitter is being operated from the battery.

9. The FCC Inspector, in measuring the output power for compliance with the minimum output power permitted by the rules, can expect to find, with a supply voltage variation from 11.5 to 16 volts, a measured output power approximating that set forth in the following representative curve, which we believe is reasonably representative of much of the solid-state VHF equipment currently installed and in use or available in the maritime services. While this curve, applicable to transmitters where the output amplifier is not regulated, has been prepared from actual transmitter measurements, it has been adjusted to coincide with 25 watts output at 13.6 V. and, above 14.5 V., has been rounded off to apply to a less exacting design.



10. Returning now to EIA comments, it is pointed out that in EIA Standard RS–152–B,[2] allowance is made for output power degradation due to decrease in primary supply voltage (10%=3 dB, 20%=6 dB), humidity (3 dB), and temperature (3 dB). As set forth in RS–152–B, these values are the maximum departures which are permitted. Although not specifically so related in EIA comments, it is permissible to assume that these degrading effects are additive, so that, starting from 25 watts at 13.6 volts, we have:

Degradation attributed to	Degradation (dB)	Output (W)
(At 13.6 volts)	0	25
Decrease from 13.6 to 10.88 V	−6	6.25
Humidity	−3	3.125
Temperature	−3	1.5625

11. EIA Standard RS–152–B does not require that these degrading effects be measured on an additive basis, that is, when measuring a humidity of 90 percent at 50° C, the primary supply voltage need not be varied from 10.88 V. to 13.6 V. Under the EIA Standard the humidity test called for is to be made with a primary supply voltage of 13.6 V. Since EIA does not require these degrading affects to be added to each other, we see no compelling reason why the Commission should do so, since the effect of such an action would be to severely penalize VHF equipment design, would increase the cost of solid-state VHF equipment available to the maritime services, and permit the use of a minimum output power of 1.5625 watts, which is substantially less than we find aceptable. For these reasons we are not in this proceeding including in the rules provision for the additive degradation in output power due to the three degrading effects set forth above.

12. It is, however, necessary to make provision for the degradation of power output due to the decrease in primary supply voltage. While a comprehensive survey has not been carried out for all types of VHF sets available to the maritime services, the limited information available indicates that with a degradation in primary supply voltage of from 13.6 to 11.5 V. (15 percent) the output power degradation is between 1.2 and 1.6 dB. This is reflected in the curve appearing in paragraph 9, above. While this has no impact upon RS–152–B, it is a substantial commendation to VHF set manufacturers.

13. In considering degradation due to decrease in primary supply voltage, we presume that the input voltage to the output amplifier of most solid-state VHF sets currently available is not regulated. At the same time, we presume the voltage to the receiver local oscillator(s) and to the transmitter oscillator(s) is regulated. Available information, while limited, indicates the voltage to the receiver local oscillator(s) and transmitter oscillator(s) is regulated at between 9.0 and 9.5 volts. While there are a variety of ways in which the voltage may be regulated, we believe that such regulation can be effected if the input voltage to the regulator is 1.5 volts higher (as in the case of integrated circuit regulators) than the output regulated voltage. Thus, the regulated voltage (9.5 V.) plus the higher increment (1.5 V.) in which to effect regulation produces 11.0 V., to which must be added a tolerance (2 percent) for the measuring meter accuracy. This produces a required primary supply voltage of 11.22 volts, which

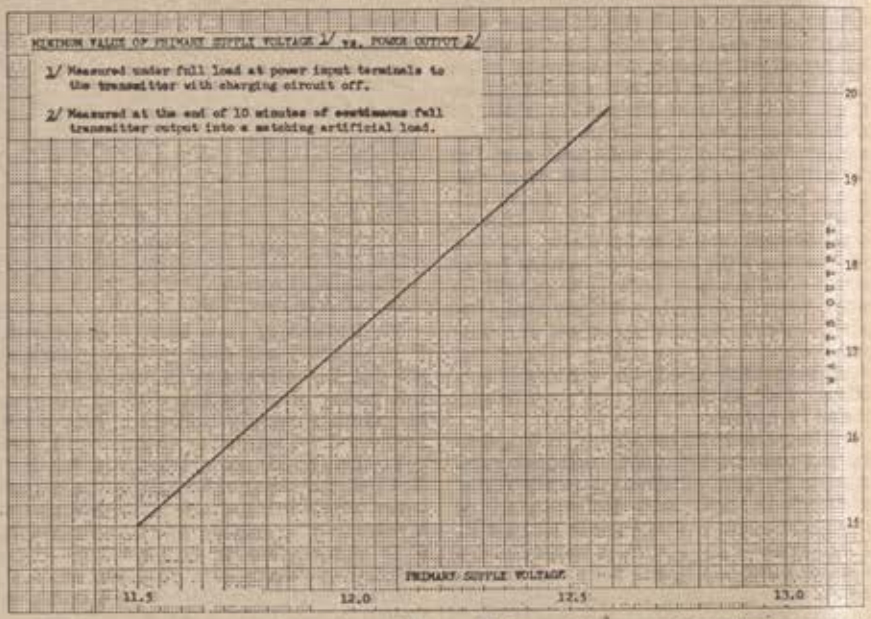
[2] Minimum Standards for Land Mobile Communication FM or PM Transmitters 25–470 MHz, February 1970.

can be rounded off to 11.5 V., to provide a degree of safeguard. In accordance with this approach, it will be noted that at its lower extremity the curve appearing in paragraph 9, above, starts at 11.5 V.

14. It is appropriate at this point to consider the matter of voltage drop over the conductors carrying primary supply power to the VHF installation. We believe it is reasonable and necessary to provide a line of demarcation between the VHF set manufacturer, who must be responsible for set performance, and voltage drop due to vessel wiring, which is the responsibility of the boat owner. It is necessary that the boat owner supply a primary supply voltage to the VHF set location which, under full load, is equal to or greater than a specified minimum. In looking at the performance of a VHF transmitter with an unregulated output amplifier, it is our view that it would be unreasonable to expect the VHF set designer to meet the required minimum output power requirements where the vessel primary supply voltage to the VHF set, under full load, is less than 11.5 volts. It is apparent, of course, that selection of 11.5 volts will impose upon the boat owner the requirement to provide primary power conductors of sufficient size to minimize voltage drop and, further, to employ a battery(s) which is capable of retaining an adequate charge. The tables provided below illustrate the affects of adequate and inadequate conductors. For example, 50 feet (25 feet in each direction) of #16 wire at 6 amperes provides a voltage drop of from 12.7 to 11.35 volts, which is below 11.5 volts and, therefore, unsatisfactory.

AWG wire size	Length of (single) conductor	Voltage drop at amperes			Resistance (Ohms) at 50° C
		5A	6A	7A	
	Feet.				
No. 10	25	0.14	0.17	0.19	.0279
	50	.28	.33	.39	.0558
	100	.56	.67	.78	.1116
No. 12	25	.22	.27	.31	.0444
	50	.44	.54	.62	.0888
	100	.89	1.07	1.24	.1176
No. 14	25	.35	.42	.49	.0703
	50	.71	.85	.99	.1411
	100	1.41	1.79	1.97	.2822
No. 16	25	.56	.67	.78	.1122
	50	1.12	1.35	1.57	.2245
	100	2.24	2.69	3.14	.4490

15. Since it is unlikely that at the time of FCC inspection of a vessel the primary supply voltage will be 11.5 volts, it is necessary to provide a sliding scale, as mentioned in paragraph 7, above, so that the voltage measured, and transmitter output power, may be related to 11.5 volts and 15 watts, for the VHF transmitter with regulated output amplifier. At its lower limit the sliding scale is fixed by the values of 11.5 volts and 15 watts. In examining the matter of the other, or upper voltage, limit of the sliding scale, it is apparent that voltages above approximately 12.6 volts will be available only if the engine/generator/voltage regulator are operative. The first objective of FCC inspection of the vessel is to assure that the minimum required output power is provided. The fact that the VHF installation will, with the higher primary supply voltages, provide an output power at the upper levels is of secondary interest. Further, in time of emergency it is probable that the vessel's engine may not be operative and the only primary supply voltage is that available from the battery source. In view thereof, the upper voltage which should be included in the sliding scale is that of a fully charged storage battery, or approximately 12.6 volts. The slope of the sliding scale should, as a practical matter, be parallel to the curve appearing in paragraph 9, above, thus providing an upper limit at 12.6 volts and 19.85 watts. A sliding scale drawn on this basis has been prepared and appears below. Further, in order that the VHF set manufacturer and FCC Inspector may have access to a common reference, this graph has been included in § 83.518(d)(5), as set forth below.



1. The FCC inspector in using this curve will employ the following procedure:

With the vessel's generator/voltage regulator inoperative (not charging the battery) and with power supplied to the VHF set by only the vessel's battery;

An output watt meter, properly terminated, will be connected to the VHF transmitter output;

The VHF transmitter will be placed in the full output position and full power output maintained for 10 continuous minutes;

Without interrupting full power output, at the end of 10 minutes:

Measure the primary supply voltage at the power input terminals to the VHF set; and

Measure the power output from the VHF transmitter.

At the measured primary supply voltage, determine that the power output of the VHF transmitter is equal to or greater than the value shown on the curve of paragraph 16.

If the primary supply voltage, as measured above, is 11.5 volts or more and the output power is equal to or above the output power shown on the curve of paragraph 16, the output power level required by section 83.518 shall be deemed to have been met.

Conversely, the VHF installation shall not be approved:

If the primary supply voltage, as measured above, is less than 11.5 volts; or

If the output power, for a primary supply voltage at or above 11.5 V., as measured above, is less than that shown on the curve of paragraph 16.

16. EIA Standard RS–152–B includes a wide range of primary supply voltages, half or more of which will not be available from a storage battery source aboard ship. The range of voltages appearing in section 2.2.1 of RS–152–B are as follows:

Nominal power supply voltages (DC)	Test voltage	Nominal power supply voltages (DC)	Test voltage
6	(Function of)	64	72
12	(current drawn)	110	118
24	26.4	120	128
32	36.0	208	216
48	52.5	240	262

Regardless of the primary supply voltage for which the marine VHF set is designed, when that VHF set is installed aboard a vessel subject to title III of part III of the Communications Act, the practical situation is such that when the vessel's engine is inoperative the generator is also inoperative and, thus, the only electrical energy sources available aboard the vessel is one or another type of storage battery. While the storage battery

source could have a wide range of voltages, in the usual case it provides a nominal voltage of 12 volts. For this reason, the provisions included in § 83.518(d) of the attached Appendix are limited to a nominal voltage of 12 volts. Should it develop in the future that there is a requirement for one or more additional voltages, such requirement will be considered upon development of need.

17. In view of the foregoing, *It is ordered*, That pursuant to the authority contained in Sections 4(i) and 303(e) and (r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules, is amended, effective November 16, 1973, as set forth below. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 3, 1973.

Released: October 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 83.134(f) is amended to add a new footnote 3 to read as follows:

§ 83.134 **Transmitter power.**

* * * * *

(f) Ship station transmitters using F3 emission in the band 156–162 MHz shall not exceed a carrier power of 25 watts [1, 2, 3] and, additionally, shall include the capability to reduce, readily, the carrier power to one watt or less.

* * * * *

2. Section 83.518 is revised to read as follows:

§ 83.518 **Very high frequency transmitter.**

(a) The transmitter shall be capable of effective transmission of F3 emission on 156.800 MHz, 156.300 MHz, and on the ship-to-shore working frequency as necessary for communication with one or more public coast stations serving the area in which the vessel is navigated.

(b) The transmitter shall be adjusted so that the transmission of speech normally produces peak modulation within the limits 75 percent and 100 percent.

(c) The transmitter shall be of a type which has been demonstrated in the process of type acceptance as being capable of delivering a power of at least 20 watts, but not more than 25 watts, on each of the frequencies 156.300 MHz, 156.800 MHz and on any one of the ship-to-shore public correspondence channels, into 50 ohms effective resistance, when operated with an applied primary supply voltage of 13.6 volts DC.[4] In addition, for transmitters type accepted after January 1, 1974, which are intended to be usable for the purpose of this subpart and which are designed to operate from a nominal power supply voltage of 12 VDC, the application for type acceptance shall include a showing of compliance with the power output graph of paragraph (d)(5) of this Section.

(d) When an individual demonstration of the capability of the transmitter is deemed necessary in the judgment of the Commission, the requirements and procedures for determining compliance with the output power requirements prescribed in this paragraph, with the radiotelephone installation normally installed onboard ship, shall also be met.

(1) Measurements of primary supply voltage and transmitter output power shall be made with the equipment drawing energy only from the ship's battery, in accordance with the following procedures.

(2) The primary supply voltage, measured at the power input terminals to the transmitter, and the output power of the transmitter, terminated in a matching artificial load, shall be measured at the end of 10 minutes of continuous, uninterrupted operation of the transmitter at its full power output.

(3) The primary supply voltage, measured in accordance with the procedures of this paragraph, shall be not less than 11.5 volts.

(4) The transmitter output power, measured in accordance with the procedures of this paragraph, shall be not less than 15 watts.

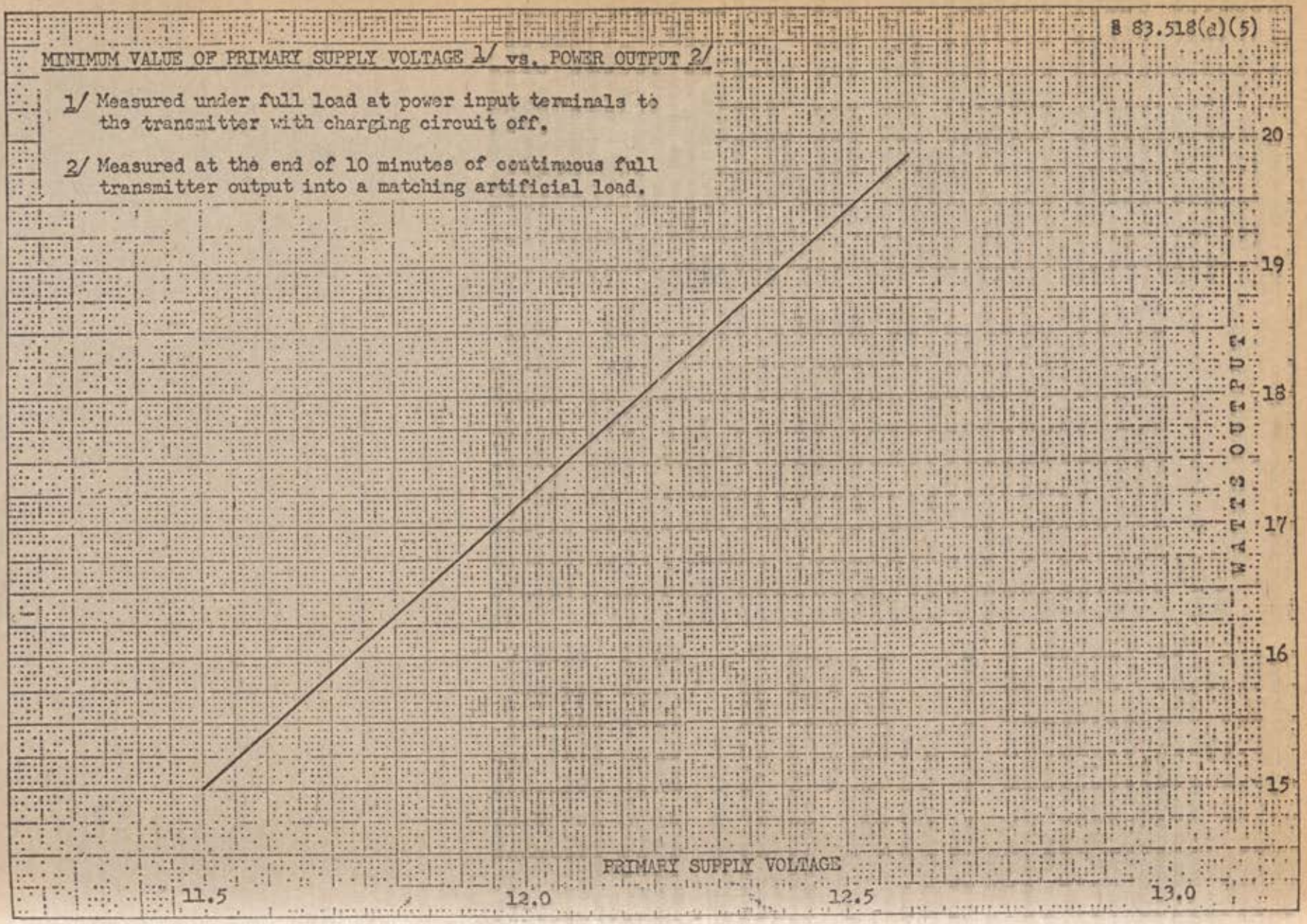
(5) For primary supply voltages, measured in accordance with the procedures of this paragraph, of greater than 11.5 volts but less than 12.6 volts, the required transmitter output power shall be taken from the graph of this subparagraph. To apply this graph, enter the graph, at the bottom, at the point corresponding to the measured primary supply voltage, read vertically to intersect the drawn line, then read horizontally to the right to the scale of "watts output." The resultant value of watts output is the minimum transmitter output power required by this section, that is, the transmitter output power, measured in accordance with the procedures of this paragraph, must be equal to or in excess of the resultant value.

[1] Commissioner Robert E. Lee absent.

[2] For purposes of type acceptance (see Volume II, Part 2, Subpart F), the 25 watts carrier power limit shall be determined at a primary supply voltage of 13.6 volts DC, ±1%, for equipment designed to employ a conventional 12 volt lead acid storage battery as a source of primary power.

[4] Sets operating from other values of primary supply voltage, such as 26.4 VDC, 36.0 VDC, or 117 VAC shall meet this requirement for operation at their respective primary supply voltage, in lieu of 13.6 VDC.

§ 83.518(d)(5)


MINIMUM VALUE OF PRIMARY SUPPLY VOLTAGE 1/ vs. POWER OUTPUT 2/
1/ Measured under full load at power input terminals to the transmitter with charging circuit off.
2/ Measured at the end of 10 minutes of continuous full transmitter output into a matching artificial load.
MINIMUM POWER OUTPUT IN WATTS
20
19
18
17
16
15
PRIMARY SUPPLY VOLTAGE
11.5
12.0
12.5
13.0

(e) The transmitter shall be capable of being adjusted for efficient use with an actual ship station transmitting antenna meeting the requirements of § 83.526.

[FR Doc.73-22059 Filed 10-17-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Rev. S.O. 1152]

Distribution of Refrigerator Cars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 12th day of October 1973.

It appearing, That an acute shortage of mechanical refrigerator cars exists in the primary fruit and vegetable growing and shipping areas of the country; that shippers of these and other products requiring protection from heat or cold are being deprived of adequate supplies of such cars, creating great economic loss; that mechanical refrigerator cars are being diverted to the handling of other types of freight not requiring such protection and are not being returned promptly to such fruit and vegetable growing areas; that present rules, regulations, and practices with respect to the use, supply, control, movement, exchange, interchange, and return of such mechanical refrigerator cars to such growing and shipping areas are ineffective; that it is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1152 Service Order No. 1152.

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

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all mechanical refrigerator cars listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 388, or reissues thereof as having mechanical designation "RP" or "RPL" bearing reporting marks assigned to the following companies:

Bangor and Aroostook Railroad Company (BAR)
Burlington Northern Inc. (BN)
Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milw)
Missouri Pacific Railroad Company (MP)
Pacific Fruit Express Company (PFE)
Southern Pacific Transportation Company (SP)
Union Pacific Railroad Company (UP)

(2) *Distribution.* (i) Withdraw from distribution and return to owners empty all mechanical refrigerator cars described in paragraph (1) (ii) herein. (See exceptions (ii), (iii), and (iv).)

(ii) Exception: Mechanical refrigerator cars bearing reporting marks ARMN will be returned to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the Missouri Pacific Railroad Company, or the Norfolk and Western Railway Company in accordance with instructions issued by the American Refrigerator Transit Company.

(iii) Exception: Mechanical refrigerator cars owned by the Bangor and Aroostook Railroad Company and bearing reporting marks BAR will be returned to the car owner or will be handled in common with PFE, SPFE, and UPFE cars as directed by the car owner.

(iv) Exception: Empty mechanical refrigerator cars bearing reporting marks PFE, UPFE, or SPFE and empty mechanical refrigerator cars bearing reporting marks BAR which are assigned by the car owner to use by the Pacific Fruit Express Company shall be returned to either the Southern Pacific Transportation Company or to the Union Pacific Railroad Company in accordance with instructions issued by their jointly-owned subsidiary, the Pacific Fruit Express Company.

(3) *Restrictions on loading.* (i) Mechanical refrigerator cars described in paragraph (a) (1) (ii) of this section, located on the lines of the car owner, may be loaded only with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto or reissues thereof. (See Note (iii).)

(ii) Mechanical refrigerator cars described in paragraph (a) (1) (ii) of this section, located on lines other than the car owner, may be loaded with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto or reissues thereof, only if destined to a station on the lines of the car owner. (See Note (iii) and Exception (iv).)

(iii) Note: In the application of parts (i) and (ii) of this paragraph, the SP and the UP shall each be deemed to be the owners of cars marked PFE, SPFE, and UPFE and of those BAR cars assigned by the owner to the PFE Company for distribution; and the Milw., the MP, and the Norfolk and Western shall each be deemed to be the owner of cars marked ARMN.

(iv) Exception: Cars with defective mechanical refrigeration units which the car owner certifies cannot be placed in operating condition within thirty days. The certification provided herein shall be made to R. D. Pfahler, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423.

(v) Mechanical refrigerator cars described in this order must not be backhauled or held empty more than twenty-four (24) hours awaiting placement for loading authorized in part (ii) of this paragraph.

(4) *General exception.* Exceptions to this order may be authorized to carriers by R. D. Pfahler, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, upon receipt of written or telegraphic request from the car owner. All such requests must state the origin, destination, commodity, and full route of the proposed traffic and the reason for the requested exception.

(b) *Effective date.* This order shall become effective at 11:59 p.m., October 15, 1973.

(c) *Expiration date.* This order shall expire at 11:59 p.m., December 15, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

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

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement, under the terms of that agreement; and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22270 Filed 10-17-73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Bombay Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective during the period November 9, 1973 through November 14, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Public hunting of deer with shotguns on the Bombay Hook National Wildlife Refuge, Delaware, is permitted only on the Deer Hunting Area and South Upland Hunting Area designated by signs as open to hunting. These open deer hunting areas are delineated on maps available at refuge headquarters, Smyrna, Delaware 19977 and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and

Courthouse, Boston, Massachusetts 02109. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer with firearms subject to the following special conditions:

(1) A Federal permit is required to hunt on the Deer Hunting Area and may be obtained by applying to the Refuge Manager in writing for an advance reservation. An individual with an advance reservation will forfeit his permit if he is not present one hour prior to the start of legal shooting time on the date of the reservation. These forfeited permits and other permits not reserved by advance reservations will be awarded to standby hunters by lot one-half hour before the start of legal shooting time. Permits must be surrendered prior to departure from the refuge.

(2) The number of hunters admitted to the open area at one time will be restricted to 50.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 14, 1973.

RICHARD E. GRIFFITH,
Regional Director,
Bureau of Sport Fisheries and Wildlife.

OCTOBER 9, 1973.

[FR Doc.73-22250 Filed 10-17-73;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

1974 Crop of Upland Cotton; Base Acreage Allotments and National Production Goal

Sections 722.463 to 722.465 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1974 crop of upland cotton (referred to as "cotton"). The purpose of these provisions is to (1) proclaim a national production goal; (2) establish a national base acreage allotment; and (3) apportion the national base acreage allotment to States. Section 722.466 is issued pursuant to the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.). This section establishes the cropland set-aside percentage as zero. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on August 22, 1973 (38 FR 22560).

Cotton producers need to know the major provisions of the 1974 upland cotton program as soon as possible in order to effectively plan their 1974 farming operations. It is essential, therefore, that these provisions be made effective as soon as possible. Accordingly, §§ 722.463 to 722.466 shall be effective on October 15, 1973. The material previously appearing in these sections under centerhead "1973 Crop of Upland Cotton; Base Acreage Allotments" remains in full force and effect as to the crop to which it was applicable.

Sections 722.463 through 722.466 are revised to read as follows:

§ 722.463 National production goal for the 1974 crop of cotton.

The national production goal for the 1974 crop of cotton is hereby proclaimed to be in the amount of 14,802,000 standard bales of cotton determined in accordance with the formula prescribed under section 342a of the act, based on the following data:

	480 lb. net weight bales
(1) Estimated domestic consumption, 1974–75 marketing year	7,400,000
(2) Estimated exports, 1974–75 marketing year	4,700,000
(3) Allowance for market expansion (5 percent of sum of (1) and (2))	605,000
(4) Adjustments to assure adequate stocks	2,097,000
Total	14,802,000
(5) 50 percent of the average offtake for the preceding 3 marketing years (1971, 1972, and estimated 1973	6,277,000

§ 722.464 National base acreage allotment for the 1974 crop of cotton.

The national base acreage allotment for the 1974 crop of cotton shall be 11,000,000 acres determined in accordance with section 350(a) of the act.

§ 722.465 Apportionment of national base acreage allotment to the States.

The national base acreage allotment of 11,000,000 acres is apportioned to the States in accordance with section 350(b) of the act as follows:

States:	*State allotment (acres)*
Alabama	645,100
Arizona	228,916
Arkansas	915,616
California	509,331
Florida	20,639
Georgia	556,796
Illinois	1,944
Kansas	8
Kentucky	4,662
Louisiana	383,206
Mississippi	1,052,867
Missouri	246,447
Nevada	2,420
New Mexico	118,705
North Carolina	297,418
Oklahoma	511,140
South Carolina	453,998
Tennessee	364,938
Texas	4,675,427
Virginia	10,422

§ 722.466 Cropland set-aside percentage.

There will be no set-aside requirement in effect for the 1974 crop of cotton under section 103(e)(4)(A) of the Agricultural Act of 1949, as amended.

(Secs. 301, 342a, 350; 52 Stat. 38, as amended, 84 Stat. 1358, as amended; Sec. 103(e), 84 Stat. 1375, as amended (7 U.S.C. 1301, 1342a, 1350, 1421; 1444(e)).)

Effective date.—October 15, 1973.

Signed at Washington, D.C., on October 12, 1973.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

[FR Doc.73-22228 Filed 10-15-73;12:52 pm]

PART 722—COTTON

1974 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

The provisions of §§ 722.558 to 722.561 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act") with respect to the 1974 crop of extra long staple cotton (referred to as "ELS cotton"). The purpose of these provisions is to (1) proclaim a national marketing quota and national acreage allotment for the 1974 crop of ELS cotton; (2) apportion the national acreage allotment to States; and (3) fix the period for holding the national marketing quota referendum. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 11, 1973 (38 FR 24911), in accordance with 5 U.S.C. 553. The views and recommendations received in response to such notice have been duly considered.

It is essential that these provisions be made effective as soon as possible since the proclamation of the quota and the national allotment is required to be made not later than October 15, 1973. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest, and §§ 722.558 to 722.561 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in these sections under centerhead "1973 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas" remain in full force and effect as to the crop to which it was applicable.

Sections 722.558 through 722.561 are revised to read as follows:

§ 722.558 National marketing quota for the 1974 crop of ELS cotton.

(a) The marketing quota for the 1974 crop of ELS cotton is hereby proclaimed to be an amount of 108,400 standard bales determined in accordance with the formula prescribed under section 347(b)(1) of the act. For the 1971 and succeeding crops of ELS cotton, it has been determined that the minimum quota of 82,481 standard bales under section 347(b)(2) of the act shall not be required to be a maximum quota under section 347(b)(3) of the act. See

§ 722.558 published in the FEDERAL REGISTER of October 17, 1970 (35 FR 16312). The marketing quota for the 1974 crop is not less than the minimum quota prescribed under section 347(b)(2) of the act. The quota is based on the following data:

(1) Estimated domestic consumption, 1974–75	90,000
(2) Estimated exports, 1974–75	4,000
(3) Adjustment to assure adequate stocks	34,400
(4) Estimated imports, 1974–75	20,000
Total	108,400

§ 722.559 National acreage allotment for the 1974 crop of ELS cotton.

It is hereby determined and proclaimed that a national acreage allotment shall be in effect for the crop of ELS cotton produced in the calendar year 1974. The amount of such national allotment is 117,719 acres calculated by multiplying the national quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield of 442 pounds per planted acre of ELS cotton for the four calendar years 1969, 1970, 1971, and 1972.

§ 722.560 Apportionment of national acreage allotment to the States.

The national acreage allotment of 117,719 acres is apportioned to the States in accordance with section 344(b) of the act as follows:

State	State Allotment (acres)
Arizona	51,112
California	778
Florida	167
Georgia	158
New Mexico	23,910
Texas	41,9M,594

§ 722.561 National marketing quota referendum for the 1974 crop of ELS cotton.

The national marketing quota referendum for the 1974 crop of ELS cotton shall be held during the referendum period December 3 to 7, 1973, each inclusive, by mail ballot in accordance with Part 717 of this chapter (33 FR 18345, 34 FR 12940, 36 FR 12730, 38 FR 12891).

(Secs. 301, 343, 344, 347, 375, 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended (7 U.S.C. 1301, 1343, 1344, 1347, 1375).)

Effective date October 15, 1973.

Signed at Washington, D.C., on October 12, 1973.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

[FR Doc.73-22229 Filed 10-15-73;12:52 pm]

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

[Valencia Orange Reg. 454]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period October 19–25, 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.

§ 908.754 Valencia Orange Regulation 454.

(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 remains steady. Prices f.o.b. averaged $4.13 per carton on a sales volume of 565 carlots during the week ended October 11, 1973, compared with $4.11 per carton on sales of 628 carlots a week earlier. Track and rolling supplies at 356 cars were down 2 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 section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation 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 October 16, 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 October 19, 1973, through October 25, 1973, are hereby fixed as follows:

(i) District 1: Unlimited;
(ii) District 2: 625,000 cartons;
(iii) District 3: Unlimited."

(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 October 16, 1973.

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

[FR Doc.73-22406 Filed 10-17-73;11:29 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 THE TREASURY

Customs Service

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Deletion of Port of Entry at Elizabeth City, N.C.

OCTOBER 9, 1973.

A survey of the activity at Elizabeth City, North Carolina, in the Wilmington, North Carolina, Customs district (Region IV), indicates that the volume of traffic no longer justifies its retention as a Customs port of entry. The principal function at Elizabeth City was marine documentation which was transferred to the United States Coast Guard in 1967.

Accordingly, notice is hereby given that, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to the authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), it is proposed to revoke the designation of Elizabeth City, North Carolina, in the Wilmington, North Carolina, Customs district (Region IV), as a Customs port of entry.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than Nov. 19, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.73-22255 Filed 10-17-73;8:45 am]

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Deletion of Port of Entry at Elkin, N.C.

OCTOBER 9, 1973.

A survey of the activity at Elkin, North Carolina, in the Wilmington, North Carolina, Customs district (Region IV), indicates that the volume of traffic no longer justifies its retention as a Customs port of entry. The Elkin office was closed in February, 1969, and Customs transactions are being handled at Winston-Salem, North Carolina.

Accordingly, notice is hereby given that, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to the authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), it is proposed to revoke the designation of Elkin, North Carolina, in the Wilmington, North Carolina, Customs district (Region IV), as a Customs port of entry.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than November 19, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.73-22256 Filed 10-17-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 965]

TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Notice of Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of a proposed $2,550 budget and a one cent per ½ bushel rate of assessment on first handlers during the fiscal period ending July 31, 1974, for operation of the Texas Valley Tomato Committee, established under Marketing Order No. 965.

This marketing order regulates the handling of tomatoes grown in the counties of Cameron, Hidalgo, Starr and Willacy in Texas (Lower Rio Grande Valley) and is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same in four copies with the Hearing Clerk, U.S. Department of Agriculture, Room 112-A, Washington, D.C. 20250, not later than October 23, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposals are as follows:

§ 965.213 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Texas Valley Tomato Committee for its maintenance and functioning and for such other purposes as the Secretary determines to be appropriate, during the fiscal period ending July 31, 1974, will amount to $2,550.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.01 per ½ bushel, or equivalent quantity, or Saladette tomatoes handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) The terms used in this section shall have the same meaning as when used in Marketing Order No. 965 (7 CFR Part 965).

Dated: October 12, 1973.

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

[FR Doc.73-22220 Filed 10-17-73;8:45 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Expenses of the Raisin Administrative Committee and Rate of Assessment for the 1973-74 Crop Year

Notice is given of a proposal regarding expenses of the Raisin Administrative Committee for the 1973-74 crop year and rate of assessment for that crop year, under §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The Raisin Administrative Committee has unanimously recommended for the

crop year beginning September 1, 1973 (1973–74 crop year), a budget of expenses in the total amount of $204,300 and an assessment rate of $1 per ton of assessable raisins. Expenses in that amount and the assessment rate are specified in the proposal hereinafter set forth.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 31, 1973. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed § 989.324 would read as follows:

§ 989.324 Expenses of the Raisin Administrative Committee and rate of assessment for the 1973–74 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of $204,300 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1973, for the maintenance and functioning of the Committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.79, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, under § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at $1.00 per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins under paragraph (b)(2) of this section;

(2) standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregrate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

Dated: October 15, 1973.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.73-22261 Filed 10-17-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 412]

PROPOSED EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS OF PERFORMANCE FOR FEEDLOTS CATEGORY

Extension of Comment Period

There was published in the September 7, 1973 FEDERAL REGISTER (38 FR 24466) a notice of proposed rulemaking concerning effluent limitations guidelines and standards of performance and pretreatment standards for the feedlots point source category under sections 301, 304(b), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The due date for comments provided for in the notice was October 9, 1973. The date for submission of comments is hereby extended to and including November 12, 1973.

Dated October 15, 1973.

ROBERT L. SANSOM,
Assistant Administrator for
Air and Water Programs.

[FR Doc.73-22283 Filed 10-17-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19692]

ANTENNA MONITORS IN 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 February 21, 1973, the Commission adopted a notice of inquiry and notice of proposed rule making 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 have been previously extended by an Order of July 5, 1973 (38 FR 18688), to October 1 and October 15, 1973, respectively.

2. On September 19, 1973, counsel for the Association for Broadcast Engineering Standards, Inc. (ABES) filed a request for an extension of time in which to file comments and reply comments to and including October 19 and November 2, 1973, respectively. Counsel states that it had been the hopes of ABES that its Technical Committee would be able to meet during the IEEE/AFCCE meetings now being held in this city. However, numerous conflicts in schedules have rendered such a meeting impossible. Counsel further states that ABES is forced to resort to the more time consuming process of circulating draft comments by mail among the various members of its Technical Committee in order to obtain their comments suggestions therefore necessitating the additional time.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Therefore, *it is ordered*, that the time for filing comments and reply comments in this proceeding are extended to and including October 19 and November 2, 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: September 21, 1973.

Released: September 24, 1973.

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

[FR Doc.73-22243 Filed 10-17-73;8:45 am]

[47 CFR Part 73]

[Docket No. 19667; FCC 73-1039]

PROGRAM LOGS OF STANDARD BROADCAST STATIONS

Memorandum Opinion and Order Scheduling Oral Argument

In the matter of petition for rulemaking to require broadcast licensees to maintain certain program records. Docket No. 19667; RM-1475.

1. The Commission has before it the various filings in response to our notice of proposed rule making in this proceeding (38 FR 3337). Based on a review of these filings the Commission has reached certain determinations which are discussed in the succeeding paragraphs.

2. The notice in question invited comments on a proposal to open the program logs of radio and television stations to public inspections and to lengthen the retention period for the logs from the present two years. A large number of parties have filed comments on the various aspects of the proceeding. Broadcasters have written at length about problems that they believe public inspection and a longer retention period could entail and the petitioner National Citizens Committee for Broadcasting, and others supporting the proposal have also written at length about the gains they see flowing from such steps. Resolution of these conflicting claims involves consideration of a large number of issues. Some of these issues go beyond the parameters of this proceeding and relate to other major subjects before the Commission. As a consequence, there is a need to coordinate our action here with that to be taken as part of our consideration of these other on-going matters. One of these is the effort, now underway, of the task force on re-regulation to revise and improve the regulations pertaining to the operation of broadcast stations, including the removal of unnecessary and outdated requirements. The subject of radio regulation has been of particular concern in this effort. To insist upon action on radio and television together in this proceeding is to delay action on both, as there is a clear need to coordinate any step contemplated in regard to radio. On the other hand, action regarding television need not await such re-regulatory coordination. Thus, we have decided to defer action on the part of the proceeding dealing with radio and in the discussion which follows; the reference is entirely to television. Depending on what develops based on our experience in the television area, we will be in a better position to evaluate any possible action in regard

to radio, as well as to better coordinate it with current re-regulatory efforts. Likewise, we intend to defer consideration of a change in the log retention period. This, too, is an area where the benefit of experience is needed before action is taken.

3. Another matter pertinent to this proceeding is the renewal proceeding in Docket No. 19153. On May 4, we released our Interim Report and Order, indicating that a final Report and Order would be issued after review of the new leased our Interim Report and Order, renewal forms by the Office of Management and Budget. That process has been completed and a final Report and Order has been issued. As a part of that action, we required television stations to file an annual report based on their programming in a composite week in each year of the license term. The logs of the stations are used for this purpose, much as they had always been used in the preparation of renewal applications. The Composite week program logs filed with renewal applications have been available to the public. On essentially the same rationale, we have concluded that the logs for the annual composite weeks should also be made public and this step was taken in the Report and Order in Docket No. 19153. Consequently, that matter is not at issue here. What is at issue is whether additional steps should be taken.

4. Based on our consideration of the submissions in this proceeding we have concluded that television program logs for times other than the composite week should be made public under certain circumstances. We have some tentative views as to the circumstances under which there should be public inspection and the procedural safeguards which are required to avoid the possibility of abuse and the imposition of unnecessary burdens. However, these are tentative views. To help us reach a final resolution of these points, we believe that the holding of oral argument would be useful. This oral argument is not intended to cover the entire range of issues in the proceeding. Rather, it is specifically limited to the issues which we will set forth below. Even on these issues, the pleadings provided a record upon which we could base our action. However, we think it desirable to hold oral argument because it would allow a precise focusing of attention on what have become the central points to be resolved.

5. We will first discuss the substantive questions relating to disclosure and then deal with the procedural safeguards. Under our old renewal policies as well as new procedures, a licensee could supplement the showing which was derived from the composite week if he thought it did not adequately and accurately depict the station's performance. If this is done, the licensee can choose any period to use for the purpose, but the public has no opportunity to gain access to the logs for any other period on which to base a possible rebuttal. When a party relies upon material in its possession to support its arguments, fairness suggests that those of a contrary view have access to that material for rebuttal purposes. When a licensee chooses to supplement its composite week showing, we are inclined toward making all the logs available (under circumstances described below) so that the issues can be properly joined on a fair and equitable basis.

6. We also need to consider what to do when a licensee has not gone beyond its composite week showing. We are considering the following approach. Initially, those interested in viewing program logs would apply to the station to do so, indicating the basis for the request. If a prima facie case has been made—in other words, a good cause showing—of the merits of the request we would expect the request to be honored. If a dispute should arise, regarding the merits of the request the matter then could be brought to the Commission's attention by the filing of a petition, hopefully a process which will not often be necessary. In addition to its other possible advantages, the net result of following this approach would be to avoid imposing any burden whatever on the broadcaster who receives no requests. Since we do not now contemplate a lengthening of the retention period, stations not receiving these requests would be in exactly the same practical position as they are now. For those receiving requests, we are considering the following procedural requirements which should discourage frivolous or nuisance requests and avoid the imposition of unfair burdens:

(a) All requests must be made in advance and shall be subject to the scheduling of a mutually convenient appointment time;

(b) All copying or duplication is to be done at a location chosen by the station, with all necessary costs to be borne by the party wishing to view the logs; and

(c) No logs, except for composite weeks shall be available for inspection until a minimum of 30 days have elapsed from the day of broadcast.

7. We believe that the appointment approach will avoid the disruption that would attend unannounced and unscheduled visits and yet will respond to the legitimate needs of those wishing to inspect. Since the costs of duplication can be considerable, it seems only proper to require that it be assumed by the benefitting party. The 30-day delay is intended to accomplish two things. It would avoid the disruption that could result from inspection when the logs are still being used for billing or other station purposes, and it would help insure that competitors would not have access to timely information which could be used to gain some competitive advantage. Since the public groups are presumably concerned with a licensee's ongoing efforts, the resulting delay should cause them little inconvenience.

8. Parties at oral argument are invited to address any or all of the above points. However, since the good cause request procedures set forth above have not been previously discussed it would be most helpful if the parties gave this area particular attention in their presentations.

9. Oral argument is scheduled for November 20, 1973. Parties wishing to be heard on the above questions should communicate their desire to the Commission in writing no later than October 26, 1973. These requests (original and four copies) should be addressed to the Commission's Broadcast Bureau, attention: Rules and Standards Division. Parties should indicate in their request how much time they desire. Interested parties having parallel views to express are encouraged to join together in a single appearance and thus avoid unnecessary duplication in the arguments. Because time is limited it may not be possible to accommodate all parties in the amount of time requested but recognition will be given to the time requirements of parties participating jointly. After receipt of all the requests, the Commission will issue an order setting forth who will appear on whose behalf, and when and for what period they will appear. After oral argument, the Commission expects to take these matters under advisement and to issue a First Report and Order as promptly as circumstances permit.

10. *Accordingly, it is ordered*, That oral argument is scheduled as described above.

Adopted: October 3, 1973.

Released: October 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-22239 Filed 10-17-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-5427, 34-10420, 35-18110, 40-8023]

FORM AND CONTENT OF FINANCIAL STATEMENTS

Disclosure of Significant Accounting Policies

On December 18, 1972, the Commission issued for public comment a proposed amendment to Rule 3-03 (§ 210.3-03) of Regulation S-X (17 CFR 210) calling for increased disclosure of accounting policies and the impact of those policies on financial statements (Securities Act Release No. 5343, Securities Exchange Act Release No. 9914, Public Utility Holding Company Act Release No. 17817, Investment Company Act Release No. 7567 (38 FR 1747)). A large number of comments were received.

Commentators on the proposed release could be divided into two groups: analysts who endorsed the proposals substantially in the form proposed and

[1] Commissioner Robert E. Lee absent, Commissioner Johnson concurring in the result.

registrants and accountants who generally endorsed the objectives of the proposals but raised problems as to how compliance could be achieved in the form published. A number of critics also expressed concern as to whether the benefits of the proposed disclosure would outweigh the costs and as to whether the average investor would be able to understand the data presented.

After careful consideration of these comments the Commission has determined that the need of investors for increased disclosure of the type proposed outweighs the additional costs to be incurred by registrants and that the general approach set forth in the proposals is sound. It recognizes, however, that many of the technical objections raised to the proposals are legitimate and it has therefore determined to revise substantially certain specific aspects of the proposed rules. Because of the substantial revisions and because it believes that professionals and other interested parties can make substantial contributions to the usefulness and practicability of rule proposals by their comments, the Commission has determined to expose the rules proposed in this release for additional comment.

In addition, the Commission believes that many of the comments made in response to its initial proposals indicated a lack of understanding of the underlying approach to disclosure behind these proposals and it has determined to set forth this approach explicitly is this release so that it will be clear to all.

An approach to disclosure. The proposals set forth in this release are primarily designed to assist professional analysts who have the responsibility of developing an understanding in depth of corporate activity. They are not primarily intended to serve the direct needs of the "average investor." Such an investor does not usually have the time to study or the training necessary to fully understand the data which are called for herein. It is not appropriate, however, for such data to be unavailable to the average investor who does wish to devote the time necessary to consider it. By being included in financial statements filed with the Commission, therefore, data will become "data of public record" and, hence, available to all. Disclosure will not be discriminatory even though usage will mostly be by professionals. Data of this kind would not be expected to be sent routinely to all shareholders, although it would be useful if its availability was mentioned in communications with shareholders and if management took steps to make available on request.

The Commission recognizes that in many cases requirements for more detailed disclosure will require the use of estimates to a greater extent than was previously the case. It is the Commission's view that in such cases reasonable estimates based on samples or assumptions will produce data of sufficient accuracy to serve the needs of analysts adequately.

While analysts' requirements are of great importance, the needs of the individual investor must also be served. If this investor is to remain an active participant in the securities markets, he must be confident that he is receiving data in a fashion which he can understand and which does not mislead him as to the operations or position of the firm. He should not be presumed to possess a depth of accounting or analytical knowledge in order to obtain a reasonable picture of the results of an enterprise's activities. The needs of the average investor can only be met by developing a better process of analytical summarization where information shown in detail in financial statements is selectively presented in an interpretive fashion so that the most significant elements are highlighted in relatively simple form. Since those elements which are most significant vary from enterprise to enterprise and from period to period, no fixed rules can be established as to the specific elements to be included in such an analytical summarization. Securities Act Release No. 5342 [38 FR 1748], which proposed revisions to the guides for preparation of registration statements, is dedicated to this kind of disclosure, including the disclosure called for in this proposal to the extent relevant.

Disclosure proposals. The changes in Rule 3-08 of Regulation S-X proposed in Securities Act Release No. 5343 called for a Summary of Significant Accounting Policies and under certain circumstances an estimate of the dollar impact on net income of the use of the principle followed as compared to alternative acceptable principles. The concept underlying this approach was to require disclosure of significant differences in income which arose because of differences in the application of accounting principles rather than in the underlying facts. Comments received indicated that while this approach is conceptually sound and that such disclosure is necessary for a proper assessment of the quality of earnings of a registrant, general rules such as set forth in the proposal do not provide sufficient definitions or guidelines for registrants to comply and often may impose practical difficulties in developing and displaying the effects of such differences. In particular, respondents indicated that phrases used in the release (such as "similar kinds of transactions" and an accounting principle "different from that in prevailing use among other companies in the same industry") do not define or distinguish adequately between differences in accounting and differences in underlying economic facts, and that in any event the designation of a prevailing principle might incorrectly imply that such a principle is the correct or best one.

The Commission has concluded that there is considerable merit in these comments. The new rules proposed herewith, therefore, define more specifically the disclosure required both in terms of the accounting areas covered and the data to be disclosed in each. The proposals also reflect the Commission's judgment that it is not practicable to have a single approach to the disclosure of the impact of using alternative accounting principles which is applicable to all areas of accounting. Two different approaches are therefore proposed herewith:

1. *Disclosure of the accounting principles followed and presentation of substantial additional data reflecting the impact of the principles used but no comparison with alternative accounting principles.* This approach is used in situations where the factual circumstances vary widely between companies and the distinction between differences in accounting method and differences in economic fact is particularly difficult to draw, such as accounting for fixed assets, depreciation and extractive industries.

2. *Disclosure of the accounting principles followed and of the impact on net income of these principles when compared to an alternative principle.* This approach is used in situations where alternative accounting principles are available to describe the same economic phenomena and where it appears that differences in reported results between companies using alternative principles are more related to the accounting methods selected than the business realities involved, such as accounting for inventories and research and development costs.

The Commission recognizes that decisions as to what accounting areas should be included in these kinds of disclosure requirements and decisions as to which of the two approaches outlined above should be used in each case are subjective and may be subject to change. As the Financial Accounting Standards Board develops improved accounting standards, differences between the reported financial results of companies which result primarily from the application of varying accounting principles will be reduced and these disclosure requirements can be substantially modified. At the same time, as new business phenomena occur for which accounting principles are not readily determinable, new areas may have to be added, since financial reporting must be as dynamic as the business world which it describes. The Commission will continue to review available accounting alternatives and intends from time to time to specify additional areas requiring increased disclosure where available alternatives are perceived to have a significant effect on net income.

The Commission also recognizes that in certain specialized situations there may be accounting differences which require disclosure to enable investors to obtain comparable data about companies. In such circumstances the proposed rule requires disclosure, if practicable, of the impact on net income of alternative accounting methods. An example of such a situation would be the differences which existed in accounting for the revenue from the sale of motion picture films to television prior to the issuance

in June of an authoritative industry accounting guide by the American Institute of Certified Public Accountants.

Finally, the proposed rule requires that in the event of a change in the accounting principles followed, the impact of the change on net income (as compared to the former principle) shall be disclosed for two years. In this fashion investors will be able to compare results on both the old and new bases so as to make an appraisal of the trend of earnings over a reasonable period of time following the change.

The proposed amendments to Regulation S–X affect the following items.

1. *Rule 3–08.* Summary of Accounting Policies—amendments

2. *Rule 3–16(m).* Depreciation, depletion, obsolescence and amortization—amendments

3. *Rule 3–16(r).* Research and development expenses and deferrals, preoperating expenses and deferrals, and similar deferrals—new rule

4. *Rule 3–16(s).* Finding costs for mineral resource companies—new rule

5. *Rule 5–02–6.* Inventories—amendments

6. *Rule 5–02–20.* Deferred research and development expenses, preoperating expenses and similar deferrals—amendments

Commission action. The Commission hereby proposes to amend Part 210 of Chapter II of Title 17 of the Code of Federal Regulations (Regulation S–X) by revising §§ 210.3–08, 210.3–16(m), 210.5–02–6, 210.5–02–20 and adding §§ 210.3–16 (r) and 210.3–16(s) to read as follows:

1. Section 210.3–08 is revised to read as follows:

§ 210.3–08 Summary of accounting policies.

(a) A summary of accounting policies shall be set forth either separately preceding the notes to financial statements or as the first such note. This summary shall include the following:

(1) A description of the accounting principles followed by the company and methods of applying those principles that materially affect the company's financial statements.

(2) Under certain circumstances specified elsewhere in these rules (see §§ 210.3–16(r), 210.5–02–6 and 210.5–02–20), an estimate of the effect on net income of the use of the principle or practice followed as compared to alternative acceptable principles or practice shall be disclosed if significant. Under other circumstances where there are variations in acceptable principles or practices requiring additional disclosure but where it is not practicable or feasible to estimate the effect on net income, a brief statement about and a cross-reference to such information shall be made [see § 210.3–16(m)]. In addition, in any other area where accounting principles or practices are selected from among available alternatives and where such selection is discretionary and does not reflect differences in the nature of transactions being recorded, state, if practicable, the effect on net income, if significant, of using the principle selected as compared to alternative acceptable principles or provide additional disclosure of the effect on financial statements of using the principle selected either in the summary of accounting policies or elsewhere in the notes with cross-reference in the summary to such disclosure.

(3) If a company changed its accounting principles during the two most recently completed fiscal years or in any interim period reported and the impact on net income is significant, state the reasons for the change and disclose an estimate in dollars of the effect of applying the prior principle to results reported after the change.

(b) In cases where information required to be included in the summary is the same as that required by other rules of this regulation, the information should not be duplicated. Specific reference should be made in the summary to the portion of the financial statement where the information appears.

(c) For purposes of this rule, the term "significant" shall mean having an impact of at least five percent on net income (or net loss) or having an impact of more than 25 percent on the amount of the change in net income (or net loss) between one period or the next, but in no event shall an amount less than two percent of the average net income for the most recent three years be considered significant. In calculating average net income loss years should be excluded. If losses were incurred in each of the most recent three years, the average loss shall be used for purposes of this test. Individual items shall be identified whether each item is significant or the total impact of all items is significant.

2. In § 210.3–16, paragraph (m) is revised, and new paragraphs (r) and (s) are added to read as follows:

§ 210.3–16 General Notes to Financial Statements. (See ASR No. 4)

* * * * *

(m) *Depreciation, depletion, obsolescence and amortization.* (1) (i) State separately by depreciation, depletion, or amortization method used and thereunder by each major class of property, plant and equipment [see § 210.5–02–14 (a)] (*a*) the amount of expense taken in the current period (whenever such expense for any such subdivision exceeds one percent of total reported sales and revenue for the period) and (*b*) the total original cost and remaining undepreciated, undepleted, or unamortized asset balances of each such subdivision.

(ii) For any asset or group of homogenous assets (such as computers on lease, service stations, etc.) which comprises 25 percent or more of a major class of property, plant and equipment, state the rate used in computing depreciation, depletion or amortization. If more than one rate is used for such assets, state the range and average rate. If a unit of production method is used, state the percentage of original cost charged to expense in each of the past two years.

(iii) State the policies followed with respect to obsolescence as well as any other policies followed that are deemed necessary to a full understanding of the amounts required to be disclosed above.

(2) (i) Where a provision for depreciation or amortization of intangible assets is made, state separately by depreciation or amortization method used and thereunder by each major class (see § 210.5–02–16) (*a*) the amount of expense taken in the current period (whenever such expense for any such subdivision exceeds one percent of total reported sales and revenue for the period) and (*b*) the total original cost and remaining undepreciated or unamortized asset balance of each such subdivision.

(ii) State the policies followed with respect to intangible assets for which no provision for depreciation or amortization is being made, as well as any other policies followed that are deemed necessary to a full understanding of the amounts required to be disclosed above.

(3) State the policy followed with respect to the accounting treatment for maintenance, repairs, renewals and betterments.

(4) State the policy followed with respect to the adjustment of accumulated depreciation, depletion, obsolescence and amortization at the time properties are retired or otherwise disposed of, including the disposition of any gain or loss on sale of such properties.

* * * * *

(r) *Research and development expenses and deferrals, preoperating expenses and deferrals, and similar items where costs incurred do not result in current revenues.* (1) State separately (i) the amount of each major class expensed, deferred, or amortized in the current period whenever such amount exceeds one percent of total sales and revenue for that period and (ii) the policy followed with respect to expensing, deferring or amortizing such amounts. In addition, state separately for the five years following the latest annual balance sheet date the amount of amortization for each major class of deferrals reported in accordance with § 210.5–02–20 at the latest balance sheet date that are scheduled to be expensed in each such period.

(2) Indicate as part of the disclosure set forth in accordance with § 210.3–08 *Summary of accounting principles and practices* the impact on net income if amounts disclosed as deferrals in paragraph (r)(1) of this section were expensed in the current period and similar adjustments were made in each prior period in which deferrals were made.

(s) *Finding costs for mineral resources companies.* (1) State separately, if material, the major classes of finding costs (e.g., geological and geophysical costs, lease acquisition costs, lease rentals, drilling expenditures, mine development costs, etc.) associated with the exploration for and development of mineral resources incurred (whether charged to expense or capitalized) during the current reporting period, the accounting

procedure followed for each class, and the amount, if any, of each class of cost remaining on the balance sheet at the close of the period. In addition, state the extent to which costs remaining on the balance sheet where incurred in connection with currently producing properties, properties still under evaluation and properties abandoned.

(2) Describe the amortization method(s) being used to charge capitalized cost to expense, including the unit(s) of property for which costs are accumulated and amortized. If a unit of production method is used, state the reserves of mineral resources which are being used in calculating depletion. If many different property units are used, state such reserves and accumulated costs by major property unit grouping.

3. In § 210.5–02, provisions (6) and (20) are revised as follows:

§ 210.5–02 Balance sheets.

* * * * *

6. *Inventories.* (a) [Unchanged]

(b) The basis of determining the amounts shall be stated. If the basis is "cost," describe the method of determining cost. This description shall include the cost elements included in inventory if such elements are other than materials, labor and factory overhead directly attributable to goods currently in inventory (e.g., contract claims, retained costs, administrative cost, etc.), and the method by which costs are removed from inventory (e.g., "average cost," "first-in, first-out," "last-in, first-out"). The amount of costs generally classified as general and administrative expense or research and development cost which are included in inventory shall be disclosed if significant. If the basis is "market," describe the method of determining "market" if other than current replacement costs.

(c) The difference at the close of the most recent fiscal year reported between current replacement cost and the carrying value of the inventory shall, if material, be stated parenthetically or in a note to the financial statements. In addition, state as part of the information disclosed in accordance with § 210.3–08 *Summary of Accounting Principles and Practices* the effect on net income, if significant, of using current replacement cost in the computation of cost of sales.

* * * * *

20. *Deferred research and development expenses, preoperating expenses and similar deferrals of costs measured which do not result in current revenues.* State separately each major class and, in a note referred to herein, the policy for deferral and amortization. [See also § 210.3–16(r).]

* * * * *

The foregoing proposed amendments would be adopted pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933; Sections 13, 15(d) and 23 (a) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) of the Public Utility Holding Company Act of 1935; and Sections 8, 30, 31(c) and 38 (a) of the Investment Company Act of 1940.

All interested persons are invited to submit their views and comments on the foregoing proposal concerning Rules 3–08, 3–16(m), 3–16(r), 3–16(s), 5–02–6 and 5–02–20 of Regulation S–X in writing to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before November 30, 1973. Such communications should refer to File No. S7–497. All such communications will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

OCTOBER 4, 1973.

[FR Doc.73–22182 Filed 10–17–73;8:45]

[17 CFR Parts 230, 239]

[Release No. 33–5430]

TRANSACTIONS BY AN ISSUER DEEMED NOT TO INVOLVE ANY PUBLIC OFFERING

Revision of Proposal

The Securities and Exchange Commission today published for public comment revisions of proposed Rule 146 (17 CFR 230.146) under the Securities Act of 1933 (the Act) which had been first noticed for comment in Securities Act Release No. 5336 (November 28, 1972) (37 FR 26137). The Commission also has announced the withdrawal of a proposed amendment to Rule 257 (17 CFR 230.-257) under the Act which had been noticed for comment in that same release.

Proposed Rule 146, as revised, is designed to implement the purposes of and policies underlying the Act which require registration or securities except in situations where the public benefits to be derived are too remote or the offerees of the securities are in a position to fend for themselves and thus do not need the protections afforded by the registration process. The proposed Rule is designed to provide more objective standards for determining when offers or sales of securities by an issuer would be deemed transactions not involving any public offering within the meaning of section 4(2) of the Act and thus would be exempt from the registration provisions of the Act. The proposed rule would not be the exclusive basis for determining whether that exemption is available. Accordingly, should Rule 146 be adopted, persons may continue to rely on the section 4(2) exemption by complying with the administrative and judicial interpretations in effect at the time of the transaction.

The proposed amendment to Rule 257 was intended to raise the limit from $50,000 to $100,000 for an offering pursuant to the Regulation A (17 CFR 230.-251 to 230.263) exemption under section 3(b) of the Act, without the use of an offering circular, including offerings of employee stock option plans. In view of certain revisions to the proposed rule, the Commission has determined to withdraw the proposed amendment.

PROPOSED RULE 146

General. The Commission believes that a rule creating greater certainty in the application of the section 4(2) exemption is in the public interest for two reasons. First, such a rule should deter reliance on that exemption for offerings of securities to persons who are unable to fend for themselves in terms of obtaining and evaluating information about the issuer and in certain situations, of assuming the risk of investment. These persons need the protections afforded by the registration process. Second, such a rule should reduce uncertainty to the extent feasible and provide more objective standards upon which responsible businessmen may rely in raising capital in a manner that complies with the requirements of the Act. The rule, if adopted, would be in the nature of an experiment; it would be revised or rescinded should it appear that the rule is not operating in the public interest or for the protection of investors.

Proposed Rule 146 provides that transactions by an issuer involving the offer or sale of its securities shall be deemed not to involve a public offering within the meaning of section 4(2) of the Act if all the conditions of the proposed Rule are met. These conditions relate to limitations on the manner of offering, the nature of the offerees, access to or furnishing of information about the issuer, limitations on the number of purchasers and on the disposition of securities sold pursuant to the Rule. The proposed rule also would require, with respect to certain transactions, the filing of a report on Form 146 unless similar information is furnished in annual or quarterly reports timely filed with the Commission.

The proposed Rule would not establish exclusive standards for complying with the section 4(2) exemption. As a Note to the proposed rule states, the Rule would not create a presumption that the exemption provided by section 4(2) would be unavailable to an issuer who does not offer or sell in compliance with all the conditions of the rule. Although persons claiming the exemption would have the burden of proving its availability, they could claim a section 4(2) exemption without complying with the proposed rule if they could satisfy the criteria set forth in relevant administrative and judicial interpretations of section 4(2) in effect at the time of the transaction. The protection afforded by the proposed rule, however, would be available only to those who satisfy all of its conditions, including the requirement of filing a report of sales.

The proposed rule would only be available to issuers of securities and would not be available to affiliates of the issuer or other persons for sales of the issuer's securities. Persons who acquire securities from issuers in transactions complying with the proposed rule would acquire securities that are restricted in that they could be reoffered and resold only if registered under the Act or pursuant to an exemption from such registration provisions. In this connection, Rule 144 (17 CFR 230.144) under the Act provides objective standards for resale of restricted securities. See Securities Act Release No. 5223 (37 CFR 596).

Proposed Rule 146 has been reissued for comment in the context of, and in

conjunction with, several rules, amendments to rules and forms, and releases which the Commission has recently adopted or issued including:

1. Rule 144 under the Act (Securities Act Release No. 5223) (37 FR 596,4329), as amended (Securities Act Release No. 5307) (37 FR 20558);

2. Rule 145 under the Act (Securities Act Release No. 5316) (37 FR 23636);

3. Adoption of Form S–16 under the Act for securities offered in certain specified transactions (Securities Act Release No. 5117) (36 FR 777) and adoption of amendments to Form S–16 to liberalize the conditions under which the form could be used (Securities Act Release No. 5265) (37 FR 15990, 15991);

4. Amendments to Regulation A under section 3(b) of the Act (Securities Act Release No. 5225) (37 FR 599);

5. Publication of a release relating to the use of legends and stop-transfer instructions as evidence of non-public offerings (Securities Act Release No. 5121) (36 FR 1525);

6. Publication of a release relating to the applicability of the antifraud provisions of the Securities Act to certain practices in connection with transactions by issuers and others not involving public offerings (Securities Act Release No. 5226) (37 FR 600);

7. Amendments to Forms 10–K and 10–Q under the Securities Exchange Act of 1934 (Exchange Act) to require disclosure of securities sold pursuant to section 4(2) of the Act (Securities Exchange Act Release No. 9443) (37 FR 601,4331);

8. Adoption of Rule 15c2–11 under the Exchange Act which requires that dealers have adequate information available concerning any issuer in whose securities they make a market (Securities Exchange Act Release No. 9310) (36 FR 18641); and

9. Adoption of amendments to Form 10–K to require more meaningful disclosure in reports on that Form. (Securities Exchange Act Release No. 10180) (38 FR 17202).

This notice contains a general discussion of the background, purpose and general effect of the proposed rule to assist in a better understanding of its provisions. A brief analysis of each section of the proposed rule is also included. However, attention is directed to the proposed rule itself for a more complete understanding of its provisions.

Background and Purpose

Congress, in enacting the Federal securities laws, created a continuous disclosure system designed to protect investors and to assure the maintenance of fair and honest securities markets. The Commission, in administering and implementing these laws, has sought to coordinate and integrate this disclosure system with the exemptive provisions provided by the laws. Rule 146 is a further effort in this direction.

The legislative history of the Securities Act of 1933 indicates that the main concern of Congress was to provide full and fair disclosure in connection with the offer and sale of securities. However, it recognized that there were certain situations in which the protections afforded by the Act were not necessary. Concerning those specific exemptions from the Act, of which section 4(2) is one, the House Report stated that "The Act carefully exempts from its application certain types of * * * securities transactions where there is no practical need for its application or where the public benefits are too remote."[1]

Section 4(2) of the Act provides that "the provisions of section 5 shall not apply to * * * transactions by an issuer not involving any public offering." The phrase "transactions * * * not involving any public offering" is not defined in the Act[2] or, except in limited circumstances, in the existing rules under the Act. Accordingly, it has been left to Commission interpretations and court decisions to define the scope of the exemption.

The Supreme Court in the Ralston Purina[3] case established the basic criteria to be considered in determining the availability of section 4(2). The main consideration is whether the offerees need the protection afforded by the Act as evidenced by whether the offerees have "access" to the same kind of information that registration would disclose and whether they are able to fend for themselves. The application of these criteria and other guidelines set forth from time to time by the Commission and the courts has resulted in uncertainty about the application of the exemption. In addition, some misconceptions have arisen in connection with certain methods occasionally used by parties who seek to claim the exemption.

For example, the questions arising under section 4(2) have generally dealt with what constitutes a non-public offering or a private offering. It has been asserted that an offering to a limited number of persons, not more than twenty-five, for example, does not involve a public offering. This is not by itself an appropriate test. As the Supreme Court stated in Ralston Purina, "the statute would seem to apply to a 'public offering' whether to few or many." 346 U.S. at 125. The Commission has been and continues to be of the opinion that the question is not to be determined exclusively by the number of offerees.

Further, it is frequently asserted that wealthy persons and certain other persons such as lawyers, accountants and businessmen are "sophisticated" investors who do not need the protections afforded by the Act. It is the Commission's view that "sophistication" is not a substitute for access to or the furnishing of information and the opportunity to verify that information, and that a person's financial resources or sophistication are not without more, sufficient to establish the availability of the exemption.[4]

Moreover, it has been argued that the exemption is established by the issuer merely providing a brochure, or other writing, to the offerees containing the same kind of information that is found in a registration statement. The Commission is of the view that the mere disclosure of the same kind of information that would be contained in a registration statement is not sufficient in itself to establish the availability of an exemption under section 4(2) of the Act.[5]

It also has been argued that the private offering exemption can be established where it is represented that the securities are held for investment, where resale is restricted, and where the number of transferees is limited. In this regard, the practice has developed whereby issuers obtain investment letters from purchasers and cause a legend to be imprinted on the face of each certificate restricting transfer. As the Commission and the courts[6] have previously stated, the signing of an investment letter and the legending of stock certificates are not sufficient to render an offering a private one. Although such precautions should be taken by issuers to ensure that their purchasers will not in turn distribute securities to others, these are only precautions to prevent illegal distributions and are not, by themselves, to be regarded as a sufficient basis for an exemption from registration for the issuer.

Explanation and Analysis of Proposed Rule 146

The proposed rule is designed to protect investors while at the same time providing more objective standards in order to curtail uncertainty to the extent feasible. In view of the legislative history, statutory language, judicial decisions, and the Commission's reexamination of its interpretations of section 4(2) of the Act, the Commission is of the view that the significant concepts in determining when transactions are deemed not to involve any public offering are access to information that registration would disclose and the ability of offerees to fend for themselves so as not to need the protection afforded by registration. Accordingly, the proposed rule contains several conditions that are designed to implement these concepts.

First, in determining whether an offeree needs the protections afforded by registration, it is essential to consider whether the offeree has access to or has been furnished with the kind of information that registration would disclose as well as an opportunity to acquire additional information necessary to verify that disclosure. Accordingly, conditions

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[1] H.R. Rep. No. 85, 73d Cong., 1st Sess. 5 (1933).

[2] The House Report does indicate that the exemption was originally intended to permit an issuer to make a specific or isolated sale of its securities to a particular person or financial institution. Id. at pp. 15–16.

[3] SEC v. Ralston Purina Co., 346 U.S. 119 (1953).

[4] United States v. Custer Channel Wing Corp., 376 F. 2d 675 (4th Cir. 1967).

[5] See also SEC v. Continental Tobacco Company of South Carolina, Inc., 463 F.2d 137 (5th Cir. 1972); Hill York Corp. v. Freeman, 448 F.2d 680 (5th Cir. 1971).

[6] 376 F.2d 675.

relating to information concerning the issuer are included in the proposed rule.

Second, in order to assure that the offerees can fend for themselves the availability of the proposed rule is conditioned on the nature of the offerees. Thus, the issuer and any person acting on its behalf should have reasonable grounds to believe prior to making an offer that the offeree or his offeree representative (as defined in the proposed rule) is capable of evaluating the risks of the proposed investment. In addition, except in the case of a business combination, where an offeree representative is utilized by an offeree in order to satisfy this condition, it is essential that the offeree himself be capable of bearing the economic risk of the investment. The concept of bearing the risk of the investment is not inconsistent with the discussion in Ralston Purina about the offeree's ability to fend for himself.

Third, the Commission believes that there should be limitations on the manner of offering of securities pursuant to the exemption to assure that persons to whom such securities are offered have the necessary information available concerning the issuer and can fend for themselves. Thus, to assure the nonpublic manner of the offering, the proposed rule would preclude general advertising, including promotional seminars or meetings in connection with the offering. The proposed rule would not preclude meetings with qualified offerees or their representatives to discuss the terms of the transaction and to impart information concerning the transaction. In fact, the proposed rule would limit offers and sales to those made in transactions in which there is direct communication (as defined in the proposed rule) between the offeree or his representative and the issuer or its representative. As indicated in Securities Act Release No. 285 (Do.), "Transactions which are effected by direct negotiations by the issuer are much more likely to be non-public than those effected through the use of the machinery of public distributions." However, the proposed rule is not designed to prevent a particular type of institutional placement where one financial institution acts as the lead purchaser and conducts all of the negotiations with the issuer, nor is the proposed rule designed to prevent "take it or leave it" deals involving financial institutions.

Fourth, the Commission believes that a limitation on the number of purchasers serves to assure that the transaction does not involve or result in a deferred distribution. Limitations on the disposition of securities are necessary to assure that the securities come to rest and that the transaction does not involve a series of steps resulting in a distribution.

Finally, since the proposed rule is in the nature of an experiment, a report of sales pursuant to the rule would be required with respect to certain transactions to assist the Commission in monitoring the operations of the Rule and enforcing the registration provisions of the Act.

SYNOPSIS OF THE PROVISIONS OF THE PROPOSED RULE 146

Preliminary notes. A preliminary note has been added to the proposed rule in order briefly to describe the rule and to make clear that all transactions which are part of a larger offering must meet all of the conditions of the rule for it to be available.

Other notes have been added to the proposed rule in order to make clear that compliance with all the conditions of the rule would not be the exclusive means of establishing an exemption pursuant to section 4(2) of the Act, and that the proposed rule would not relieve issuers from requirements of state securities laws.

1. *Definitions — Rule 146(a)—Offeree Representative — Rule 146(a)(1).* The rule, as previously proposed for comment in November 1972, provided for an investment representative who could help to satisfy the requirement that the offeree be able to fend for himself. The term has been changed from "investment representative" as initially proposed to "offeree representative" in order to reflect more precisely the relationship. The term "independent of the issuer" has been deleted from the requirements for the representative since the term would raise interpretative problems. In lieu thereof several conditions have been substituted. First, the term "offeree representative" is defined in paragraph (a)(1) of the proposed rule as a person who is not an affiliate, associate, or employee of the issuer (except when the offeree is a specified relative of such person or a trust or organization with which such person and/or such relative has a specified relationship) (subdivision (i)); has such knowledge and experience in financial and business matters that he is capable of evaluating the risks of the prospective investment (subdivision (ii)); and is acknowledged by the offeree during the course of the transaction to be his representative in connection with evaluating the risks of such investment (subdivision (iii)). Under the proposed rule, an offeree representative must be acknowledged as such with respect to each prospective investment and in every instance prior to sale. Second, the person acting as an offeree representative must disclose to the offeree, in writing, any existing or mutually understood to be contemplated relationship with the issuer or any such relationship which existed during the previous two years and any compensation received as a result of such relationship (subdivision (iv)).

Direct Communication—Rule 146(a)(2). The term "direct communication" is defined in paragraph (a)(2) to mean an opportunity for the offeree or his offeree representative to ask questions of, and receive answers from, the issuer of any person acting on its behalf, concerning the terms of the transaction and the information provided. The proposed rule, however, would not preclude "take it or leave it" deals. As initially proposed, the rule defined "negotiated transaction." However, the concept of the negotiated transaction in which terms and conditions of the deal were negotiated between the issuer and the offeree has been deleted because it would interfere with certain legitimate prevailing practices, such as where a financial institution acts as a "lead purchaser." However, the concept of a direct line of communication between the offeree or his representative and the issuer or any person acting on its behalf has been retained because of the importance in the Commission's view of the availability of meaningful information.

Executive Officer—Rule 146(a)(3). The term "executivce officer" is defined in subparagraph (a)(3) to include the president, secretary, treasurer and any vice president in charge of a principal business function and any other person who performs similar policy making functions for the issuer.

Person. As initially proposed, the proposed rule contained a definition of the term "person." This definition has been moved to paragraph (g), *Number of purchasers* because the definition is for purposes of that paragraph only.

Securities of the issuer. The definition of securities of the issuer has been deleted from the rule as originally proposed. The primary effect of that definition might have been to aggregate the number of purchasers of securities of an acquired company in the preceding twelve months with those of an acquiring company, a result that was not intended. On the other hand, any use of different entities in an attempt to distribute unregistered securities to the public, although in technical compliance with the rule, would not come within the exemption provided by section 4(2) of the Act.

Issuer—Rule 146(a)(4). A definition of the term "issuer" has been added to the revised rule. For purposes of the rule the definition of issuer in section 2(4) of the Act applies. However, notwithstanding that definition, subdivision (4)(i) provides that where an offering is made of securities of an organization not as yet formed, such as a limited partnership, the general partner or promoter will be deemed the issuer. Subdivision (4)(ii) includes a definition of "issuer" for purposes of offerings of certain securities in connection with proceedings under the Bankruptcy Act.

2. *Conditions to be Met—Rule 146(b).* Paragraph (b) of the proposed rule provides that transactions involving the offer, offer to sell, offer for sale, or sale of securities of the issuer that meet all of the conditions of the proposed rule would be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act.

3. *Limitations on Manner of Offering—Rule 146(c).* Paragraph (c) of proposed rule specifies limitations on the manner in which the securities can be offered and sold. All offers would have to be made in transactions in which there is direct communication as defined in the rule ((a)(2)). In addition, the proposed rule would prohibit the issuer or any person acting on its behalf from offering or

selling the securities through any form of general advertising, including, but not limited to the following: Advertisements or other communications in newspapers, magazines or other media; broadcasts on radio or television; seminars or promotional meetings or any letter, circular, or other written communication.

The prohibition on general advertising would not necessarily mean that there could be no meetings or written informational material. It would mean that any such meetings could involve only persons who meet the conditions of paragraph (d) *Nature of Offerees*, and that any written informational material be distributed only to offerees who satisfy the conditions of paragraph (d) in a carefully controlled manner so that the transaction also meets the condition of paragraph (c)(2) of the proposed rule. Such a prohibition is not intended to inhibit the normal flow of information to security holders and the public.

4. Nature of Offerees—Rule 146(d). As originally proposed paragraph (d) contained two conditions: first, that the offeree or his representative had such knowledge and experience in financial and business matters that he was capable of utilizing the information required by the rule to evaluate the risks of the prospective investment and of making an informed investment decision, and second, that the offeree was a person who was able to bear the economic risk of the investment. Numerous comments were received with respect to this provision. In light of such comments paragraph (d) has been revised in several respects.

Paragraph (d)(1) of the presently proposed rule would require the issuer and any person acting on its behalf to have reasonable grounds to believe prior to making an offer and prior to making a sale, that the offeree or his representative has or both together have, such knowledge and experience in financial and business matters that they are capable of utilizing the information that is available pursuant to paragraph (e) of the rule to evaluate the risks of the prospective investment.

Paragraph (d)(2) would require that where the offeree utilizes a representative (except in the case of a business combination as discussed below), the issuer and any person acting on its behalf must have reasonable grounds to believe, prior to making an offer and prior to making a sale, that the offeree is a person who is able to bear the economic risk of the investment.

The Commission has determined to modify the condition that the offeree must be able to bear the economic risks so that it applies only where an offeree representative is utilized by the offeree in order to satisfy the knowledge and experience requirements. This is necessary in order to control the types of persons to whom offers are made. Also, as set forth in Paragraph (e)(3) of the proposed rule, the purchaser must be advised in writing of the risks that he is taking in purchasing securities in a private placement, particularly the limitations on the resale of restricted securities, whether or not an offeree representative is used.

The Commission believes that the determination of "ability to bear the economic risk" will vary with the circumstances. Certainly, the important considerations are whether the offeree could afford to hold unregistered securities for an indefinite period, and whether, at the time of the investment, he could afford a complete loss.

The issuer and any person acting on its behalf must have reasonable grounds to believe, prior to making an offer, that the offeree or his representative meets the standards of paragraph (d)(1) and, if an offeree representative is utilized by the offeree, that the offeree meets the standards of paragraph (d)(2). However, if as the result of subsequent inquiry or otherwise it appears that the offeree or his representative does not satisfy those conditions, the rule would still be available provided that the sale to that offeree is not completed ((d)(3)). Moreover, if the issuer reasonably believes that an offeree or his representative in all probability satisfies the requirements of paragraph (d)(1) or (2) of the rule, inquiry to verify that belief would not be inconsistent with the purpose of the rule.

5. Access to or Furnishing of Information—Rule 146(e). As originally proposed the rule would have required each offeree or his representative, during the course of the transaction, to have the same kind of information that the Act would make available in the form of a registration statement, to the extent available, or have access to such information. In addition, such persons would have been required to have access to additional information necessar yto verify such information. Many persons commented on the lack of standards for determining what kind of information was required. Accordingly, the rule has been revised to supply more explicit standards in this regard.

Paragraph (e) or the proposed rule would require that the offeree or his offeree representative have access to the same kind of information that is required by Schedule A of the Act to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense ((e)(1)(i)) or that the offeree or his offeree representative be furnished during the course of the transaction, such information ((e)(1)(ii)). The term "access" is used in the proposed rule in the same sense that it has been used by courts and the Commission in the past—to refer to the offeree's position with respect to the issuer. This position may exist either because an offeree's or offeree representative's employment relationship with the issuer or his economic bargaining power with respect to the issuer enables him to possess or readily obtain the same kind of information which registration would provide.

A note has been added to the rule to reflect the foregoing. In addition, the offeree or such representative must have available to him the opportunity to obtain any additional information, to the extent the issuer possesses such information or can acquire it without unreasonable effort or expense, necessary to verify the accuracy of the information ((e)(2)). Such verification would be appropriate in view of the absence of the statutory safeguards and sanctions attendant to the registration process, as well as the absence of traditional underwriter's due diligence. An explanatory note has been added to this paragraph to make clear that information need not be continued to be furnished nor the opportunities for verification continued with respect to those offerees who have indicated that they are not interested in purchasing the securities offered.

In order to provide standards for the types of information which would satisfy the conditions of paragraph (e)(1), the proposed rule has been revised to specify the information required to be furnished by reporting and non-reporting issuers. An issuer, subject to the reporting provisions of the Securities Exchange Act of 1934, may satisfy the provisions of paragraph (e)(1) by providing each offeree with the information contained in the most recent annual report required to be filed on Form 10–K and in any other documents or reports required to be filed pursuant to such reporting provisions since the end of the issuer's most recent fiscal year. In addition the issuer must provide each offeree with a brief description of the securities being offered, the intended use of proceeds and any material adverse changes in the issuer's affairs not disclosed in the forms filed. As indicated in a note, the rule would permit the foregoing information to be provided to offerees in one document, such as an offering circular, particularly where the combined document would make the information more readily understandable.

Non-reporting issuers would be required to provide the information required by Schedule A of the Securities Act, except that where certified financial statements are not available, those required by Regulation A under the Act may be provided. Issuers which would be required to register securities on Form S–2 may provide the financial statements required by that Form instead of those required by Regulation A, but such financial statements would not be required to be audited.

A new paragraph (e)(3) has been added to the proposed rule which would require that the issuer or any person acting on its behalf inform a purchaser in writing and prior to purchase that he must bear the economic risk of the investment for an indefinite period because of the restrictions on resale. This additional requirement is to assure that purchasers are aware of the economic risk that they would have to bear because the securities are not registered. See Securities Act of 1933 Release No. 5226 (36 FR 600).

6. Business Combinations—Rule 146 (f). The rule as proposed was intended to cover business combinations. However, many of the comments received indicated that this was not satisfactorily achieved. Accordingly, the rule has been revised as it applies to business combinations.

The term "business combinations" is defined in paragraph (f)(1) to include reclassifications, mergers, consolidations, transfers of assets and similar business reorganizations, including exchanges of securities.

The term "offeree representative" is further defined in paragraph (f)(2) of the proposed rule to mean any person who is an affiliate, director or executive officer of an organization being acquired pursuant to a business combination transaction who meets the requirements of paragraph (a)(1)(ii), (iii), and (iv) and who discloses in writing to all security holders of the organization to be acquired any arrangements or terms of the transaction relating to such person that are not identical to those relating to all other security holders of the acquired organization.

For purposes of a business combination only, the proposed rule would permit a solicitation by an affiliate, director, or executive officer of an organization to be acquired of the security holders of such organization for purposes of being selected as their offeree representative. The proposed rule would require that the person making such solicitation be capable of evaluating the risks of the transaction and that the solicitation be in writing and limited as set forth in the rule. The proposed rule would limit such solicitation to naming the issuer and the parties to the transaction; briefly describing the business of the parties and the anticipated time of the offering; briefly describing the transaction; legends or statements required by government authorities; and a general description of the terms of any arrangement with the affiliate, director or executive officer which are not identical to those relating to all other security holders. Also, the notice would be required to contain an undertaking to provide all offerees with a complete statement of such different terms if such affiliate, director or executive officer is selected as a representative.

The proposed rule would also require that a security holder be given the opportunity to select any other person as his offeree representative and that the reasonable expenses of such person may be provided by the acquired or acquiring company. The Commission recognizes that a security holder who does not satisfy the conditions of paragraph (d)(1) of the rule and who does not select an offeree representative could prevent the use of the rule for the business combination. The Commission specifically invites comments on this aspect of the proposed rule.

7. Number of Purchasers—Rule 146 (g). As originally proposed the number of purchasers of all classes of the issuer's securities pursuant to the rule or otherwise pursuant to section 4(2) would have been limited to 35 persons during any twelve month period with certain exceptions. This appears too restrictive and has been revised. Paragraph (g)(2) of the proposed rule would provide that in any consecutive twelve month period there shall be no more than 35 persons who purchase securities of the issuer or the same or similar class pursuant to the rule, or otherwise in reliance on section 4(2).

Paragraph (g)(1) of the proposed rule, as revised, contains a definition of the term "person" only for purposes of paragraph (g). The term "person" would be defined to include in addition to a person whom securities are offered or sold pursuant to the rule certain relatives of the person, trusts and estates in which the person and such relatives own all of the beneficial interest and corporations or other organizations in which the person and such relatives are beneficial owners of all of each class of equity securities or all of the equity interest. In addition, the definition would provide that beneficial owners of corporations or business associations that are formed for the specific purpose of acquiring securities offered in a transaction are deemed to be separate persons for purposes of the proposed rule.

As proposed, the rule also would have treated clients of an investment adviser as separate persons in determining the number of persons to whom securities may be sold, regardless of the amount of discretion given to the investment adviser to act on behalf of the client in purchasing securities. The Commission specifically invited comments on this point and received many suggesting that an investment adviser or broker-dealer who purchases securities for discretionary accounts should count as only one person for purposes of the rule. Having reviewed the comments and considered the matter, the Commission still believes that, in order to avoid the possibility of a distribution, it is necessary to count each purchaser as a separate person for purposes of paragraph (g). Accordingly, offers or sales to any person, including an investment adviser with discretionary authority, acting on behalf of other persons would be deemed to be offers and sales to such other persons. The Commission notes that such a position is consistent with interpretation of Rule 144 to the effect that sales of securities from different discretionary accounts, all with the same adviser, are not aggregated. Each account is considered a separate person for purposes of sales under that rule absent any agreement to act in concert with respect to resales.

The rule as initially proposed provided only that persons purchasing securities for at least $250,000 in cash could be excluded from the computation of number of purchasers. The Commission, in light of comments received, has revised the rule to provide that in computing the number of purchasers, persons who purchase or agree in writing to purchase securities from the issuer for cash in an amount of not less than $150,000 in either installments or a single payment need not be included (paragraph (g)(3)(ii)(a)). This condition of the proposed rule has also been revised to provide certain additional exclusions.

First, directors or executive officers of the issuer would be excluded in determining the number of purchasers (paragraph (g)(3)(ii)(b)). Second, any 100 percent owned subsidiary of the issuer or any 100 percent parent of the issuer would be excluded in determining the number of purchasers (paragraph (g)(3)(ii)(c)). Third, any bank lending money to the issuer where the loan is evidenced only by the issuance of debt securities would be excluded in determining the number of purchasers (paragraph (g)(3)(ii)(d)). Fourth, employees of the issuer, to the extent of 35 in any consecutive twelve month period, who purchase securities pursuant to a pension, profit sharing, stock bonus, stock option, stock purchase or similar plan that has been approved by shareholders of the issuer would be excluded in determining the number of purchasers (paragraph (g)(3)(ii)(e)). Finally, persons acquiring securities in connection with a business combination, to the extent of 35 in any consecutive twelve month period would be excluded in determining the number of purchasers (paragraph (g)(3)(ii)(f)).

With respect to the foregoing it should be noted that such provisions relate only to exclusion of persons from the determination of the number of purchasers. All other conditions of the rule apply and would have to be satisfied with respect to such persons.

8. Limitations on Disposition—Rule 146(h). The proposed rule also provides that the issuer and any person acting on its behalf must take reasonable care to assure that the purchasers are not underwriters. Such reasonable care would include but not necessarily be limited to (1) making reasonable inquiry to determine if the purchaser is an underwriter; (2) placing a legend on the certificates or other documents evidencing the securities indicating that they were not registered and setting forth or referring to the restrictions on transferability and sale; (3) issuance of stop transfer instructions to the transfer agent, if any, or an appropriate notation in the issuer's records if the issuer transfers its own securities; and (4) obtaining a written agreement from the purchaser that the securities will not be resold without registration or exemption therefrom. The issuer also should take steps to determine whether the purchasers are to be the beneficial owners of the securities or whether they are acting for other persons.

9. Report of Sale—Rule 146(i). Finally paragraph (i) of the proposed rule would require a report of sales to be filed within 45 days after the end of any quarter of the issuer's fiscal year during which certain sales are effected pursuant to the proposed rule. This report would include

all sales made in the twelve months preceding the end of the quarter. No report is required if the issuer has sold securities in reliance on the rule only to persons described in paragraph (g)(3)(ii)(b)–(e) or if sales to other persons are in an amount less than $500,000 (as opposed to $50,000 as initially proposed) in the twelve months preceding the first sale covered by the report. This would mean that sales to directors and executive officers of the issuer; certain subsidiaries and parents of the issuer; banks in connection with certain loans; and employees in connection with certain plans approved by shareholders of the issuer, would only have to be reported if, in the preceding twelve month period, sales of more than $500,000 were also made to other persons. Also, issuers which file timely reports on Forms 10–K (even if not filed until 90 days after the end of the fiscal year), 12–K or 10–Q pursuant to the Exchange Act which contain the information required by Item 6 or Item C, respectively, of Forms 10–K or 10–Q would be deemed to have filed a report of sales for the quarter covered by such forms. The Commission specifically invites comments with respect to whether any report of sales is necessary to protect investors should the rule be adopted.

10. Form 146 (17 CFR 249, 146)—Report of Sales of Securities Pursuant to Rule 146. The proposed report of sales would require information concerning the identity of the issuer, the securities sold, the number of persons to whom the securities are sold and all persons included in determining the number of persons pursuant to proposed Rule 146 (g) as well as brokers, finders or other persons acting on behalf of the issuer.

OPERATION OF PROPOSED RULE 146

The proposed rule would operate prospectively only starting from its effective date. Further, the staff would issue interpretive letters to assist persons in complying with the Rule, if adopted. While the staff would continue to consider no-action requests if the Rule is adopted, such letters would only be issued infrequently and only in the most compelling circumstances.

The Commission recognizes that no one rule can adequately cover all legitimate private offerings and sales of securities. It is to be emphasized that the proposed Rule would not provide the exclusive means for offering and selling securities in reliance on section 4(2). Issuers who would be able to satisfy the criteria set forth in relevant judicial and administrative interpretations of section 4(2) in effect at the time of a proposed transaction may offer and sell without compliance with the proposed rule.

The Commission has determined not to include within the terms and conditions of Rule 146 specific standards for determining whether a private offering should be regarded as a part of a larger public offering for which the exemption provided by section 4(2) would not be available. The Commission rather has determined that its existing guidelines relating to integration of offerings as set forth in Securities Act Release No. 4552 (27 FR 11316) should continue to apply to offerings made pursuant to Rule 146. The Commission believes that the following factors discussed in that Release are relevant to the question of integration: Whether (1) the different offerings are part of a single plan of financing, (2) the offerings involve issuance of the same class of security, (3) the offerings are made at or about the same time, (4) the same type of consideration is to be received, and (5) the offerings are made for the same general purpose.

The courts and the Commission have consistently held that one claiming an exemption under section 4(2) of the Act has the burden of proving that the exemption is available to him and the Rule would not shift that burden. In addition, it should be pointed out that the burden of proof applies with respect to each offeree not just the purchasers of the securities. Lively v. Hirschfeld, 440 F. 2d 631 (10th Cir. 1971). Accordingly, any person who would rely on the proposed rule would have the burden of establishing that he has satisfied all the conditions of the rule. Such person for his own protection should obtain and retain in his file written evidence that would assist in meeting this evidentiary burden.

In view of the objectives and policies underlying the Act, the proposed rule would not be available to any individual or entity with respect to any transaction which, although in technical compliance with the provisions of the rule, is part of a plan or scheme by such individual or entity to evade the registration provisions of the Act. In such case, registration would be required.

While proposed Rule 146 would relate to transactions exempted by section 4(2) of the Act from the registration provisions of section 5, it would not provide an exemption from the anti-fraud provisions of the securities laws or the civil liabilities provisions of section 12(2) of the Act or other provisions of the securities laws.

The proposed rule is available only to the issuer of the securities and not to affiliates or other persons reselling or otherwise disposing of securities of the issuer. Such disposition must be made in compliance with the registration requirements of the Act unless an exemption from such provisions is available. Also, the proposed rule would not relieve issuers of their obligations under relevant state laws.

It should be recognized that the proposed rule is intended to be in the nature of an experiment and that the Commission would observe its operation to determine whether it is consistent with the objectives of the Act. If experience with the proposed rule should indicate that it is not operating for the protection of investors or in the public interest it would be rescinded or appropriately amended.

Commission action. The proposed amendment to § 230.257 is hereby withdrawn. Pursuant to authority in sections 4(2) and 19(a) of the Securities Act, as amended, the Securities and Exchange Commission proposes to amend Parts 230 and 239 of the Code of Federal Regulations by: (1) Adding thereunder new § 230.146 and (2) adding new § 239.146; both as set forth below:

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

PRELIMINARY NOTES

1. Transactions by an issuer which do not satisfy all of the conditions of this rule shall not raise any presumption that the exemption provided by section 4(2) of the Act is not available for such transactions.

2. Nothing in this rule obviates the need for compliance with any applicable state law relating to the offer and sale of securities.

3. Section 5 of the Act requires that all securities offered by the use of mails or other channels of interstate commerce be registered with the Commission. Congress, however, provided certain exemptions in the Act from such registration provisions where there was no practical need for registration or where the public benefits of registration were too remote. Among these exemptions is that provided by section 4(2) of the Act for transactions by an issuer not involving any public offering. The courts and the Commission have interpreted the section 4(2) exemption to be available for offerings to persons who have access to the same kind of information that registration would provide and who are able to fend for themselves. The indefiniteness of such terms as "public offering", "access" and "fend for themselves" has led to uncertainties with respect to the availability of the section 4(2) exemption. Rule 146 is designed to provide, to the extent feasible, objective standards upon which responsible businessmen may rely in raising capital in claiming the section 4(2) exemption and also to deter reliance on that exemption for offerings of securities to persons who need the protections afforded by the registration process.

In order to comply with the rule, all of its conditions must be satisfied and the person claiming the availability of the rule has the burden of establishing, in an appropriate forum, that he has satisfied them. Broadly speaking, these conditions relate to:

(a) *Limitations on the manner of the offering.* the rule prohibits general advertising of the offering;

(b) *The nature of the offerees.* the rule requires that the issuer must have reasonable grounds for believing, prior to making an offer and prior to making a sale, that the offeree is himself capable of making an informed investment decision, or if the offeree utilizes an offeree representative (as defined in the rule) that the offeree is able to bear the economic risks of the investment;

(c) *Access to or furnishing of information.* the offeree or his acknowledged representative must be in a position to obtain the same kind of information that registration would provide or they must be furnished with that information by the issuer. Also, the issuer must make the opportunity available to the offeree or his representative to obtain additional information to verify such information;

(d) *Number of purchasers.* the rule generally restricts the number of purchasers of the same or similar class of securities of the issuer pursuant to the rule or otherwise pursuant to section 4(2) of the Act to 35 in any twelve month period. The rule contains a number of provisions which include or exclude various specified persons from the computation of the number of purchasers.

(e) *Limitations on disposition.* the rule requires the issuer to exercise reasonable care to assure that the purchasers are not

underwriters, including taking certain steps specified in the rule; and

(f) *Report of sales.* the rule also requires that certain specified sales made pusuant to the rule must be reported on Form 146.

Business combinations are subject to certain special provisions relating to the selection of offeree representatives and the computation of the number of purchasers of securities offered pursuant to the rule.

Rule 146 is not the exclusive basis for determining when the section 4(2) exemption is available. Persons desiring to rely on that exemption may do so by complying with administrative and judicial interpretations in effect at the time of the transaction.

Neither the term "transaction" nor "offering" is defined in the rule. The determination as to whether offers, offers to sell, offers for sale, or sales of securities are part of the same transaction or offering (i.e., are deemed to be "integrated") depends on the particular facts and circumstances. See Securities Act of 1933 Release No. 4552 (November 6, 1962) (27 FR 11316). All offers, offers to sell, offers for sale, or sales which are part of a larger offering must meet all of the conditions of Rule 146 for the rule to be available. Release 33-4552 indicates that in determining whether offers and sales should be regarded as a part of larger offerings and thus should be integrated, the following factors should be considered:

(1) Whether the offerings are part of a single plan of financing;

(2) Whether the offerings involve issuance of the same class of security;

(3) Whether the offerings are made at or about the same time;

(4) Whether the same type of consideration is to be received; and

(5) Whether the offerings are made for the same general purpose.

While Rule 146 relates to transactions exempted from section 5 by section 4(2) of the Act, it would not provide an exemption from the antifraud provisions of the securities laws or the civil liability provisions of section 12(2) of the Act or other provisions of the securities laws.

Finally, in view of the objectives of the rule and the purposes and policies underlying the Act, the rule shall not be available to any person with respect to any transaction which, although in technical compliance with the rule, is part of a plan or scheme by such person to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

The rule is available only to the issuer of the securities and is not available to affiliates or other persons for sales of the issuer's securities.

(a) *Definitions.* The following definitions shall apply for purposes of this rule.

(1) The term "offeree representative" shall mean any person who satisfies all of the following conditions:

(i) Is not an affiliate, associate or employee of the issuer, except where the offeree is:

(*a*) A spouse, son, daughter, sister, brother, mother or father of such person;

(*b*) A relative of such person or his spouse, who has the same home as such person;

(*c*) Any trust or estate in which such person or any of the persons specified in paragraph (a)(1)(i)(*a*) or (*b*) of this section collectively own 100 percent of the total beneficial interest or of which any such person serves as trustee, executor, or in any similar capacity;

(*d*) Any corporation or other organization in which such person or any of the persons specified in paragraph (a)(1)(i)(*a*) or (*b*) of this section are the beneficial owners collectively of 100 percent of the equity securities or interest.

NOTE: For the purpose of the rule the definition of the terms "affiliate" and "associate" of § 230.405 shall apply.

(ii) Has such knowledge and experience in financial and business matters that he is capable of evaluating the risks of the prospective investment;

(iii) Is acknowledged during the course of the transaction by the offeree to be his representative in connection with evaluating the risks of the prospect investment; and

(iv) Discloses to the offeree, in writing, any relationship with the issuer or its affiliates, then existing or mutally understood to be contemplated or which has existed at any time during the previous two years and any compensation received or to be received as a result of such relationship.

(2) The term "direct communication" shall mean that the offeree or his offeree representative has the opportunity to ask questions of, and receive answers from, the issuer or any person acting on its behalf concerning the terms and conditions of the transaction and the information specified in paragraph (e) of this section.

(3) The term "executive officer" shall mean the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs similar policy making functions for the issuer.

(4) For purposes of the rule the definition of the term "issuer" in section 2(4) of the Act shall apply, provided that notwithstanding that definition:

(i) The term "issuer" when used in connection with an offering of securities in an organization, such as a limited partnership, not yet formed shall be deemed to mean the general partner or promoter of the organization, *provided*, That, when such organization is formed it shall be deemed the issuer; and

(ii) In the case of a proceeding under the Bankruptcy Act, the trustee, receiver or debtor in possession shall be deemed to be the issuer in an offering for purposes of a plan or reorganization or arrangement, if the securities offered are to be issued pursuant to the plan, whether or not other like securities are offered under the plan in exchange for securities of, or claims against, the debtor.

(b) *Conditions to be met.* Transactions by an issuer involving the offer, offer to sell, offer for sale or sale of securities of the issuer made in accordance with all of the conditions of this rule shall be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act.

NOTE: As to whether transactions are part of a larger offering see Preliminary Note 3 hereof.

(c) *Limitations on manner of offering.* (1) Neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities by means of any form of general advertising, including, but not limited to, the following:

(i) Any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio;

(ii) Any seminar or meeting, *provided*, That, if all of the persons invited to, and attending, such seminar or meeting satisfy the conditions of paragraph (d) hereof, such seminar or meeting shall be deemed not to be a form of general advertising;

(iii) Any letter, circular, notice or other written communication, *provided*, That, if such communication is directed only to persons who satisfy the conditions of paragraph (d) of this section, such communication shall be deemed not to be a form of general advertising; and

(2) During the course of the transaction, and prior to sale, there is direct communication as defined in paragraph (a)(2) of this section.

(d) *Nature of offerees.* The issuer and any person acting on its behalf who offer, offer to sell, offer for sale or sell the securities shall have reasonable grounds to believe prior to making an offer, and prior to making a sale:

(1) that either the offeree or his offeree representative has, or both together have, such knowledge and experience in financial and business matters that they are capable of evaluating the risks of the prospective investment; and

(2) where an offeree representative is used to satisfy paragraph (d)(1) of this section, that the offeree, except in a business combination, is a person who is able to bear the economic risk of the investment.

(3) The rule will be deemed available notwithstanding the fact that inquiry subsequent to the offer reveal that the offeree or his offeree representative did not meet the standards of paragraph (d)(1) of this section and, if an offeree representative is selected by the offeree, that the offeree did not meet the standards of paragraph (d)(2) of this section, provided that no sale to any such offeree is consummated.

NOTE: See paragraph (f)(2) of this section relating to business combinations.

(e) *Access to or furnishing of information.* (1) Each offeree or his offeree representative shall during the course of the transaction and prior to the sale either:

(i) Have access to the same kind of information that is required by Schedule A of the Act, to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense; or

NOTE: Access must exist by reason of the offeree's or his offeree representative's position with respect to the issuer. Position means an employment relationship or economic bargaining power, that enables such person to obtain such information from the issuer, as distinguished from situations where such relationship does not exist and the

issuer voluntarily offers to provide such information. This would not preclude an offeree from requesting and obtaining information in addition to the information required by Schedule A of the Act.

(ii) Have furnished to him by the issuer or any person acting on its behalf the same kind of information that is required by Schedule A of the Act, to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense. This condition shall be deemed to be satisfied as to each offeree if such offeree or his offeree representative is provided with information as follows:

(*a*) In the case of an issuer that is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 and that has filed at least one annual report on Form 10–K, information contained in the most recent annual report on Form 10–K required to be filed by the issuer and in any other reports or documents required to be filed by the issuer pursuant to sections 13, 14 or 15(d) of the Securities Exchange Act of 1934 since the end of the issuer's most recent fiscal year, and, in addition, a brief description of the securities being offered, the use of the proceeds from the offering, and any material adverse changes in the issuer's affairs which have occurred and are not disclosed in the forms filed, or

NOTE: Such information may be provided in the form of the documents actually filed with the Commission or may be consolidated into one document.

(*b*) In the case of an issuer that does not meet the conditions set forth in paragraph (e)(1)(ii)(*a*) of this section, the information required by Schedule A of the Act: *Provided, however,* That if audited financial statements are not available, those required by Regulation A under the Act may be provided: *And provided further,* That in the case of issuers which would be required to use Form S–2 under the Act if they registered securities, the financial statements required by Form S–2 may be provided on an unaudited basis instead of the financial statements required by Regulation A; and

(2) The issuer shall make available to each offeree or his offeree representative, or both, the opportunity to obtain any additional information, to the extent the issuer possesses such information or can acquire it without unreasonable effort or expense, necessary to verify the accuracy of any information obtained pursuant to paragraph (e)(1) of this section; and

NOTE: Information need not be provided to and opportunity to obtain additional information need not be continued to be provided to any offeree who, during the course of the transaction, indicates that he is not interested in purchasing the securities offered.

(3) The issuer or any person acting on its behalf shall inform each purchaser, prior to purchase, in writing, that a purchaser of the securities must continue to bear the economic risk of the investment for an indefinite period because the securities have not been registered under the Act and therefore are subject to the restrictions set forth in paragraph (h) of this section and cannot be sold unless they are subsequently registered under the Act or an exemption from such registration is available,

(f) *Business combinations.* (1) The term "business combination" shall include a reclassification, merger, consolidation, transfer of assets, exchange of securities or other similar business reorganization.

(2) All of the conditions of the rule shall apply to business combinations, except that, notwithstanding paragraph (a)(1) of this section, the term "offeree representative" for purposes only of a business combination shall include (i) any affiliate, director or executive officer of a corporation or other organization being acquired pursuant to a business combination, *provided,* That, such affiliate, director or executive officer meets the requirements of paragraph (a)(1)(ii), (iii) and (iv) of this section and that any arrangements or terms of the transaction relating to such affiliate, director or executive officer that are not identical to those relating to all other security holders of the acquired corporation or organization are disclosed in writing to the offeree at the time the proposal for the business combination is presented for the offeree's vote or consent, or in the case of an exchange of securities, the investment opportunity is presented to the offeree; or (ii) any other offeree representative selected by a security holder who may receive from the acquired or acquiring organization reimbursement of reasonable expenses incurred in hiring such representative.

(3) For purposes of a business combination only, an "offer" shall be deemed not to include a solicitation by an affiliate, director, or executive officer of a corporation or organization, for the purpose of being selected as an offeree representative in connection with such transaction, of any security holder of such corporation or organization to whom there is intended to be submitted for vote or consent a proposal for a business combination or of any security holder to whom there is intended to be presented an offer of exchange of securities *provided,* That:

(i) The affiliate, director or executive officer satisfies the conditions of paragraph (f)(2) of this section;

(ii) The solicitation is in the form of a written notice that contains the following information, but no more:

(*a*) The name of the issuer of the securities to be offered and the names of other parties to the transaction;

(*b*) A brief description of the business of the parties to such transaction, and the anticipated time of the offering;

(*c*) A brief description of the transaction to be acted upon and the basis upon which such transaction will be made;

(*d*) Any legend or similar statement required by state or federal law or administrative authority;

(*e*) A statement that the affiliate, director or executive officer will act as representative for the security holder in connection with evaluating the risks of the transaction, if requested by the security holder, or that the security holder may select another person as his offeree representative and whether the acquired or acquiring organization will pay any reasonable expenses of such person;

(*f*) A description, in general terms, of any arrangement or terms of the transaction relating to such affiliate, director or executive officer that are not proposed to be identical to those relating to all other security holders of the corporation or organization to be acquired; and

(*g*) An undertaking by the affiliate, director or executive officer that he will, if selected to be any security holder's offeree representative, provide to all security holders at the time the proposal for the business combination is submitted to the security holders for vote or consent, or in the case of an exchange of securities at the time such security holders are to make their investment decision, a complete description of any arrangement or terms of the type described in paragraph (f)(3)(ii)(*f*) of this section.

(g) *Number of purchasers.* (1) For purposes of this paragraph (g) only, the term "person", when used with reference to a person to whom securities are sold in reliance on this rule shall include:

(i) In addition to such person, the following persons:

(*a*) Any relative or spouse of such person and any relative of such spouse, who has the same home as such person;

(*b*) Any trust or estate in which such person and/or any of the persons specified in paragraph (g)(1)(i) of this section collectively own all of the beneficial interest; and

(*c*) Any corporation or other organization in which such person and/or any of the persons specified in paragraph (g)(1)(i) of this section are the beneficial owners of all of each class of equity securities or of all the equity interest therein.

(ii) Any corporation, partnership, association, joint stock company, trust, unincorporated organization, or government or political subdivision thereof.

(2) There shall be no more than thirty-five persons who purchase, from the issuer, securities of the issuer of the same or similar class in any consecutive twelve month period in transactions pursuant to this rule, or not pursuant to this rule, but otherwise in reliance on section 4(2) of the Act.

(3) For the purpose of computing the number of such persons only:

(i) there shall be included as many persons as there are beneficial owners of equity interests or equity securities in any corporation, partnership, association, joint-stock company, trust or unincorporated organization or other entity that is organized for the specific purpose of acquiring the securities offered.

NOTE: Offers or sales to any person, including an investment adviser with or without discretionary authority, acting on behalf of other persons shall be deemed to be offers and sales to such other persons.

(ii) There shall be excluded:

(*a*) Any person who purchases or agrees in writing to purchase for cash securities of the issuer in aggregate amount of $150,000 or more, either in a single payment or in installments;

(*b*) Any director or executive officer of the issuer;

(*c*) Any 100 percent owned subsidiary of the issuer, or any 100 percent parent of the issuer;

(*d*) Any bank that lends money to the issuer, if such loan is evidenced by the issuance of debt securities only;

(*e*) Any employee or former employee of the issuer who purchases securities pursuant to a pension, profit sharing, stock bonus, stock option, stock purchase, or other similar plan that has been approved by the shareholders of the issuer or its parent, but only to the extent of thirty-five such purchasers in any consecutive twelve month period;

(*f*) Any purchaser in a business combination, but only to the extent of thirty-five such purchasers in any consecutive twelve month period.

NOTE: All persons described in paragraph (g)(3)(ii) (*a*) through (*f*) of this section above must satisfy all of the other conditions of this rule.

(h) *Limitation on disposition.* The issuer and any person acting on its behalf shall exercise reasonable care to assure that the persons purchasing the securities from the issuer are not underwriters. Such reasonable care shall include, but not necessarily be limited to, the following:

(1) Making reasonable inquiry to determine if the purchaser is an underwriter;

(2) Placing a legend on the certificate or other document evidencing the security stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities;

(3) Issuance of stop transfer instructions to the issuer's transfer agent, if any, with respect to the securities, or, if the issuer transfers its own securities, a notation in the appropriate records of the issuer; and

(4) Obtaining from the purchaser a signed written agreement that the securities will not be sold without registration under the Act or exemption therefrom.

(i) *Report of sales.* Within forty-five days after the end of any quarter of the issuer's fiscal year during which sales of securities are effected in reliance on this rule, the issuer shall file three copies of a report of sales on Form 146 with the Commission at its principal office in Washington, D.C.; *provided*, That, such report need not be filed if the aggregate price of securities sold in reliance upon this rule within the twelve month period preceding the end of such quarter does not exceed $500,000, *and further provided*, That no report need be filed with respect to sales to persons specified in paragraph (g)(3)(i) (*b*) through (*e*) of this section. Such report shall be deemed to have been filed if the issuer is subject to the periodic reporting requirements of the Securities Exchange Act of 1934 and has filed a timely report on Form 10–K (§ 249.310) or Form 10–Q (§ 249.308a) which contains the information required by Item 6 or Item C, respectively, of such forms, or if the issuer timely files a report on Form 12–K (§ 249.312) or quarterly report with the Commission which contains the information required by Item 6 or Item C of Form 10–K or 10–Q, respectively.

§ 239.146 Form 146, report by issuer of sales of securities pursuant to § 230.146 of this chapter.

(a) This form shall be filed in triplicate with the Commission at its principal office in Washington, D.C. by the issuer within 45 days after the end of any quarter of the issuer's fiscal year during which sales of securities are effected in reliance upon § 230.146 of this chapter. However, this form need not be filed if the issuer has not sold securities in reliance on § 230.146 of this chapter within 12 months preceeding the first sale covered by the form in an amount which when added to the amount of sales covered by the form would exceed $500,000.

(b) This form shall be deemed to have been filed if the issuer is subject to the periodic reporting requirements of the Securities Exchange Act of 1934 and has filed a report on Form 10–K (§ 249.310 of this chapter) or Form 10–Q (§ 249.308a of this chapter) which contains the information required by Item 6 and Item C, respectively, of such forms, or if the issuer timely files a report on Form 12–K (§ 249.312) or quarterly report with the Commission which contains the information required by Item 6 or Item C of Form 10–K or 10–Q, respectively.

NOTE: Copies of proposed Form 146 have been filed with the Office of the Federal Register as part of this document. Additional copies will be available on request from the Securities and Exchange Commission, Washington, D.C. 20549.

(Secs. 4(2), 19(a), 48 Stat. 77, 85, sec. 209, 48 Stat. 908, sec. 12, 78 Stat. 580 (15 U.S.C. 77c d(2), 77s(a)).)

All interested persons are invited to submit their views and comments on the foregoing proposal to adopt Rule 146 and Form 146 in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before November 15, 1973. Such communications should refer to File No. S7–458. All such communications will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 10, 1973.

[FR Doc.73–22197 Filed 10–17–73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 1]

Release of Information

SICKLE CELL ANEMIA PROGRAM

The Veterans Administration is considering amending Part 1, Title 38 of the Code of Federal Regulations to add § 1.513a *Confidentiality of information and patient records prepared or obtained under the sickle cell anemia program.* The proposed section is issued pursuant to section 653(b), title 38, United States Code as added by Public Law 93–82. This proposed section would provide that information and patient records prepared or obtained under the sickle cell anemia program would be held confidential except as otherwise specifically provided.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27H), Veterans Administration Central Office, 810 Vermont Ave., NW., Washington, DC 20420. All relevant material received before November 19, 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 Veterans Administration field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulation that is adopted effective as of September 1, 1973, the effective date of section 109 of Public Law 93–82 which contains the relevant provisions.

§ 1.513a Confidentiality of information and patient records prepared or obtained under the sickle cell anemia program.

Information and patient records prepared or obtained under the sickle cell anemia program of screening, counseling, treatment, and information (38 U.S.C. 651–654, Public Law 93–82, August 2, 1973) shall be held confidential except for:

(a) Such information as the patient (or his guardian) requests in writing to be released or

(b) Statistical data compiled without reference to patient names or other identifying characteristics.

Approved: October 12, 1973.

By direction of the Administrator.

FRED B. RHODES,
Deputy Administrator.

[FR Doc.73–22247 Filed 10–17–73;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

[Public Notice CM-78]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces a scheduled meeting of the United States Study Group on U.S. Government Regulatory Problems concerned with preparation for meetings of Study Groups of the International Telegraph and Telephone Consultative Committee of the International Telecommunication Union. The meeting will take place on Thursday, November 1, 1973, at 10:00 a.m. in Room 847 of the Federal Communications Commmission, 1919 M Street NW., Washington, D.C.

The agenda of this third preparatory meeting will include plans for the development of U.S. Contributions on questions assigned for study during the 1973–1976 period to CCITT Study Group III, "General tariff principles; lease of telecommunication circuits," and the development of U.S. positions on questions where it is decided not to submit U.S. Contributions.

Members of the general public who desire to attend the meeting on November 1 will be admitted up to the limit of the capacity of the meeting room.

Dated October 10, 1973.

GORDON L. HUFFCUTT,
Acting Chairman,
U.S. National Committee.

[FR Doc.73-22201 Filed 10-17-73;8:45 am]

[Public Notice CM-79]

OVERSEAS SCHOOLS ADVISORY COUNCIL

Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its annual meeting on Wednesday, October 24, 10:00 a.m. in Conference Room 6320, Department of State building, Washington, D.C.

Agenda items scheduled for discussion are as follows:

I. Welcome and Introduction of Members.
II. Greetings from Senior Department of State Official.
III. Report of Action of Executive Committee Meeting of April 10, 1973.
IV. Progress Report on Council Program and Individual Fund-Raising Efforts by the Overseas Schools.
A. Status Report of Fifth Presentation.
B. Schools' Fund-Raising Efforts.
C. Use of Suggested Fund-Raising Guidelines by the Schools.
V. Assessment of Council's Activities and Inquiries from Schools Regarding Council's Program.
VI. Report on "Charter of the Overseas Schools Advisory Council" established in compliance with Federal Advisory Committee Act, P.L. 92-463, 86 Stat. 770, of January 5, 1973, Executive Order 11671 of June 5, 1972, and Executive Order 11686 of October 7, 1972.
A. Other Public Members—Recommendations.
B. Appointment of Vice Chairman.
VII. Report of /I/D/E/A/'s Activities—1971/1972 Presentation.
VIII. Discussion Concerning Future Presentations and Recommendations for Future Council Program Activities.

Since the meeting will be conducted in a secure building and space is limited, members of the public desiring to attend the meeting should call Ms. Judy Knott, Office of Overseas Schools, Department of State, Washington, D.C., Area Code 703–557–9715, to arrange attendance.

ERNEST N. MANNINO,
Executive Secretary, Overseas Schools Advisory Council.

OCTOBER 10, 1973.

[FR Doc.73-22341 Filed 10-17-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

SCIENTIFIC ADVISORY COMMITTEE TROOP SUPPORT COMMAND

Notice of Meeting

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

Name of meeting. Troop Support Command Scientific Advisory Group.
Time: October 24, 1973—0830–1715
October 25, 1973—0830–1545—
Agenda. October 24, 1973. Mobility Equipment Research and Development Center (MERDC) Update and Budget Program Summary.
Briefing on the future of MERDC.
October 25, 1973. MERDC Long Range Technology Plan.
MERDC Management Information and R&D Productivity Studies.
Sub-SAG Activities Summary and Reports.
MERDC Engineering Overview.
Executive Session.

This meeting is closed to the public since the Committee will receive classified briefings on the status of current research and development programs and management information forecasts as to the future of research and development programs assigned to the U.S. Army Troop Support Command.

FRED R. ZIMMERMAN,
Lieutenant Colonel, AGC,
Chief, Plans Office, TAGO.

OCTOBER 12, 1973.

[FR Doc.73-22173 Filed 10-17-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

BAKERSFIELD DISTRICT ADVISORY BOARD

Notice of Meeting

OCTOBER 3, 1973.

Notice is hereby given that the Bakersfield, California, District Advisory Board will hold a business meeting on December 18, 1973, beginning at 9 a.m., P.s.t., in Room 224, Federal Building, 800 Truxtun Avenue, Bakersfield, Calif. The agenda for the meeting will include action on the 1974–75 grazing applications, discussion on wild free-roaming horses and burros, review of proposed tortoise preserve, grazing trespass, off-road vehicle plan status, discussion on ephemeral range classification, review of the District Advisory Board charter, brief discussion of geothermal steam, and FY 74 Annual Work Plan Review.

The board meeting activities will conclude with a one-day field review of the western Mojave Desert on December 19, 1973, leaving the Federal Building at 8 a.m., P.s.t.

The business meeting and field review will be open to the public. Interested persons will be permitted to appear before the board or file a written statement for its consideration. Those wishing to appear before the board must inform the chairman in writing prior to the meeting. Written statements and requests to appear before the board should be submitted to J. Glenn Alexander, Chairman, % District Manager, Bureau of Land Management, Federal Building, Room 311, 800 Truxtun Avenue, Bakersfield, CA 93301. Those attending the field review must furnish their own transportation.

LOUIS A. BOLL,
Bakersfield District Manager.

[FR Doc.73-22180 Filed 10-17-73;8:45 am]

CHIEF, MINERALS ADJUDICATION SECTION AND CHIEF, LANDS ADJUDICATION SECTION, BRANCH OF LANDS AND MINERALS OPERATIONS

Redelegation of Authority

OCTOBER 10, 1973.

1. Pursuant to the authority contained in the Redelegation of Authority published in the FEDERAL REGISTER on June 26, 1971, as FR Doc. 71-9044, I hereby redelegate to the Chief, Minerals Adjudication Section and to the Chief, Lands Adjudication Section, in the Branch of Lands and Minerals Operations, authority to take action on the following matters listed in Part II of Bureau Order No. 701 of July 23, 1964, as amended:

CHIEF, MINERALS ADJUDICATION SECTION

Section	Section
2.2(b)	2.6(f)
2.3(a)	2.6(g)
2.6(a)	2.6(n)
2.6(e)	2.6(i)

CHIEF, LANDS ADJUDICATION SECTION

Section	Section
2.2(b)	2.9(j)
2.3(a)	2.9(k)
2.9(a)	2.9(l)
2.9(b)	2.9(m)
2.9(c)	2.9(p)
2.9(d)	2.9(q)
2.9(e)	2.9(r)
2.9(f)	2.9(s)
2.9(h)	2.9(n)
2.9(i)	

2. The stated Section Chiefs may by written order designate any qualified employee of his section to perform the functions of his position in an acting capacity in his absence. Such order must be approved by the Chief, Branch of Lands and Minerals Operations.

3. This order rescinds and replaces the redelegation of authority published in the FEDERAL REGISTER on May 4, 1972, FR Doc. 72-6815.

4. *Effective Date.*—This redelegation will become effective October 18, 1973.

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

Approved October 10, 1973.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.73-22249 Filed 10-17-73;8:45 am]

[Nevada-7850]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 12, 1973.

The Atomic Energy Commission has filed the above application for withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws, 20 U.S.C. Ch. 2, leasing under mineral leasing laws and the disposal of materials under the Act of July 31, 1947, as amended, 30 U.S.C. secs. 601 and 602.

The applicant desires the land to carry out a classified national defense operation.

On or before November 19, 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, 300 Booth Street, Reno, Nevada 89502.

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

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

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. hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

A tract of land in unsurveyed Tps. 7 & 8 N., R. 52 E., more particularly described as follows:

Commencing at the NE corner of Sec. 36, T. 8 N., R. 51 E.;
Thence E., 10,560 feet, to the point of beginning;
Thence W., 8,960 feet;
Thence S., 10,560 feet;
Thence S. 52°34' E., 3,764 feet;
Thence N. 23°00' E., 2,485 feet;
Thence N., 10,560 feet, to the point of beginning;
Aggregating 1,064 acres, more or less.

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

[FR Doc.73-22248 Filed 10-17-73;8:45 am]

BURLEY DISTRICT ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Advisory Board for Burley Grazing District No. 2 will meet at 9:30 a.m., on November 29-30, 1973, in the Conference Room of the Burley District Office Building, 200 South Oakley Highway, Burley, Idaho. The agenda for the November 29th meeting includes considering and recommending action upon the following matters: (1) Reorganization of the Board; (2) Grazing applications for the 1974 season; (3) Transfer of grazing privileges; (4) Cassia County and Pocatello Management Framework Plans; (5) District Boundary Adjustment; (6) Modification of board election procedures. On November 30th, weather permitting, the Advisory Board will leave the Burley District Office at 8:30 a.m. to tour areas in Cassia County to discuss the upcoming Management Framework Plan, as well as deer migration routes, geothermal research proposals, Twin Sisters recreation site, and the pioneer trails study.

The meeting will be open to the public; seating will be available for about 8 observers. Interested members of the public who wish to take part in the field tour will be required to furnish their own transportation and sack lunch. Written and oral statements are welcome. Written statements should be addressed to the advisory board chairman, Mr. Milton T. Jones, c/o District Manager, Bureau of Land Management, P.O. Box 489, Burley, Idaho 83318.

NICK JAMES COZAKOS,
District Manager.

[FR Doc.73-22199 Filed 10-17-73;8:45 am]

SUSANVILLE DISTRICT GRAZING ADVISORY BOARD, CALIF.

Notice of Meeting

The Susanville District Grazing Advisory Board will meet at 10 a.m. on December 12 and 13, 1973, at the District Office, Susanville, California.

The purpose of the meeting will be to consider district grazing applications, license, and transfer of grazing privileges in the Eagle Lake, Pit River, and Surprise Resource Areas.

Other topics for discussion include: the reorganization of the Advisory Board and matters related to wild horse and burro management.

The meeting is open to the public. Requests for additional information should be submitted to the District Manager, Post Office Box 1090, Susanville, California 96130, Telephone Number (916) 257-5385.

D. DEAN BIBLES,
District Manager, Susanville.

[FR Doc.73-22198 Filed 10-17-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

REQUIREMENTS FOR APPROVED OCCUPATIONAL RESPIRATORS; REQUEST FOR EXTENSION OF TIME

Notice of Public Meeting

On March 25, 1972, the Department of Health, Education, and Welfare and the Department of the Interior jointly adopted Part 11 of Title 30 CFR, regulations which provide for the testing of

respirators and the issuance of joint approvals of respirators meeting minimum requirements for performance and respiratory protection (37 FR 6244). Section 11.2 provides that until March 30, 1974, respirators would be considered approved if approved under either Part 11 or a Bureau of Mines approval schedule, but that after March 30, 1974, only respirators approved in accordance with Part 11 would be considered to be approved. The effect of this provision is to require a respirator manufacturer that desires a certificate of approval for a respirator to submit such product for testing in accordance with Part 11 so that it might be tested and certified before the March 30, 1974, deadline.

The Industrial Safety Equipment Association, an association of respirator manufacturers, has requested that the March 30, 1974, date be extended for two years until March 30, 1976.

Notice is hereby given that the Department of Health, Education, and Welfare and the Department of the Interior will hold a public meeting to consider the Association's request. The meeting will be held on November 14, 1973, beginning at 9:30 a.m. in Conference Room L (3rd Floor) of the Department of Health, Education, and Welfare's Parklawn Building, 5600 Fishers Lane, Rockville, Maryland.

Dr. Elliot S. Harris, Director, Division of Laboratories and Criteria Development, National Institute for Occupational Safety and Health is designated as Chairman of the meeting. A verbatim transcript of the proceedings will be maintained and all written statements, charts, and data will be received in the record.

Interested persons who wish to make presentations or otherwise participate in the meeting should apply to Director, National Institute for Occupational Safety and Health, Room 10-05, 5600 Fishers Lane, Rockville, Maryland 20852, Attention Dr. Elliot S. Harris, Chairman, not later than ten days preceding the meeting, stating the time requested.

Dated October 10, 1973.

MARCUS M. KEY,
Director, National Institute for Occupational Safety and Health.

[FR Doc.73-22251 Filed 10-17-73;8:45 am]

Food and Drug Administration

[FAP 3B2916]

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2916) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended in paragraph (a)(5) to provide for the safe use of N-[(dimethylamino) methyl]-acrylamide polymer with acrylamide and styrene as a dry strength agent for paper and paperboard intended to contact food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the Office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the Office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD. 20852, during working hours, Monday through Friday.

Dated October 11, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-22231 Filed 10-17-73;8:45 am]

DEL MONTE CORP.

Temporary Permit for Market Testing of Certain Canned Peaches

Pursuant to §10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to the Del Monte Corp., 215 Fremont St., P.O. Box 3575, San Francisco, CA 94119. This permit covers limited interstate marketing tests of canned peaches that deviate from the standard of identity prescribed in § 27.2 (21 CFR 27.2) in that the canned peaches will not be packed in one of the optional packing media but will be vacuum packed in a small amount of heavy sirup which is absorbed into the fruit. The product will also deviate from the standard in that the style of the peaches will be a mixture of slices and pieces.

The name "Yellow Cling Peaches" and the words and statements "Vacuum Packed", and "Slices and Pieces—Sweetened" will be declared on the principal display panel of the label.

This permit is effective for one year. The one-year period will begin on the date the new food is introduced or caused to be introduced in interstate commerce but no later than Jan. 16, 1974.

Dated October 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-22233 Filed 10-17-73;8:45 am]

[DESI 1726; Docket No. FDC-D-577; NDA No. 12-763 etc.]

CERTAIN MEBUTAMATE-CONTAINING DRUGS FOR ORAL USE

Notice of Withdrawal of Approval of New Drug Applications

A notice was published in the FEDERAL REGISTER of February 20, 1973 (38 F.R. 4683) extending to Wallace Pharmaceuticals, Division of Carter-Wallace, Inc., Half Acre Road, Cranbury, N.J. 08512 and any interested person an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act to withdraw approval of NDA 12-763 for Capla Tablets containing mebutamate and NDA 13-702 for Caplaril Tablets containing mebutamate and hydrochlorothiazide. The basis of the proposed action was the lack of substantial evidence that the drugs are effective for their labeled indications.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 21, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Maryland 20852.

Neither the holder of the applications nor any other person filed a written appearance of election within the 30 days provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of an opportunity for hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355) and the Administrative Procedure Act (5 U.S.C. 554), and under the authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with regard to the drugs, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of new drug applications Nos. 12-763 and 13-702 and all amendments and supplements thereto are withdrawn.

Shipment in interstate commerce of the above-listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Effective date.—This order shall become effective on Oct. 29, 1973.

Dated October 11, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-22234 Filed 10-17-73;8:45 am]

[FAP 3A2839]

PFIZER CENTRAL RESEARCH, PFIZER, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Pfizer Central Research, Pfizer, Inc., 235 East 42d St., New York, N.Y. 10017, has withdrawn its petition (FAP 3A2839), notice of which was published in the FEDERAL REGISTER of November 2, 1972 (37 FR 23372), proposing the issuance of a food additive regulation to provide for the safe use of sorbitol modified polydextrose polymerized by the use of tartaric of citric acid in food as a bulking agent and/or for its reduced caloric value.

Dated October 11, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-22232 Filed 10-17-73;8:45 am]

Office of Education

GRANTS

Notice of Closing Dates for Receipt of Preapplications and Applications

Pursuant to the authority contained in section 309 of the Adult Education Act (84 Stat. 159–164 (20 U.S.C. 1201–1211)), notice is hereby given that the U.S. Commissioner of Education has established final closing dates for receipt of preapplications and applications for grants for special experimental demonstration projects and for teacher training programs in adult education.

1. *Preapplication and application procedures.* Applicants are strongly encouraged to utilize the preapplication and application procedures outlined in the FEDERAL REGISTER, Vol. 38, 132, pp. 18518–18523, July 11, 1973. (See especially § 167.6 of the regulations and Part 4 of the guidelines.) Under these procedures, applicants must submit a preapplication prior to submitting an application.

2. *Priorities for funding.* Notice of proposed priorities for such projects was published in the FEDERAL REGISTER on September 25, 1973, and comments were invited to be received prior to October 25, 1973.

3. *Closing date for receipt of preapplications.* Shortly after October 25, 1973, final priorities will be published in the FEDERAL REGISTER. All preapplications must be received on or before 21 days after the final publication of the priorities. It is thus suggested that applicants begin considering preparation of preapplications at the earliest possible date. Preapplications and applications should be sent to the Office of Education, Application Control Center at 400 Maryland Avenue, S.W., Washington, D.C. 20202. Following the review of such a preapplication, the applicant will be notified as to whether the Division of Adult Education recommends the development of an application. Such a recommendation is not a commitment to fund. This procedure is designed to minimize investment of time and energy by applicants seeking funds under the established fiscal year 1974 priorities.

4. *Closing date for receipt of applications.* Applications for fiscal year 1974 must be received in the U.S. Office of Education on or before January 21, 1974.

5. *Forms.* Interested applicants may obtain preapplication and application forms by writing to the Division of Adult Education, U.S. Office of Education, Washington, D.C. 20202.

(Catalog of Federal Domestic Assistance No. 13.401, Adult Education—Special Projects and No. 13.402, Adult Education—Teacher Education.)

Dated October 11, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.73-22129 Filed 10-15-73;8:45 am]

Office of the Secretary

ADMINISTRATION ON AGING

Statement of Organization and Functions

Part 1 of the Statement of Organization and Functions for the Department of Health, Education, and Welfare, Office of the Secretary, is amended to change Chapter 1R10, Assistant Secretary for Human Development. The amended chapter reads as follows:

1R10.00 *Mission.* The Administration on Aging (AoA) is located within the Office of Human Development, Office of the Secretary, which is under the direction of the Assistant Secretary for Human Development. The Administration is the Federal focal point for the needs, concerns and interests of older persons in the light of its responsibilities as the principal agency for carrying out the programs of the Older Americans Act and the principal agency responsible for providing staff support for the Interdepartmental Working Group of the Domestic Council Committee on Aging, of which the Commissioner on Aging is Chairman, and the Federal Council on Aging.

The Administration on Aging develops program goals and objectives in terms of five year forward plans and current operational plans. Coordinates Federal research, development, and demonstration programs, to develop and test new techniques designed to deal with the needs and problems of the elderly. Assesses national manpower requirements in the field of aging, makes reports and recommendations on meeting the manpower needs, and designs and develops strategies for implementing the recommendations. Develops initiatives for improvement or innovations to better serve older persons. Promotes coordination of the programs of the various Federal and non-Federal agencies which affect the elderly. Serves as a clearinghouse on information related to the problems of older persons and programs for the elderly. Administers a Federal-State-local grant program (Title III of the Older Americans Act) which provides support for State agencies on Aging, Area Agencies on Aging and local community projects in areas not served by an Area Agency on Aging. Administers a grant program for training and research (Title IV of the Older Americans Act). Administers a grant program (Title V of the Older Americans Act) for the acquisition, alteration or renovation, and initial staffing of multipurpose senior centers. Administers a Federal-State-local grant program (Title VII of the Older Americans Act) under which the State Agencies on Aging fund area and local nutrition projects for the elderly. Develops regulations and guidelines for programs under the Older Americans Act. Through the Regional offices, provides direction and assistance to State and local agencies and organizations which are involved in the administration of AOA programs. Evaluates the administration of program operations in terms of progress toward established goals and objectives. The Administration on Aging carries out its responsibilities through the offices shown in 1R10.10 and by delegating, whenever possible and feasible, authority to act to Regional offices.

1R10.10 *Organization.* The Administration on Aging is composed of the following constituent units: 1. The Immediate Office of the Commissioner, 2. The Office of Planning and Evaluation, 3. The Office of State and Community Programs, 4. The Office of Research, Demonstrations and Manpower Resources, 5. The National Clearinghouse for the Aging, 6. The Special Projects Staff, 7. The Field Liaison Staff.

1R10.20 *Functions.*—A. *Immediate Office of the Commissioner.* The Immediate Office of the Commissioner provides the overall leadership, monitoring and final decision-making when not otherwise delegated for the programs and functions listed below.

B. *Office of Planning and Evaluation.* Serves as the focal point in the Administration on Aging for forward (5 year) planning, policy analysis, and evaluation. Responsible for compiling the Administration on Aging forward plan with appropriate input from the other AOA units. Conducts policy analyses of a wide range of basic program issues affecting Administration on Aging or programs for the aging. Prepares annual AOA reports to the President and the Congress. Develops Administration on Aging legislative proposals. Identifies policy issues in proposed legislation affecting the elderly. Develops bill reports as requested. Obtains information on State legislation on aging, publishes periodic information for the States on new legislation, works with

States and Regional offices to develop model State legislation as appropriate. Provides secretariat and principal analytical support services to the Federal Council on Aging. Provides principal staff support for Federal Interdepartmental Working Group of the Cabinet-level Domestic Council Committee on Aging. Monitors follow through by Federal agencies on implementation of commitments made in the Administration's response to the recommendations of the White House Conference on Aging and the recommendations of the Post White House Conference Board. Develops and implements an annual evaluation plan for the Administration on Aging. Prepares program evaluation guidelines for use by State and area agencies on aging.

The annual evaluation plan and the program evaluation guidelines will relate to the overall effectiveness of AoA policies and programs and to their impact on the aging population rather than to evaluation of individual grantee management performance.

C. *Office of State and Community Programs.* Serves as the focal point for development and assessment of Title III State and Community Programs on Aging, Title VII Nutrition Program for the Elderly, and Title V Senior Center Program. Maintains information on programs on other Federal agencies and national voluntary agencies which have potential for relating to State agency on aging activities and to area agency planning and implementation of service systems to serve older people. Develops regulations, policies and guidelines for use by State and area agencies on aging. Develops optional models and disseminates "best practice" suggestions for use by the Regional offices, State agencies on aging and area agencies on aging. Develops, in cooperation with the Office of Research, Demonstration and Manpower Resources, in-service training curricula targeted at building the capacity of State and Area Agency staff. Develops with the Office of Administration and Management, OHD, accounting standards for State and Area Agencies. Interprets Title III, Title V, and Title VII policy and provides technical assistance to Regional personnel an such policy. Develops reporting system requirements for Title III, V, and VII. Develops grantee performance criteria and monitors, through the Regional offices, grantee implementation of Titles III, V, and VII. Receives, analyzes, and distributes program management data.

D. *Office of Research, Demonstrations and Manpower Resources.* Serves as the Federal focal point for coordination of research on aging by Federal agencies. Provides the chairman and secretariat services to the Interagency Task Force on Aging Research which will operate under the Interdepartmental Working Group of the Cabinet-level Domestic Council Committee on Aging, and to the Advisory Committee on Aging Research, which will operate under the Federal Council on Aging. Develops the research, demonstration, and manpower resources components of the Administration on Aging forward plan. Responsible for development of policy and monitoring of progress for research, demonstration, and manpower resources programs under Title IV of the Older Americans Act. Provides appropriate technical assistance to Regional offices and through them to State and area agencies. Develops criteria for evaluating grantee performance in AOA Research, Demonstration and Manpower projects. Conducts continuing studies of the manpower needs in the fields of aging for input to the annual reports of the Administration on Aging and of the Federal Council on Aging to the President and the Congress. Provides technical assistance to institutions of higher learning concerning development of gerontological programs and curricula.

E. *National Clearinghouse for the Aging.* Serves as the focal point within the Federal Government for the collection, analysis, and dissemination of information related to the needs and problems of older persons and, wherever possible, develops programs with other offices and agencies to fill gaps in information. Coordinates the activities carried out by all departments and agencies of the Federal government, with respect to the collection, preparation, and dissemination of information relevant to older persons. Develops, through an Interagency Task Force which will operate under the Interdepartmental Working Group of the Cabinet-level Domestic Council Committee on Aging, an Interagency Information and Referral Program. Organizes and conducts further analysis of data generated primarily by other agencies, and puts into summaries or other appropriate formats, economic, demographic and other primarily statistical data for use by interested groups, governmental and non-governmental agencies and the public. Encourages the establishment of State and local information centers and provides technical assistance to such centers. Carries out a special program for the collection and dissemination of information relevant to consumer interests of older persons. Produces a variety of professional and lay publications and audio-visual material on aging. Publishes AGING magazine. Develops special information campaigns and plans and conducts the annual Senior Citizens Month. Distributes important general policy documents and public information materials to Administration on Aging central office, Regional offices and State and local agency personnel. Through a special unit, responds to public inquiries for information.

F. *Special Projects Staff.* Develops, through the Interdepartmental Working Group of the Cabinet-level Domestic Council Committee on Aging, proposals for one-time, interagency national program initiatives to benefit older persons. Programs will usually involve both public and private non-profit resources (e.g., all elderly persons being notified about food stamps and commodities and being offered assistance in applying for them). Serves as interagency project manager for each approved project.

G. *Field Liaison Staff.* Through regular and frequent contacts, assists Regional offices in developing a better understanding of the objectives and programs of the AoA program units; identifies difficulties being encountered by Regional offices in the discharge of their duties and responsibilities; defines priorities and expectations from the AOA viewpoint to resolve or prevent conflicting workload demands placed on AOA Regional office units; develops recommendations designed to strengthen the concepts of regionalization and decentralization; ascertains whether the Office of the Commissioner and other units are providing Regional offices with assistance required if Regional offices are to achieve objectives such as becoming regional centers on aging, providing leadership to the Committees on Aging of the Federal Regional Councils, and working with States and areas in such a manner as to assist them in the development of their programs consistent with Federal laws, rules and regulations; conducts on-site assessments and other evaluation of AOA Regional activities.

Coordinates activities with Regional Operations staff in the immediate Office of the Assistant Secretary, Human Development, to enhance support to Regional offices and to assure mutuality of efforts.

Dated October 10, 1973.

ROBERT H. MARIK,
Assistant Secretary for Administration and Management.

[FR Doc.73-22221 Filed 10-17-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 73-245N]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Notice of Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, Public Law 92-463, approved October 6, 1972, that the Coast Guard Academy Advisory Committee will conduct an open meeting on Monday, October 29, 1973, at the U.S. Coast Guard Academy, New London, Connecticut, beginning at 0900 to 1600.

The summarized agenda for this meeting consists of:

(1) Deletion, modification, and/or addition of course options and programs.

(2) Advantages and disadvantages of ECPD accreditation. Should it be pursued?

(3) What is the appropriate mix of permanent military, rotating military, and civilian faculty and the relative merits of each?

(4) What can be done to attract more cadets to select the various engineering options?

(5) General discussion with the Academic Council concerning other topics that may arise.

Interested persons may seek additional information by writing: Commandant (G-PTP-1/72), U.S. Coast Guard, Washington, D.C. 20590, or calling 202 426 1381.

JOSEPH R. STEELE,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Personnel.

OCTOBER 12, 1973.

[FR Doc.73-22235 Filed 12-17-73;8:45 am]

ATOMIC ENERGY COMMISSION

FLORIDA POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the Deputy Director for Reactor Projects, Directorate of Licensing, has issued Amendment No. 1 to Facility Operating License No. DPR-31 to Florida Power and Light Company for the Turkey Point Nuclear Plant, Unit 3. This amendment deletes the condition in 3.B. of the license which required Florida Power and Light Company to submit, not later than thirty (30) days from the date of issuance of the license, proposed Technical Specifications dealing with limits on salinity and temperature of discharged cooling water and defining a suitable surveillance program which would embody monitoring and assessment of the environmental impact of the plant cooling system, because Florida Power and Light Company has submitted proposed Technical Specifications required by this condition. A modified version of these Technical Specifications is now also added to the License for Unit 3, as Appendix B thereto. A similar version of the Technical Specifications has been incorporated in the license for Turkey Point Nuclear Plant Unit 4. This amendment does not present significant hazards consideration.

A copy of Amendment No. 1 to Facility Operating License No. DPR-31, complete with Technical Specifications, Appendices A and B, is on file in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and in the Lily Lawrence Row Public Library, 212 Northwest First Avenue, Homestead, Florida 33030. Copies of Amendment No. 1 to Facility Operating License DPR-31 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, Maryland, this 11th day of October 1973.

For the Atomic Energy Commission.

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

[FR Doc.73-22196 Filed 10-17-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 25990; Order 73-10-50]

MANDATORY FUEL ALLOCATION PROGRAM

Order Authorizing Discussions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of October 1973.

On April 30, 1973, the Economic Stabilization Act of 1970 was amended by P.L. 93-28 to give the President (or his delegate) the power to allocate petroleum products, including crude oil. Pursuant thereto, the Energy Policy Office has, by order issued October 12, 1973, adopted a mandatory fuel allocation program which, inter alia, imposes controls on "middle distillate fuels" including airline turbine fuel.

Consequently, the airlines are confronted with the crucial problems of diminished fuel supplies and reduced revenue, which may affect not only the production and profitability of the airlines, but service to the public. To assure that any required competitive schedule adjustments do not result in service inadequacies, the Board, on its own motion, will authorize discussions to consider adjustment of schedules to the extent necessary to accommodate the President's fuel allocation program with the least possible reduction of service to the public.

Accordingly, it is ordered, That:

1. All certificated route and supplemental air carriers be and they hereby are authorized to conduct discussions to consider adjustment of schedules to the extent necessary to accommodate the fuel allocation program, subject to the following conditions:

(a) The discussions shall be held in Washington, D.C., and representatives of the Civil Aeronautics Board and of any other interested persons shall be permitted to attend the discussions as observers;

(b) The markets to be discussed shall be limited to markets in interstate and overseas air transportation;

(c) Notices of any meeting held pursuant to this order shall be served on all certificated route and supplemental air carriers, and the Civil Aeronautics Board, at least 24 hours prior to said meeting;

(d) A full transcript shall be maintained at all meetings, at the expense of the carriers, and two copies of said transcript shall be filed with the Board;

(e) The authority granted herein shall expire within 90 days of the effective date of this order; and

2. Copies of this order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; and all certificated and supplemental air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-22252 Filed 10-17-73;8:45 am]

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

PROCUREMENT LIST 1973

Additions

Notice of proposed additions to Procurement List 1973, March 12, 1973 (38 FR 6742), were published in the FEDERAL REGISTER on August 7, 1973 (38 FR 21325), and August 17, 1973 (38 FR 22252).

Pursuant to the above notices the following commodities are added to Procurement List 1973.

COMMODITIES

	Price
Class 7210:	
Pillowcase (IB) 7210-081-1380	$9.42 dozen
Class 7510:	
Pointer, Pencil (GI) 7510-237-4926	$0.09 each

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-22203 Filed 10-17-73;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

Environmental impact statements received by the Council on Environmental Quality from October 8 through October 12, 1973.

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Multiple Use, Camp-Tolan Unit, Bitterroot National Forest, Ravalli County, Mont. October 10: Proposed is the implementation of a revised multiple use plan for the Camp-Tolan Planning Unit, Sula Ranger District, Bitterroot National Forest. The 39,848 acre unit has been divided into seven management units, for such values as big game winter range, timber production, recreation and scenic values, and wildlife cover. There are 13,100 acres of inventoried roadless area lying within the planning unit, of which 8,428 will remain roadless under the plan

(140 pages). (ELR Order No. 31598.) (NTIS Order No. EIS 73 1598-D.)

Final

Vegetation Control by Mechanical Treatment, several counties in Arizona, October 10: Proposed is the use of mechanical equipment and fire for the control of invading mesquite, pinyon-juniper, and chaparral in Yavapai, Cochise, Coconino, Navajo, and Apache Counties. National Forests involved are Coronado, Kaibab, Prescott, and Sitgreaves. There will be adverse impact to air, soil, water, aesthetics, and wildlife habitat (approximately 144 pages). Comments made by: EPA, DOI, State, and local agencies; and concerned citizens. (ELR Order No. 31597.) (NTIS Order No. EIS 73 1597-F.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Underwood Generating Station, Transmission Lines, McClean, Oliver, and Mercer Counties, N. Dak., October 4: Proposed is the granting of insured or guaranteed loan funds to the Cooperative Power Association and the United Power Association, for the construction of a new generating station. The station will include two lignite-fueled 450 MW units; associated works will include 409 miles of 450 kV line, 83 miles of 345 kV line, and 12.5 miles of 230 kV line. Fuel will be obtained through strip mining operations which will involve a total of 20,000 acres during the life of the plant (three volumes). (ELR Order No. 31587.) (NTIS Order No. EIS 73 1587-D.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202-973-5391. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202-973-7373, Washington, D.C. 20545.

Final

Haddam Neck Nuclear Power Plant, Connecticut, October 11: The proposed action is the issuance of a full-term operating license for the Haddam Neck (Connecticut Yankee) Nuclear Power Plant. The plant, which began commercial production January 1, 1968, employs a pressurized water reactor to product 1825 MWt and 600 MWe. Exhaust steam is cooled by water pumped from the Connecticut River, then returned to the river by a 1.16 mile canal; the zone within which the surface temperature rise exceeds 4 degrees F is about 213 acres at ebb tide (approximately 350 pages). Comments made by: EPA, FPC, USCG, HEW, DOI, DOC, USDA, and AHP. (ELR Order No. 31610.) (NTIS Order No. EIS 73 1610-F.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

Draft

Oakland Outer Harbor, Alameda County, Calif., October 5: Proposed is the maintenance dredging of 250,000 cu. yds. of material, in order to return the harbor to its authorized depth of 35 feet. Impact will include the disruption of marine biota, with potential harm from the release of heavy metals and organic pollutants (San Francisco District) (23 pages). (ELR Order No. 31596.) (NTIS Order No. EIS 73 1596-D.)

Calleguas Creek, Ventura County, Calif., October 11: Proposed is the development of a flood control project in Simi Valley. Project measures will include channel works, and the development of recreational parks and trails. Adverse impact will include the loss of 64 acres of riparian habitat to project measures, and the urbanization of 385 acres of open space and agricultural land within the Simi Valley and Moorpark floodplain (Los Angeles District) (80 pages). (ELR Order No. 31617.) (NTIS Order No. EIS 73 1617-D.)

Sherwood Island State Park, Fairfield County, Conn., October 5: Proposed are beach widening and sand retention structures along 6,000 feet of shorefront. Adverse impact will be to marine biota (Waltham District) (23 pages). (ELR Order No. 31595.) (NTIS Order No. EIS 73 1595-D.)

Upper St. Johns River Basin, Fla., October 11: Proposed is work on the Upper St. Johns River Basin, a portion of the Central and Southern Florida Project. Project measures would include: levee work; selective clearing of creeks; construction of spillways; and storage of water for flood control. A total of 26,000 acres of land will be affected by the project. Five thousand and three hundred acres will be completely cleared; 14,550 acres will be selectively cleared, involving loss of pine, cypress, and hardwoods, and upland pasture (Jacksonville District) (approximately 150 pages). (ELR Order No. 31616.) (NTIS Order No. EIS 73 1616-D.)

Saw Mill River Flood Control Project, Yonkers, Westchester County, N.Y., October 10: Proposed is the construction of flood control works along the Saw Mill River in the city of Yonkers. The project consists of an upstream diversion tunnel discharging into the Hudson River, 2,600 feet of channel modification, and a check dam structure to regulate flood flow. Adverse effects include loss of vegetation and acceleration of future development in the flood plain (14 pages). (ELR Order No. 31599.) (NTIS Order No. EIS 73 1599-D.)

Final

John Hollis Bankhead Lock and Dam, Alabama, October 10: The statement refers to the proposed construction of a replacement lock at the dam. Approximately 5.5 million cu. yds. of material will be dredged and disposed of, and 189 acres of land will be required for the project. Adverse will result to local flora and fauna (40 pages). Comments made by: USDA, EPA, HUD, DOI, DOT, and State agencies. (ELR Order No. 31601.) (NTIS Order No. EIS 73 1601-F.)

Big Hill Lake, Labette County, Kans., October 11: The statement considers the construction of a dam and reservoir on Big Hill Creek, 4.5 miles east of Cherryvale. Purposes of the action are flood control, water supply, and recreation. Approximately 2,700 acres, much of its wildlife habitat, will be inundated, along with 12 miles of stream. Nine recorded archeological sites will be adversely affected (approximately 275 pages). Comments made by: EPA, HUD, DOI, AHP, USDA, DOC, OEO, State and local agencies. (ELR Order No. 31621.) (NTIS Order No. EIS 73 1621-F.)

Charles River Locks and Dam, Massachusetts, October 11: The statement refers to the proposed construction of a multi-purpose earth and concrete dam, with river pumping facilities, three navigation locks, a fish ladder, and an overhead highway viaduct. Dredging will adversely affect aquatic life (99 pages). Comments made by: DOC, EPA, FPC, HUD, DOI, OEO, DOT, State, and local agencies. (ELR Order No. 31612.) (NTIS Order No. EIS 73 1612-F.)

Libby Reregulating Dam, Montana, October 10: The statement refers to the proposed construction of a reregulating dam on the Kootenai River, along with a 4 unit 36,000 kw hydroelectric powerplant. A 1000' long access road will also be part of the project. The plant will require construction of transmission lines; an unspecified amount of land will be committed to the project (314 pages). Comments made by: USDA, DOI, DOT, EPA, FPC, and HEW. (ELR Order No. 31603.) (NTIS Order No. EIS 73 1603-F.)

Cordell Hull Dam and Reservoir, Tennessee, October 11: Proposed is the construction of a dam with a navigation lock, a 100 MW powerplant, a spillway, and a 12,209 acre reservoir. Project purposes are navigation, hydroelectric power, and recreation. The project is 89 percent complete (Nashville District) (61 pages). Comments made by: DOC, HEW, FPC, USDA, EPA, DOT, DOI, ARC, TVA, State agencies, and concerned citizens. (ELR Order No. 31620.) (NTIS Order No. EIS 73 1620-F).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202-755-0940.

Final

North Dade County Regional System, Dade County, Fla., October 10: The proposal is for an 80 MGD secondary treatment facility to be reconstructed at the Interama site in two 40 MGD phases, and major elements of an integrated sewage collection system to be constructed in the northern portion of the county over a period of 3 to 5 years. Wastewater disposal will be either via a 22,850', 90'' diameter ocean outfall to a point 300' beyond the seaward reef in 90' of water; or via the existing North Miama Ocean outfall, with flows exceeding its 30 MGD capacity being diverted to deep wells which will inject wastewaters to the boulder zone of the Florida Aquifer. Some mangrove would be affected by construction of the outfall (451 pages). Comments made by: USDA, COE, DOC, DOI, HEW, HUD, and State agencies. (ELR Order No. 31600.) (NTIS Order No. EIS 73 1600-F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Draft

Crow Indian Ceded Coal Mining Lease, Big Horn County, Mont., October 11: Proposed is the approval of the mining plan for the proposed Westmoreland Resources coal strip mining operation in Tract III of the Crow Indian Ceded Area. The Crow Ceded Area encompasses approximately 1.1 million acres. Adverse impact will include the disruption of surface characteristics, soil, vegetation, and wildlife. Dust and noise problems will increase; ground water will be diverted from coal seam aquifers, causing a reduction in the potentiometric surface. Sulfur dioxide emission levels will be reduced at midwestern utility plants using coal from this proposed site (approximately 250 pages). (ELR Order No. 31606.) (NTIS Order No. EIS 73 1606-D.)

NATIONAL PARK SERVICE

Draft

Independence National Historical Park, Philadelphia, Pa., October 11: The statement refers to the proposed acquisition of 1.348 acres of land in Philadelphia, with the Secretary of the Interior then entering into an agreement with the City of Philadelphia for the development of a public parking facility on the acquired property. Five hundred and fifty parking spaces will be made available. Six 19th Century structures will be demolished (101 pages). (ELR Order No. 31618.) (NTIS Order No. EIS 73 1618-D.)

Final

Proposed Black Canyon Wilderness, Gunnison National Monument, Colorado, October 11: Proposed is the legislative designation of a 8,780 acre wilderness area within the Monument. The wilderness will comprise 64 percent of the Monument's acreage, including all of the canyon, and a portion of the mesa and beach land in the western half. Impact discussed in the Statement includes ecological, social, and economic effects (61 pages). Comments made by: USDA, DOI, DOT, State agencies, and concerned citizens. (ELR Order No. 31608.) (NTIS Order No. EIS 73 1608–F.)

Colorado National Monument Wilderness, Colorado, October 11: Proposed is the legislative designation of 44 percent (7,700 acres) of the Colorado National Monument as wilderness within the National Wilderness Preservation System. Impact will include: the prohibition of backcountry visitor facilities; the curtailment of permanent research installations; the placing of restrictions on road construction and the use of mechanized equipment; and related considerations (70 pages). Comments made by: USDA, DOI, DOT, State agencies, and concerned citizens. (ELR Order No. 31613). (NTIS Order No. EIS 73 1613–F.)

Confluence Overlook Road, Canyonlands National Park, San Juan County, Utah, October 11: The statement considers the construction of approximately 9.7 miles of paved access road within the Needles District of Canyonlands National Park. Adverse environmental effects include animal road mortality, increased visitor impacts upon the ecosystems, and visual impacts as a result of cuts and fills (approximately 125 pages). Comments made by: USDA, EPA, DOI, DOT, State and local agencies, and concerned citizens. (ELR Order No. 31611.) (NTIS Order No. EIS 73 1611–F.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590. 202–426–4357.

FEDERAL AVIATION ADMINISTRATION

Draft

New Orleans Lakefront Airport, Louisiana, October 11: Proposed is the development of a Master Plan for the existing New Orleans Lakefront Airport. The Master Plan will determine the extent, type and nature of needed development based on forecast short, intermediate, and long range aeronautical needs. Installation of approach lights and an ILS Glide Slope Indicator for the present north-south runway is planned prior to implementation of Phase 1 of the Master Plan (86 pages). (ELR Order No. 31623.) (NTIS Order No. EIS 73 1623–D.)

Stanly County Airport, Albemarle, Stanly County, N.C., October 11: The project is the construction of a new public-use airport located in Albemarle. Of the 160 acres of land that will be acquired, 42 acres of trees will be cleared. Construction includes: a 75' x 3,900' runway, 150' x 400' aircraft parking apron, stub taxiway, partial parallel taxiway to the S/W end, installation of lighting systems, and construction of maintenance, storage and T-hangar areas. The project will displace wildlife and introduce high air and noise pollution levels into a new area (32 pages). (ELR Order No. 31614.) (NTIS Order No. EIS 73 1614–D.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Kapiolani Interchange, I–Hawaii–1, Oahu County, Hawaii, October 10: The proposed project is the construction of a freeway on ramp from Kapiolani Boulevard onto Interstate Route H–I at Kapiolani. Project length is 1500 feet (0.28 miles). The project will displace 16 families and 7 individuals. An increase in noise levels will occur (85 pages). (ELR Order No. 31602.) (NTIS Order No. EIS 73 1602–D.)

N.C. 54, Durham County, N.C., October 5: The proposed project is the reconstruction of N.C. 54 on new location. Project length is 7.9 miles. Land acquisition totals 315 acres; 27 families will be displaced. The facility will cause stream siltation, loss of woodland, and loss of wildlife habitat (47 pages). (ELR Order No. 31594.) (NTIS Order No. EIS 73 1594–D.)

12th Avenue North—Fargo (Cass County), N. Dak., October 11: The proposed project consits of constructing a 63-foot curb and gutter section from the Interstate 29 interchange to 29th Street. The project is on 12th Avenue. Length of the project and the amount of land to be acquired is unspecified. One business will be displaced. Increases in noise levels will occur (65 pages). (ELR Order No. 31619.) (NTIS Order No. EIS 73 1619–D.)

USH 53 and USH 8, Barron and Chippewa Counties, Wis., October 11: The statement refers to the proposed location of a new USH 53 Freeway (37.5 miles) and a new USH 8 Expressway (6.0 miles). The projects are at various stages of development ranging from the concrete paving stage to the location approval stage. Right-of-way for the USH 53 freeway varies from 278 feet to 620 feet, for USH 8 from 253 feet to 388 feet. To date, 16 homes and 3 businesses have been acquired and 45 persons relocated. Temporary increases in air and noise pollution, alteration of the landscape, and possible erosion and siltation will occur (253 pages). (ELR Order No. 31607.) (NTIS Order No. EIS 73 1607–D.)

County Trunk Highway "K", Vernon County, Wis., October 9: Proposed is the replacement of two narrow bridges and the reconstruction and relocation of a rural highway along existing C.T.H. "K". Project length is 1.2 miles. Six acres of marshy pasture land will be acquired for right-of-way; 20 to 25 trees will be removed (14 pages). (ELR Order No. 31609.) (NTIS Order No. EIS 73 1609–D.)

Final

State Highways 29 and 121, Napa County, Calif., October 4: The proposed project consists of a freeway on Routes 29 and 121 between existing Route 29 near Soscol Road and Imola Avenue West, a distance of 4.8 miles. The project will provide a four lane bypass for the City of Napa and a bridge spanning the Napa River. Approximately 380 acres of grass land will be committed to right of way use; 22 acres of vineyard and 13 acres of pear orchard will be removed. Other adverse impacts of the action include loss of wildlife habitat, displacement of six families and possible encroachment on archaeological sites (200 pages). Comments made by: EPA, DOI, USDA, DOT, State and local agencies. (ELR Order No. 31591.) (NTIS Order No. EIS 73 1591–F.)

Mills Avenue Extension, Orlando, Orange County, Fla., October 4: The proposed project is the extension of Mills Avenue in Orlando. Total length of the project is 0.545 miles. The facility will displace between 32 and 60 individuals. Approximately 200 trees will be removed. The facility, by means of fill, would reduce the area of Lake Lawson from 10.4 acres to 10.0 acres. Increases in noise and air pollution will occur (123 pages). Comments made by: HUD and State agencies. (ELR Order No. 31593.) (NTIS Order No. EIS 73 1593–F.)

U.S. 77, Cowley County, Kans., October 11: The statement considers the reconstruction of 16 miles of highway, from Winfield to the Cowley-Butler County line. Approximately 10 residences will be displaced and 20 properties severed by the project; the rural nature of the area makes replacement housing scarce (98 pages). Comments made by: USDA, EPA, HEW, DOC, COE, and State agencies. (ELR Order No. 31622.) (NTIS Order No. EIS 73 1622–F.)

I–94 Interchange Reconstruction, Berrien County, Mich., October 4: Proposed is the reconstruction of the I–94-Lakeshore Drive Interchange south of St. Joseph. Two businesses and 16 single family residences will be displaced. Adverse effects of the action include construction disruption, possible economic loss and potential sedimentation (81 pages). Comments made by: USDA, COE, DOC, EPA, HUD, DOI, State, and local agencies. (ELR Order No. 31589.) (NTIS Order No. EIS 73 1589–F.)

N.C. 107, Jackson County, N.C., October 4: The proposed project is the relocation on N.C. 107. Project length is 5.5 miles. An unspecified amount of agricultural and wooded land will be acquired for right-of-way. Displacements total 18 families. Channel changes on the Colliowhee Creek and Tuckoseigee River will increase stream siltation, and cause disturbance to fish habitat. Loss of wildlife habitat and increases in noise levels will occur (49 pages). Comments made by: USDA, COE, DOI, EPA, GSA, HUD, OEO, TVA and State agencies. (ELR Order No. 31590.) (NTIS Order No. EIS 73 1590–F.)

Sooner Freeway, McClain and Cleveland Counties, Okla., October 4: The proposed action is the construction of 14.5 miles of 4-lane highway from I–35 to Tecumseh Road. Seven single family dwellings will be displaced; approximately 700 acres of land, much of it agricultural, will be committed to right-of-way (50 pages). Comments made by: COE, EPA, HEW, USDA, DOI, and State agencies. (ELR Order No. 31588.) (NTIS Order No. EIS 73 1588–F.)

Tennessee Route 63, Scott and Campbell Counties, Tenn., October 10: The proposed project is the improvement of SR 63 between Huntsville and Pioneer. Project length will vary from 12.7 to 13.0 miles. Depending upon the alternate chosen, the amount of land acquired will vary from 400 to 420 acres; the number of families displaced will vary from 28 to 50, and the number of businesses from 8 to 11. One church may also be displaced. The project will traverse 6 streams, the Paint Rock Creek being most adversely affected. Major adverse effects will include loss of wildlife and aquatic habitat, loss of agricultural land, and increased siltation, erosion, and noise pollution (64 pages). Comments made by: USDA, DOI, DOT, EPA, FPC, HEW, TVA, and State agencies. (ELR Order No. 31604.) (NTIS Order No. EIS 73 1604–F.)

U.S. 59, Polk County, Tex., October 4: The statement refers to the proposed construction of a U.S. 59 by-pass around the west side of the City of Livingston. The project consist of a four lane divided highway facility with two-way frontage roads on each side; grade separation interchanges for connection with existing US 59, and over-passes for the Southern Pacific Railroad. Nine families and five businesses will be displaced; 326 acres of land will be committed to right-of-way (59 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HEW, and State agencies. (ELR Order No. 31592.) (NTIS Order No. EIS 73 1592–F.)

S.R. 20, Okanogan County, Wash., October 11: The proposed project is the construction of S.R. 20 on new alignment for 14 miles. The facility will require 93 acres of

land and displace 6 families. The Methow River will be traversed, causing increased sediment pollution. Noise and air pollution levels will rise, and loss of wildlife habitat will occur (156 pages). Comments made by: USDA, DOI, EPA, HUD, State, and local agencies. (ELR Order No. 31615.) (NTIS Order No. EIS 73 1615-F.)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.73-22279 Filed 10-17-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

CONTROL OF POLLUTION CAUSED BY HYDROGRAPHIC MODIFICATIONS

Notice of Availability of Report

The Environmental Protection Agency report, "The Control of Pollution Caused by Hydrographic Modifications" has been prepared in accordance with requirements of section 304(e)(1) and (2)(F) of Pub. L. 92-500. A limited number of copies are available from the Office of Public Inquires, Environmental Protection Agency, Washington, D.C., 20460. Copies will be available in approximately six weeks from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

ROBERT L. SANSOM,
Assistant Administrator,
Office of Air and Water Programs.

OCTOBER 15, 1973.

[FR Doc.73-22285 Filed 10-17-73;8:45 am]

ETHYL 4-(METHYLTHIO)-m-TOLYL ISOPROPYLPHOSPHORAMIDATE

Notice of Extension of Temporary Tolerance

Chemagro Division of Baychem Corp., Post Office Box 4913, Kansas City, MO 64120, was granted temporary tolerances for combined residues of the nematocide ethyl 4-(methylthio)-*m*-tolyl isoproplyphosphramidate and its cholinesterase-inhibiting metabolites in or on pineapple forage at 1 part per million and pineapples at 0.04 part per million on September 25, 1972, in connection with Pesticide Petition No. 1G1168 (notice was published in the FEDERAL REGISTER of October 4, 1972 (37 FR 20884)).

The firm has requested a 1-year extension to obtain additional experimental data. It is concluded that such extension will protect the public health. A condition under which these temporary tolerances are extended is that the nematocide will be used in accordance with the temporary permits which are being issued concurrently and which provide for distribution under the Chemagro Division of Baychem Corp. name.

As extended, these temporary tolerances expire September 25, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated October 15, 1973.

HENRY J. KORP,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.73-22287 Filed 10-17-73;8:45 am]

METHODS AND PRACTICES FOR CONTROLLING WATER POLLUTION FROM AGRICULTURAL NONPOINT SOURCES

Notice of Availability of Report

The Environmental Protection Agency report "Methods and Practices for Controlling Water Pollution from Agricultural Nonpoint Sources" has been completed in accordance with section 304(e)(2)(A) of Pub. L. 92-500. A limited number of copies will be available from the Office of Public Inquiries, Environmental Protection Agency, Washington, D.C. 20460. Copies will be available in approximately six weeks from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

ROBERT L. SANSOM,
Assistant Administrator
for Air and Water Programs.

OCTOBER 15, 1973.

[FR Doc.73-22284 Filed 10-17-73;8:45 am]

PROCESSES, PROCEDURES, AND METHODS TO CONTROL POLLUTION RESULTING FROM ALL CONSTRUCTION ACTIVITY

Notice of Availability of Report

The Environmental Protection Agency report "Processes, Procedures, and Methods to Control Pollution from All Construction Activity" has been prepared in accordance with requirements of section 304(e)(2)(C), Pub. L. 92-500. A limited number of copies are available from the Office of Public Inquiries, Environmental Protection Agency, Washington, D.C. Copies will be available in approximately six weeks from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

ROBERT L. SANSOM,
Assistant Administrator,
Office of Air and Water Programs.

OCTOBER 15, 1973.

[FR Doc.73-22286 Filed 10-17-73;8:45 am]

GROUND WATER POLLUTION FROM SUBSURFACE EXCAVATIONS

Availability of Report

The Environmental Protection Agency report "Ground Water Pollution from Subsurface Excavations" has been completed in accordance with section 304(e)(D) of P.L. 92-500. A limited number of copies will be available from the Office of Public Inquiries, Environmental Protection Agency, Washington, D.C. 20460. Copies will be available in approximately six weeks from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

ROBERT L. SANSOM,
Assistant Administrator
for Air and Water Programs.

OCTOBER 12, 1973.

[FR Doc.73-22179 Filed 10-17-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19787; File No. BL-13,137; FCC 73R-342]

CHESAPEAKE-PORTSMOUTH BROADCASTING CORPORATION

Memorandum Opinion and Order Enlarging Issues

1. The Commission designated the application of Chesapeake-Portsmouth Broadcasting Corporation (Chesapeake-Portsmouth) for a broadcast license for Station WPMH (AM)[1] for hearing by Order and Notice of Apparent Liability, FCC 73-748, released July 25, 1973 (38 FR 27646). The issues specified include: (a) An adequate supervision and control issue; (b) an equal employment opportunity issue; (c) a Section 73.932(a) rules violation issue; and (d) a failure-to-maintain a public file issue. Now before the Review Board is a petition for enlargement of issues, filed August 15, 1973, by Chesapeake-Portsmouth, requesting the addition of an issue "to determine if the programming of Station WPMH has been meritorious."[2]

2. Chesapeake-Portsmouth contends that since the issues designated by the Commission relate to the operation of the station, the applicant's programming is relevant to the determination to be made herein. Therefore, petitioner argues that a meritorious programming issue is warranted. The Broadcast Bureau in its comments does not oppose petitioner's request; however, the Bureau asserts that the petitioner should be limited to showing programming broadcast before the Commission's field investigation was initiated on August 14, 1972, when, according to the Bureau, petitioner first learned that the Commission contemplated action against it. In reply, Chesapeake-Portsmouth asserts that it first "received notice" that the Commission was contemplating taking action against it when the Commission's "Order and Notice of Apparent Liability" was released on July 25, 1973.

3. The Review Board will add an issue allowing Chesapeake-Portsmouth to submit evidence of its station's meritorious

[1] The construction permit under which Chesapeake-Portsmouth filed its present application for license was granted November 18, 1971. The application for license was filed on December 8, 1971. Station WPMH began operation in January, 1972 under program test authority.

[2] Also before the Review Board are the following related pleadings: (a) the Broadcast Bureau's comments, filed August 22, 1973; and (b) a reply, filed August 28, 1973, by Chesapeake-Portsmouth.

programming. The showing the applicant, permittee or licensee is allowed to make is generally limited to programming instituted before the licensee received notice that the Commission was contemplating action against it. See Chronicle Broadcasting Co., 18 FCC 2d 120, 16 RR 2d 494 (1969); and Midwest Radio-Television, Inc., 18 FCC 2d 1011, 16 RR 2d 987 (1969). However, a determination of when such notice was actually received should be made by the Administrative Law Judge in the first instance, and the Board will therefore not attempt to resolve this question. Finally, the Board notes that the issue will be added without prejudice to the rights of the parties to argue, subsequently, regarding the weight which should be accorded to the evidence adduced under the issue. See Wagoner Radio Co., 12 FCC 2d 978, 13 RR 114 (1968).

4. *Accordingly, it is ordered*, That the petition for enlargement of issues, filed August 15, 1973, by Chesapeake-Portsmouth Broadcasting Corporation, is granted to the extent indicated herein, and is denied in all other respects; and

5. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether the programming of Station WPMH (AM) has been meritorious, particularly with regard to public service programs;

6. *It is further ordered*, That the burdens of proceeding with the introduction of evidence and proof under the issue herein added SHALL BE on Chesapeake-Portsmouth Broadcasting Corporation.

Adopted September 28, 1973.

Released October 1, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-22240 Filed 10-17-73;8:45 am]

[FCC 73-1070]

REVISED COMPOSITE WEEK

Notice of Applicability

OCTOBER 12, 1973.

By Public Notice, FCC 73-1044, released October 10, 1973, the Commission announced a revised composite week for use in the preparation of program log analysis for AM, FM, and TV stations having 1974 license termination dates. The only change from the composite week announced August 22, 1973 (Public Notice, FCC 73-881), was the substitution of Monday, December 4, 1972, for Monday, December 11, 1972.

Stations located in Missouri and Iowa have license termination dates of February 1, 1974, and are required to file applications for renewal of those licenses on or before November 5, 1973. It has been brought to the Commission's attention that a number of Missouri and Iowa broadcast licensees have already completed their composite week program log analysis using the December 11, 1972, composite week date and have either submitted their applications to counsel for review or filed them with the Commission.

In view of the above, and taking into consideration the limited amount of time between announcement of the revised composite week date and the November 5, 1973, filing date, licensees with stations located in Missouri and Iowa for renewal purposes may at their option use either the revised composite week date of Monday, December 4, 1972, or the original composite week date of Monday, December 11, 1972. All other licensees with license termination dates in 1974 shall use the revised composite week date of Monday, December 4, 1972. Further, all commercial television stations licensees, including licensees of stations located in Missouri and Iowa, responding to the Commission's programming questionnaire issued concurrently with the Second Further Notice of Inquiry in Docket No. 19154 shall use the revised composite week date of Monday, December 4, 1972.

Action by the Commission October 11, 1973. Commissioners Burch (Chairman), Johnson, H. Rex Lee, Reid, Wiley, and Hooks.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-22238 Filed 10-17-73;8:45 am]

PANHANDLE BROADCASTING COMPANY, INC.

[Docket No. 19836; File No. BLCT-2237]

Memorandum Opinion and Order

1. We have before us for consideration: (a) the captioned application; (b) the request of Panhandle Broadcasting, Inc. (Panhandle), for program test authority (PTA) for station WDTB-TV, filed in conjunction with the license application together with a request for partial waiver of condition attached to the grant; and (c) an informal objection from WJHG-TV, Inc., licensee of WJHG-TV, Panama City, Florida, opposing grant of PTA and requesting that the license application be designated for hearing.

2. On April 5, 1972, the Commission by Memorandum Opinion and Order, In re Application of Panhandle Broadcasting Company, Inc., 34 FCC 2d 460, granted Panhandle's application for permit to construct a new television broadcast station on channel 13, in Panama City, subject to the condition that no operating authority would issue until Denver T. Brannen and members of his immediate family dispose of their interests in stations WDLP(AM) and WPAP (FM) in Panama City.[2] On April 14, 1972, the Commission granted the assignment of license of station WDLP(AM) to Dae Broadcasting Company which grant was consummated. Additionally, an application to assign the license of station WPAP(FM) to the Deltona Corporation is now on file with the Commission.

3. Subsequent to the Commission's action granting Panhandle's construction permit, information was brought to the Commission's attention in July 1973, which indicated that Panhandle's application involved either a possible violation of the conflict of interest regulations (§ 107.1004) of the Small Business Administration (SBA) or that Panhandle may have misrepresented facts as to its ownership to the Commission in its application for construction permit. The SBA, which was also made aware of these facts, investigated the matter and as a result has advised the Commission that any allegations as to violation of § 107.-1004 of its regulations is unfounded. The background facts, briefly, concern whether Mr. L. Charles Hilton, listed as a 25 percent shareholder in Panhandle was, in fact, the real party in interest, or whether he was merely the nominee of the Small Business Assistance Corporation of Panama City, Florida (SBAC) of which he was then president, which is a Small Business Investment Company (SBIC) licensed by SBA in which he also owned an interest through his ownership of stock in West Florida Bank Holding Company, Inc., the parent company of SBAC. The SBA regulations referred to, prohibit an SBIC from providing financing directly or indirectly to any of its officers, stockholders or other associates. Thus, if, in fact, Mr. Hilton, then president and stockholder in SBAC owned the Panhandle stock, it would have been a violation of the SBA regulations unless an exception had been granted.

4. Mr. Denver T. Brannen, chairman of the Board of Panhandle, and together with his wife, 40 percent stockholder and the prime mover in Panhandle, filed a sworn affidavit with the license application in which he states that at the time of incorporation, the initial issuance of stock included a 25 percent share to SBAC; that prior to filing the application, J. R. Arnold, president and majority stockholder of the holding corporation owning 100 percent of SBAC, and then a director and one of original incorporators of Panhandle, advised he was dropping out and that Mr. Hilton would take the stock; that Mr. Brannen assumed that Hilton was holding the stock for his own benefit; that he did not realize until January 1973, that Hilton was merely the nominee of SBAC; that there was never any intent to deceive the Commission; and that failure to disclose was merely an attempt to avoid the considerable time, difficulty and effort to gather all the information relative to the shareholders of SBAC and that the misrepresentation was an error of inadvertence.

5. WJHG-TV, in its letter urges that no operating authority should be issued and that the license application must be set for hearing. In support, WJHG-TV contends that since station WPAP(FM) still remains in the hands of the Brannen family, the divestiture condition has

[1] Board member Berkemeyer absent.

[2] The condition was imposed in order to bring Panhandle into compliance with the Commission's one to a market rule (section 73.636) which provides, in pertinent part, that no license for a VHF television broadcast station will be granted if the Grade A contour of the proposed television station would encompass the entire community of license of a commonly owned, operated or controlled AM or FM broadcast station.

not been satisfied. Moreover, WJHG–TV asserts that there is a clear misrepresentation of facts to the Commission which Mr. Brannen's affidavit does not cure. In this connection, WJHG–TV argues that while the SBA was being advised that SBAC was the true owner of 25 percent of Panhandle's stock, this information was not filed with the Commission in order to avoid reporting to the Commission information regarding SBAC and its holding company. WJHG–TV also contends that even assuming the misrepresentation was not intentional, the explanation as to why it was perpetuated for two years is unsatisfactory and fails to show that Brannen could not have obtained the information or that other principals of Panhandle, who had actual knowledge, could not have supplied the information.

6. Despite the affidavit of Mr. Brannen, the Commission is of the view that substantial questions are raised by the facts before it as to the actual circumstances, whether there was a misrepresentation, and whether such misrepresentation was willful or repeated, and that these questions can only be resolved via a hearing in which evidence as to the facts and circumstances surrounding the matter may be adduced. Accordingly, the application for license will be designated for hearing upon appropriate issues.

7. We turn now to Panhandle's request for partial waiver of condition and for program test authority for station WDBT–TV. Our determination in this regard involves balancing the public's need for the proposed service against the necessity for resolution of Panhandle's qualifications and the policy involved in imposing the condition. There is presently only one television station (WJHG–TV, ABC) providing a local service to Panama City; thus, a grant of PTA would provide Panama City with its second local television outlet and its third network service (NBC).[2] Under the circumstances, we believe that the public interest is best served by permitting the introduction of this needed second local service subject to whatever action we may deem appropriate as a result of the hearing ordered herein. In so doing, we preserve the Commission's flexibility of action and, at the same time, do not impose an undue financial burden which could jeopardize the institution of a second local service to Panama City.[3] We also wish to make clear that in granting PTA to Panhandle, we have waived the condition on WDTB–TV's construction permit only to the extent of the timing of compliance not as to the condition.

8. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the facts and circumstances which led to the listing of L. Charles Hilton as a 25 percent stockholder in Panhandle Broadcasting Company, Inc., rather than Small Business Assistance Corporation of Panama City, Florida.

2. To determine whether Panhandle Broadcasting Company, Inc., or any of its officers and directors knew or should have known the actual facts concerning the relationship of the Small Business Assistance Corporation and L. Charles Hilton to Panhandle Broadcasting Company, Inc.

3. To determine in the light of the evidence adduced pursuant to the above issues whether Panhandle Broadcasting Company, Inc., or its officers and directors complied with the requirements of section 1.615 of the rules to report the true facts as to actual ownership as soon as these facts were known.

4. To determine in light of the evidence adduced pursuant to the foregoing issues whether Panhandle Broadcasting Company, Inc., or officers and directors misrepresented facts as to the ownership of Panhandle Broadcasting Company, Inc., and, if so, whether such misrepresentation of fact were willful, material or repeated.

5. To determine in light of the evidence adduced pursuant to the foregoing issues whether Panhandle Broadcasting Company, Inc., has the requisite qualifications to be a licensee of the Commission and whether grant of its application for license would serve the public interest, convenience and necessity.

9. *It is further ordered,* That, if on the basis of evidence adduced under issue (4) above, Panhandle Broadcasting Company, Inc., is determined to have willfully or repeatedly violated section 308 of the Communications Act or § 1.615 of the Commission's rules, it shall also be determined whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act, in the amount of $10,000 or some lesser amount shall be issued.

10. *It is further ordered,* That this document also constitutes a Notice of Apparent Liability for violation of the Communications Act and the Commission's rules, but that inclusion of this notice does not in any way indicate what the initial or final disposition of the case should be, and that the Administrative Law Judge shall base his decision on the facts of the case above.

11. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof shall be on Panhandle Broadcasting Company, Inc.

12. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

13. *It is further ordered,* That the Secretary of the Commission send copies of this Order by Certified Airmail-Return Receipt Requested to Panhandle Broadcasting Company, Inc.

14. *It is further ordered,* That the divestiture condition attached to the construction permit is waived in part and the request for program test authority, for station WDTB–TV, Panama City, Florida, is granted subject to whatever action the Commission may deem appropriate as a result of the hearing ordered herein.

It is further ordered, That the informal objections filed by WJHG–TV, Inc., ARE GRANTED to the extent indicated herein and denied in all other respects.

Adopted: October 3, 1973.

Released: October 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73–22241 Filed 10–17–73;8:45 am]

[Docket Nos. 19757 and 19758; File Nos. BR–3631 and BR–2739; FCC 73R–348]

WGOE, INC. AND CREST BROADCASTING CORP.

Memorandum Opinion and Order Enlarging Issues

1. This proceeding involves the application of WGOE, Inc. (WGOE), for renewal of its license for standard broadcast Station WGOE, Richmond, Virginia, and the application of Crest Broadcasting Corporation (Crest) for renewal of its license for standard broadcast Station WEYE, Sanford, North Carolina.[1] The applications were designated for hearing on various issues by Commission Order and Notice of Apparent Liability, FCC 73–593, released June 5, 1973, 38 FR 15381.[2] Now before the Review Board is a petition to enlarge issues, filed August 6,

[2] Station WTVY, Dothan, Alabama, provides predicted CBS service to the Panama City area.

[3] Panhandle has completed construction of the station in accordance with the specifications in the construction permit, has hired a staff and is ready to operate.

[4] Commissioner Robert E. Lee absent; Commissioner Johnson dissenting; Commissioners H. Rex Lee and Hooks concurring.

[1] The above-captioned applications were consolidated in this proceeding because the principals of Crest also owned the majority stock interest in Dixie Broadcasting Corporation (Dixie), the licensee of Station WGOE prior to March 23, 1972. On that date, consent to the assignment of license of WGOE from Dixie to WGOE was granted and the assignment was consummated effective April 18, 1972.

[2] The Commission specified, inter alia, the following issue:

> To determine whether WGOE, Inc. has violated the Commission's Rules, as alleged in Items 2, 3, 5, 6, 8, and 9 of the Official Notice of Violation issued on June 27, 1972, and, if so, the nature and extent of those violations and, in light of the evidence adduced pursuant to that determination, whether WGOE, Inc. has exercised that degree of responsibility required of a licensee of a broadcast station.

The cited Office Notice alleges violations of §§ 73.52(a), 73.92(b), 73.65, 17.50, 73.40, and 73.39.

1973, by the Broadcast Bureau,[3] requesting the addition of the following issues:

(1) To determine whether WGOE, Inc. has violated the Commission's Rules, as alleged in the Official Notice of Violation issued on December 12, 1972, and, if so, the nature and extent of those violations and, in light of the evidence adduced pursuant to that determination, whether WGOE, Inc. has exercised that degree of responsibility required of a licensee of a broadcast station.

(2) To determine whether Crest Broadcasting Corporation has violated the Commission's Rules, as alleged in the Official Notice of Violation issued on February 29, 1972, and the Official Notice of Violation issued on March 2, 1973, and, if so, the nature and extent of those violations and, in light of the evidence adduced pursuant to that determination, whether Crest Broadcasting Corporation has exercised that degree of responsibility required of a licensee of a broadcast station.

2. In support of its request as to WGOE, the Bureau relies on an Official Notice of Violation, issued by the Commission on December 12, 1972, enumerating violations of §§ 73.52(a), 73.40(a)(8), 73.67(a)(4), and 73.60(a) of the Commission's rules.[4] The Bureau contends that these violations are identical to the violations which the Commission previously designated for hearing in this proceeding (see note 2, supra) and, therefore, that the requested issue is directly concerned with developing a full record of WGOE's apparent continuing violation of the Commission's rules. With regard to the WEYE violations, the Bureau submits two Official Notices of Violation, issued February 29, 1972 and March 2, 1972, respectively,[5] detailing numerous rule violations.[6] The Bureau concedes that the February 29, 1972 Notice was not submitted in a timely manner, but argues that the matters reflected in that Notice are relevant to show that WEYE's violations as reflected in the March Notice (which it contends was presented in a timely fashion) are not isolated but rather represent a pattern of violations of the Commission's Rules. The Bureau cites Friendly Broadcasting Company, 34 FCC 2d 947, 24 RR 2d 314 (1972), to support its request.

3. In opposition, WGOE does not dispute the allegations that the violations took place but asserts that the violations pertain in the main to technical equipment problems which it has tried to correct since July of 1972. Crest, in its opposition, argues that the Bureau's petition is untimely and that no good cause has been shown for the late-filing. As to the March Notice, Crest contends that even assuming, arguendo, that it was timely presented, it nevertheless does not satisfy the Edgefield-Saluda test[7] by raising serious public interest questions.[8] Crest also asserts that Friendly Broadcasting Company, supra, is inapposite because the designation Order in that case specified issues relating to alleged technical violations at the station in question, whereas in the instant case, the designation Order does not specify any issue going to prior technical violations by Crest.

4. Although the Bureau's petition is late-filed, the Board believes that it raises substantial public interest questions which require us to consider its merits. The Edgefield-Saluda Radio Co., supra. Specifically as to WGOE, the Notice of Violation issued December 12, 1972, concerns violations similar to those already specified against WGOE in this proceeding (see note 2, supra) and therefore, we believe, are relevant to the determination required herein concerning the qualifications of WGOE. The Board has frequently found an applicant's past record of station maintenance and supervision to be clearly relevant to a public interest determination in subsequent licensing proceedings. See, e.g., Friendly Broadcasting Company, supra; Louis Vander Plate, 26 FCC 2d 874, 20 RR 2d 798 (1970); United Television Company, Inc., 23 FCC 2d 493, 19 RR 2d 86 (1970). With regard to Crest, the Board is of the view that the violations alleged in the February and March Notices are sufficient to warrant an evidentiary inquiry. Concededly, the Bureau's allegations based on the February Notice are untimely;[9] however, the hearing will not be disrupted[10] by the grant of the request and the allegations of violations have not been rebutted.[11] Finally, the violations contained in the March Notice must be viewed along with those contained in the earlier Notice to determine whether considered together they demonstrate a pattern of recurring violations of the same nature. Stephen Van Sadler, 30 FCC 2d 850, 22 RR 2d 510 (1971).

5. *Accordingly, it is ordered*, That the petition to enlarge issues, filed August 6, 1973, by the Broadcast Bureau is granted; and

6. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether WGOE, Inc. has violated the Commission's Rules, as alleged in the Official Notice of Violation issued on December 12, 1972, and, if so, the nature and extent of those violations.

(b) To determine whether Crest Broadcasting Corporation has violated the Commission's Rules, as alleged in the Official Notice of Violation issued on February 29, 1972, and the Official Notice of Violation issued on March 2, 1973, and, if so, the nature and extent of those violations.

(c) To determine whether, in light of the evidence adduced under the preceding issues, WGOE, Inc. and Crest Broadcasting Corporation have exercised that degree of responsibility required of Commission licensees.

7. *It is further ordered*, That the burdens of proceeding and proof as to the added issues shall be as set forth in paragraph 8 of the Order and Notice herein.

Adopted: October 5, 1973.

Released October 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-22242 Filed 10-17-73;8:45 am]

[3] Also before the Board are the following related pleadings: (a) opposition, filed August 14, 1973, by Crest; (b) Broadcast Bureau's reply, filed August 22, 1973; and (c) opposition, filed September 13, 1973, by WGOE.

[4] The Bureau asserts that the WGOE Notice was received by the Bureau's Complaints and Compliance Division from the Field Office in Richmond on June 26, 1973.

[5] The February 29, 1972, Notice to WEYE was received by the Bureau's Complaints and Compliance Division from the Field Office on October 13, 1972, and the March 2, 1973, Notice was first received on June 28, 1973.

[6] WEYE's derelictions also involve technical and operational matters. The February 29, 1972, Notice details noncompliance with §§ 73.93(c), 73.93(e), 73.961(c), 73.87 and 73.46(a) of the rules and the March 2, 1973, Notice pertains to violations of §§ 73.87 and 73.111(a) of the rules.

[7] The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 148, 8 RR 2d 611 (1966).

[8] In this regard, Crest attempts to distinguish United Television Company, Inc., 23 FCC 2d 493, 19 RR 2d 86 (1970), where a Notice covering some nineteen violations was added upon a late filing as to an applicant which had previously been fined $7,500 for similar technical violations.

[9] See George E. Worstell, 33 FCC 2d 1153, 23 RR 2d 1234 (1972), where the Board found an issue was warranted, even though good cause was not established and the petition was allegedly filed 20 months late.

[10] The hearing is scheduled to commence on November 5, 1973. Order of the Administrative Law Judge, FCC 73M-810, released July 10, 1973.

[11] The Board notes that the violations specified in the February Notice occurred when Crest principals were in control of Dixie, former licensee of WGOE. See note 1, supra.

FEDERAL POWER COMMISSION

[Docket No. E-8401]

ALABAMA POWER CO.

Proposed Cancellation of Service Agreement

OCTOBER 10, 1973.

Take notice that Alabama Power Company by letter filed on September 14, 1973, as supplemented by letter filed September 17, 1973, proposes to cancel its service agreement under Alabama Power's FPC Electric Tariff, original Volume No. 1, for delivery of electric power to Dixie Electric Cooperative, Inc. at the Basachias Delivery Point, effective as of August 28, 1973. Alabama Power states that the action is taken at the request of the Cooperative.

Notice of the proposed cancellation was served upon Dixie Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene, or protest with the Federal PPower Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such

petitions or protests should be filed on or before October 26, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22206 Filed 10-17-73;8:45 am]

[Docket No. E-8133]

CONSUMERS POWER CO.

Supplemental Application

OCTOBER 10, 1973.

Take notice that on October 1, 1973, Consumers Power Company (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance and sale from time to time on or before December 31, 1974, of promissory notes to evidence bank borrowings as a financial institution or as a fiduciary and commercial paper up to but not exceeding $300,000,000 in aggregate principal amount. On December 29, 1972, in Docket No. E-7490, the Commission authorized Applicant to issue and sell from time to time prior to December 31, 1973 promissory notes to evidence bank borrowings and commercial paper up to but not exceeding $120,000,000 in aggregate principal amount. On June 5, 1973, in Docket No. E-8133, the Commission issued an Order to increase the authorized amount of borrowings from $120,000,000 to $300,000,000.

Applicant is incorporated under the laws of the State of Michigan, with its principal place of business in Jackson, Michigan, and is engaged in the electric and natural gas utility business in the State of Michigan.

Applicant proposes to use the proceeds from the issuance of the securities to provide a portion of the funds necessary for the construction, completion, extension and improvement of facilities, the cost of which is expected to total $429,631,000 in 1973.

The bank notes will mature not later than nine months from the date of issue and will carry an interest rate of not more than the prime rate in effect at the banks at the time of issuance. The commercial paper will mature not later than 270 days from date of issue and will carry an interest rate which will be dependent on the terms of the notes and the money market conditions at the time of issuance.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22207 Filed 10-17-73;8:45 am]

[Docket No. CP73-334]

EL PASO NATURAL GAS CO.

Findings and Order After Statutory Hearing

OCTOBER 10, 1973.

On August 28, 1973, El Paso Natural Gas Company (El Paso) filed a motion requesting vacation of that part of our August 7, 1973, order requiring a formal hearing on El Paso's application filed in this proceeding. By order issued August 7, 1973, the Commission granted El Paso temporary authorization to construct and operate certain additional facilities for the injection into and withdrawal from the Rhodes Reservoir, Lea County, New Mexico, of natural gas and for the sale for resale and delivery of natural gas in interstate commerce from the Rhodes Reservoir during the 1973-74 heating season, as more fully set forth in El Paso's application filed June 15, 1973, as supplemented July 24 and September 17, 1973. That order also accepted for filing certain implementing tariff sheets submitted for the purpose of effectuating the proposed storage service and provided for hearing and procedures for that hearing, including the filing of testimony by El Paso.[1]

Pursuant to its proposal, El Paso expects to drill up to 25 new storage injection and withdrawal wells and to construct and operate approximately 5.6 miles of 4 and 6-inch pipeline to connect the proposed additional wells to the existing facilities. In addition, it plans to recondition and rework 13 existing injection and withdrawal wells, and to make piping and scrubber modifications at the Jal No. 1 Plant that will permit the utilization of the existing 4,400 horsepower compression and dehydration plant facilities for the withdrawal cycle in addition to normal operations. The total estimated cost of the proposed facilities is $2,216,363, which will be financed from funds on hand and short-term borrowings.

The purpose of the instant storage project is to provide a peaking service only for El Paso's east-of-California Priority 1 and 2 requirements during the 1973-74 heating season.

[1] On September 21, 1973, El Paso filed the prepared direct testimony of five witnesses in support of its application.

On August 28, 1973, El Paso filed a motion requesting dismissal of the formal hearing procedures established by the Commission's order of August 7, 1973, together with the issuance of the permanent certificate authorization sought by El Paso at the earliest practicable date. In support of its motion, El Paso points out that the Commission's aforesaid order reflects a request for formal hearing by Tucson Gas & Electric Company (Tucson) and Salt River Project Agricultural Improvement and Power District (Salt River). On the basis of letters from the respective Counsel of Tucson and Salt River stating that a formal hearing is no longer required, which are attached to El Paso's motion, El Paso contends that no disputed issue of fact remains whose resolution could be aided by formal hearing procedures. By letter filed August 30, 1973, El Paso advises that no intervener objects to granting this motion.

In our order of August 7, 1973, we noted Tucson's request for expedited hearing and the views of Tucson and Salt River that additional information would be necessary to determine the extent and necessity of the curtailment required of the east-of-California customers for injection as well as the reasonableness of the surcharge on Priority 1 and 2 deliveries to east-of-California customers during the withdrawal period, and the method of billing and determinates. However, by letter filed August 23, 1973, Counsel for Salt River states that it does not require a formal hearing; and by letter filed August 24, 1973, Counsel for Tucson has withdrawn Tucson's request for formal hearing and urges that the instant application be approved in full. In these circumstances, we conclude that the hearing procedures prescribed by our August 7, 1973, order no longer will serve a useful purpose in this proceeding. However, our action herein will be without prejudice to any future determination in regard to the surcharge on Priority 1 and 2 deliveries in an appropriate rate proceeding.

According to the application, the storage service to be provided herein is predicated upon the interim curtailment plan as set forth by this Commission's Opinion Nos. 634 and 634-A in Docket No. RP72-6, which is to be effective through October 31, 1973. In view of this, El Paso is being directed to advise us as to the effect of any new plan that may be put into effect subsequently on the proposed storage service.

Because of the relatively minor nature of the facilities required to be constructed, the Commission finds that approval of the proposed storage project will not constitute a major Federal action having significant effect on the quality of the human environment.

At a hearing held on October 9, 1973, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application as supplemented and exhibits thereto, and the prepared direct testimony submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds

(1) The motion by El Paso Natural Gas Company filed August 28, 1973, to vacate that part of our August 7, 1973, order requiring a hearing to determine whether a certificate of public convenience and necessity should be issued to El Paso should be granted.

(2) Applicant, El Paso Natural Gas Co., a Delaware corporation having its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 11, 1944, in Docket No. G–288 (4 FPC 486).

(3) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are proposed to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission; and the construction and operation thereof by Applicant are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(5) The construction and operation of the proposed facilities by El Paso are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned upon Applicant's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in Part 154 and § 157.20 (a), (b), (c) (3), (c) (4), (e), (f), and (g) of the Commission's regulations.

The Commission orders

(A) The motion by El Paso Natural Gas Company filed August 28, 1973, to vacate that part of our August 7, 1973, order requiring a hearing to determine whether a certificate of public convenience and necessity should be issued to El Paso is hereby granted. In all other respects our August 7, 1973, order remains in full force and effect.

(B) A certificate of public convenience and necessity is issued to El Paso authorizing the construction and operation of facilities required for the injection into and withdrawal from the Rhodes Reservoir, Lea County, New Mexico, of natural gas and authorizing the sale for resale and delivery of natural gas in interstate commerce from the Rhodes Reservoir during the 1973–74 heating season, as described hereinbefore and more fully described in the application, as supplemented, upon the following conditions:

(1) That El Paso comply with Part 154 and § 157.20 (a), (b), (c) (3), (c) (4), (e), (f), and (g) of the Commission's regulations.

(2) Construction be completed and operations commenced within 12 months from date of this order.

(3) That El Paso comply with the conditions for issuance of its temporary certificate set forth in Ordering Paragraphs (B) (3) through (B) (5) of our August 7, 1973, order.

(4) That El Paso, upon the establishment of a new curtailment procedure, advise the Commission as to the effect of such plan upon the storage service authorized herein.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73-22208 Filed 10-17-73;8:45 am]

[Docket No. CP74-86]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 9, 1973.

Take notice that on September 27, 1973, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74–86 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing on its Southern Division System the construction, during the calendar year 1974, and operation of natural gas facilities or operation of existing natural gas facilities, to be utilized for sales, on a direct basis, of natural gas associated with the production of gas or oil other than such uses permitted under § 157.22(b) of the regulations under the Natural Gas Act (18 CFR 157.22(b)), and the sale, during the calendar year 1974, of natural gas for resale for uses associated with the drilling of oil or gas wells, 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 anticipates during the calendar year 1974, requests for short-term direct gas service for such purposes as pumping, injection, pressure maintenance, equipment fuel, various lease and camp uses and emergency standby service. Applicant also anticipates, during the calendar year 1974, requests for both direct and resale gas service for use in drilling oil or gas wells. Applicant states that the time and expense of preparing and filing small numerous certificate applications for authorization for the facilities for which athorization is herein requested does not justify the filing of separate certificate applications.

Total cost of the facilities proposed will not exceed $42,500 with no more than 25 separate sales facilities to be installed. Applicant plans to finance these facilities through the use of working funds, supplemented, as necessary by short-term borrowings.

Applicant proposes that all new sales hereunder will be made at a rate identical to that in effect under Rate Schedule X–1 of its Gas Tariff, Original Volume 1, plus a $500 connection charge and a $5 daily facilities charge for short-term direct and resale drilling gas sales or other similar new sales, except for certain instances in the San Juan Basin Area, where the $500 charge may be waived.

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

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

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

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-22209 Filed 10-17-73;8:45 am]

[Project 1494]

GRAND RIVER DAM AUTHORITY

Application for Change in Land Rights

OCTOBER 11, 1973.

Public notice is hereby given that application for change in land rights was filed June 8, 1973, under the Federal Power Act (16 U.S.C. 791a–825r) by the Grand River Dam Authority (Correspondence to: Mr. Richard W. Lock, General Manager, Grand River Dam Authority, P.O. Drawer G, Vinita, Oklahoma 74301) for constructed Project No. 1494, known as the Pensacola Project, located on the Grand River, a navigable waterway of the United States, in Craig, Delaware, Mayes, Muskagee, Ottawa, Rogers, Tulsa, and Wagoner Counties, Oklahoma, and McDonald County, Missouri. The proposed change in land rights would affect two spillway bridges east of the Pensacola Dam located near the City of Disney in Mayes County, Oklahoma.

The Grand River Dam Authority (Applicant), seeks Commission approval to grant a permit to Grand Telephone Company, Inc. of Jay, Oklahoma, to attach a 3 inch steel conduit containing two telephone cables beneath the aforementioned spillway bridges. This proposed installation would replace an existing overhead installation, would run the length of the spillway bridges, approximately 800 feet, and would be buried about 2 feet below ground line beyond the bridges.

Any person desiring to be heard or to make protest with reference to said application should on or before November 19, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22210 Filed 10-17-73;8:45 am]

[Docket No. CS71-878, etc.]

HURLEY PETROLEUM CORP., ET AL.

Offer of Settlement

OCTOBER 11, 1973.

Take notice that Hurley Petroleum Corporation (Hurley), Car-Tex Producing Company (Car-Tex), Texas Eastern Transmission Corporation (Texas Eastern, Arkansas Louisiana Gas Company (Arkla), and Commission Staff Counsel, the parties herein, submitted an offer of settlement on the record in the above-styled dockets on September 18, 1973.

These proceedings involve the sale by Hurley of gas produced from the Carthage Field, Panola County, Texas, pursuant to its small producer certificate in Docket No. CS71-878. Until December 1972 Hurley sold approximately 500-600 Mcf of natural gas per day to Car-Tex at a contract price of 5.658 cents per Mcf, pursuant to a contract dated January 12, 1961. Car-Tex gathered, transported, compressed, and resold the gas to Arkla at a contract price of 12.6323 cents per Mcf pursuant to a certificate issued in Docket No.CI61-1379.

On December 13, 1972, Hurley filed an application in Docket No. CI73-431 requesting abandonment of its sale to Car-Tex and, on February 28, 1973, Car-Tex filed an application in Docket No. CI73-578 seeking abandonment of its resale of the gas to Arkla. It appears from the record that these abandonment applications were based upon the fact that Car-Tex's compressor equipment had become unserviceable, that Car-Tex was operating at a loss, and it was unable to maintain uninterrupted service.

To avoid flaring gas Hurley undertook a 60-day emergency sale to Texas Eastern at the outlet of the Champlin Processing Plant in the Carthage Field. Service to Texas Eastern under the emergency 60-day sale commenced on February 21, 1973. Subsequently, Hurley filed a limited-term application in Docket No. CI73-558 seeking authorization to sell the gas to Texas Eastern for one year.

It appears that Texas Eastern commenced purchasing the gas directly from Hurley on a 60-day basis and entered into the one-year limited-term agreement with Hurley on the understanding that the gas was available for sale and was not otherwise committed to any other party. It further appears that Arkla raised no objection to the abandonment at the time of discontinuance of service because it understood that the gas supply had been depleted. When Arkla found that production remained available from Hurley, it entered into a contract directly with Hurley for the gas to be delivered to it at the Champlin Processing Plant in the Catharge Field.

By order issued July 12, 1973, the Commission set these several matters down for hearing. Subsequently, by order of August 29, 1973, the Commission clarified its earlier order of July 12, 1973, to assure that there would be no flaring of gas involved.

At the hearing held on September 18, 1973, the parties reached a settlement agreement which would provide the following:

1. Hurley will sell the gas involved directly to Arkla, pursuant to the contract of August 8, 1973, and a letter amendment of the same date (Exhibit Nos. 17A and 17B). Hurley will make the sale pursuant to its existing small producer certificate in Docket No. CS71-878. The gas will be sold to Arkla at the tailgate of the Champlin Processing Plant in the Carthage Field, Panola County, Texas.

2. Hurley's abandonment application in Docket No. CI73-431, pursuant to which it proposes to abandon service to Car-Tex, shall be granted.

3. Hurley's application in Docket No. CI73-558, pursuant to which it sought a limited-term sale to Texas Eastern, shall be dismissed.

4. The application of Car-Tex in Docket No. CI73-578 to abandon service to Arkla shall be granted.

5. The certificate heretofore issued to Car-Tex, or its predecessor, in Docket No. CI61-1379 shall be terminated.

6. The show cause proceeding against Hurley and Car-Tex (Paragraph (A) of the order of July 12, 1973, in these proceedings) shall be dismissed.

7. The proceeding in Docket No. CP74-15, pursuant to which Texas Eastern is ordered to show cause why it purchased gas from Hurley (Paragraph (B) of the order of July 12, 1973, in these proceedings) shall be dismissed with the express provision that Texas Eastern shall not be required to make any restitution to any party for gas which it has heretofore purchased from Hurley.

Comments on the offer of settlement may be filed with the Commission by November 19, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22211 Filed 10-17-73;8:45 am]

[Docket No. E-8425]

IOWA ELECTRIC LIGHT AND POWER CO.

Notice of Application

OCTOBER 9, 1973.

Take notice that on September 28, 1973, the Iowa Electric Light and Power Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act with the Federal Power Commission seeking authority to issue and sell at competitive bidding 475,000 shares of Common Stock.

Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado and Nebraska with its principal business office at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 51 counties in the State of Iowa.

The Common Stock is to be issued on approximately December 18, 1973. The Common Stock is subject to the prior right and preferences of the existing outstanding classes of Cumulative Preferred Stock and to the prior rights and preferences of the existing outstanding classes of Cumulative Preference Stock. The price to the Company for the Common Stock will be determined by competitive bidding on the basis of the person or persons offering the highest price to the Company.

According to the Applicant, the purposes for which the Common Stock is to be issued include the construction, completion, extension and improvement of facilities. The estimated construction program for 1973 totals $53,077,000 and includes the expenditure of $42,530,000 for its share of the cost of construction of a 550,000 KW nuclear generating station being constructed on a site near Palo, Iowa. Two Iowa generating and transmission cooperatives, Central Iowa Power Cooperative and Corn Belt Power Cooperative will have a 20 percent and 10 percent undivided ownership, respectively, in this plant and its generating capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file

petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-22212 Filed 10-17-73;8:45 am]

[Docket No. E-7477]

KANSAS CITY POWER & LIGHT CO.

Notice of Application

OCTOBER 10, 1973.

Take notice that on September 25, 1973, Kansas City Power & Light Company (Applicant) filed a third supplemental application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $75,000,000 principal amount of short-term unsecured promissory notes authorized to be issued under the Commission's order of June 13, 1969, its supplemental order of June 1, 1971, and its supplemental order of November 24, 1972, in Docket No. E-7477, of which aggregate amount of a maximum of $36,500,000 may be in the form of commercial paper by authorizing the Applicant to issue said notes not later than December 31, 1974, and extending the maturity date of said notes to not later than December 31, 1975. By prior supplemental order issued November 24, 1972, the Commission authorized Applicant to issue up to $75,000,000 short-term promissory notes, of which aggregate amount up to $32,500,000 could be in the form of commercial paper, with final maturities not later than December 31, 1973.

Applicant is incorporated under the laws of the State of Missouri with its principal business office at Kansas City, Missouri, and authorized to do business in the State of Kansas.

The interest rate applicable to the promissory notes will be, in the case of demand notes issued to commercial banks, the prime rate in effect at the time of issuance; in the case of notes issued to commercial paper dealers, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers; and in the case of commercial paper placed directly with regular purchasers of such commercial paper for their own accounts, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity placed directly by the issuer thereof. The Applicant contemplates the issuance of promissory notes, including the "roll-over" of commercial paper promissory notes, without further application to this Commission, at any time and from time to time prior to December 31, 1974, each of such notes to have a maturity date of not later than December 31, 1975.

The proceeds will be used to finance in part Applicant's construction program to December 31, 1975. The continuation of the authorization to issue up to $75,000,000 and the authorization of the Applicant to issue said notes not later than December 31, 1974, and extending the maturity of said notes to not later than December 31, 1975, will allow the Applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22213 Filed 10-17-73;8:45 am]

[Docket No. E-8427]

LOUISVILLE GAS AND ELECTRIC CO.

Notice of Application

OCTOBER 10, 1973.

Take notice that on October 1, 1973, Louisville Gas and Electric Company (Applicant) of Louisville, Kentucky, filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured Promissory Notes to commercial banks, to trust companies, and to commercial paper dealers in amounts not exceeding in the aggregate $50,000,000 outstanding at any one time.

The Promissory Notes to be issued by the Applicant to commercial banks will be issued on various days during the year ending December 31, 1974, but no Note will mature more than twelve months after date of issue or renewal. The interest rate of such Notes will be at the prime loan interest rate of the banks in effect from time to time.

The Promissory Notes to be issued as master notes to commercial banks and trust companies will be issued on various days during the period ending December 31, 1974, but no Note will mature more than nine months after date of issue. The interest rate on master notes will be dependent upon the money market conditions prevailing during the life of the Note.

The Promissory Notes issued to commercial paper dealers will be issued on various days during the year ending December 31, 1974, but no Note will mature more than nine months after date of issue nor will any Note be extended or renewed. The interest rate on such Notes will be dependent upon the term of the Notes and the money market conditions at the time of issuance.

According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed the sum of (1) the dollar amount of Applicant's receivables arising out of the sale of electric and gas service, (2) the dollar amount of Applicant's inventory of fuel and gas stored underground, and (3) the dollar amount of depreciation and amortization charges on plant and equipment for the preceding year.

The proceeds from the issuance of the Notes will be added to the general funds of the Applicant which general funds will be used, among other things, to finance in part the Applicant's 1973-1974 construction program. Applicant estimates that construction expenditures for the year ending December 31, 1973, will total about $62,000,000.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22214 Filed 10-17-73;8:45 am]

[Docket No. E-8389]

NEW YORK STATE ELECTRIC AND GAS CORP.

Order Accepting for Filing and Suspending Proposed Rate Schedule Change, Providing for Hearing and Establishing Procedures

On September 10, 1973, New York State Electric and Gas Corporation (NYSEG) filed in Docket No. E-8389 a letter agreement dated August 27, 1973,[1] providing for the sale of 23 MW of short term firm power and associated energy to Central Hudson Gas and Electric Corporation (Central Hudson) during the month of September, 1973. The new agreement serves to extend the term of similar antecedent and duly filed agreements between the parties. As such the proposed agreement represents a change in service within the meaning of section 205 of the Federal Power Act. NYSEG requests waiver of the Commission's applicable regulations to permit the new agreement to become effective on September 1, 1973. Section 35.3 of the Commission's Regulations under the Federal Power Act requires that all rate schedules be tendered for filing not less than 30 days prior to the date on which service thereunder is to commence or change. NYSEG offers no basis for waiver of the

[1] Designated as New York State Electric and Gas Corporation, Supplement No. 3 to Rate Schedule F.P.C. No. 55.

above regulation other than "the fact that the agreement was not made until August 27, 1973."

The charges proposed by NYSEG pursuant to its agreement with Central Hudson include an overall rate of return on investment of 8.3 percent and a return on common equity of 13 percent. These returns appear excessive, and it is therefore necessary that a hearing be held for purposes of determining the just and reasonable rate of return to be utilized in determining charges under the proposed agreement. As a result, and in order to preserve the remedies provided under the Federal Power Act, NYSEG's request for waiver of filing requirements will be denied. We will instead treat the filing as if it had been made on August 1, 1973, 30 days in advance of the proposed effective date as required by the regulations. This will allow the proposed agreement to be suspended and to be made effective thereafter subject to refund pending hearing and decision thereon. We will also provide a schedule for the submission of evidence on the rate of return issue by all parties to the proceeding.

The Commission finds:

It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges of NYSEG's proposed rate schedule supplement, and that such supplement be suspended, and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and the Commission's rules and regulations, a prehearing conference shall be held pursuant to § 1.18 of the Commission's rules of practice and procedure on January 15, 1974, at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, DC 20426. A hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in NYSEG's proposed rate schedule supplement shall be held commencing on March 5, 1974.

(B) Pending such hearing and decision thereon, NYSEG's proposed rate schedule supplement is hereby accepted for filing as of August 1, 1973, suspended for one day, and its use deferred until September 1, 1973.

(C) On or before November 27, 1973, NYSEG shall serve its prepared testimony and exhibits. On or before December 31, 1973, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of intervenors, if any, shall be served on or before January 28, 1974. Any rebuttal evidence by NYSEG shall be served on or before February 25, 1974.

(D) At the prehearing conference on January 15, 1974, the direct evidence of the company and the staff shall be admitted into the record, and procedures adopted for an orderly and expeditious hearing.

(E) The request by NYSEG for waiver of the Commission's filing requirements is denied.

(F) A presiding judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at the hearing initiated by this order.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-22215 Filed 10-17-73;8:45 am]

[Docket No. E-8052]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Filing of Settlement Agreement

OCTOBER 11, 1973.

Take notice that on October 1, 1973, South Carolina Electric and Gas Company (South Carolina) tendered for filing a Settlement Agreement (Agreement) between South Carolina and the City of Orangeburg, South Carolina (Orangeburg). South Carolina describes the Agreement as follows:

"As indicated in the attached agreement, if the South Carolina Public Service Commission makes a reduction in either the demand charge or the energy charge, or both, excluding the fuel adjustment clause, proposed by the Company for its Large Industrial Rate No. 23, in the proceeding currently pending before the South Carolina Commission in Docket No. 16,824, SCE&G will file a new Rate Schedule SR-2 with the Federal Power Commission reflecting a like reduction in said Rate Schedule SR-2, applicable to all its wholesale customers affected thereby.

Secondly, the Company has agreed, within a reasonable amount of time, to modify its present fuel adjustment clause to take efficiency in generation into consideration.

The terms of the settlement agreement entered into in this proceeding between the Company and Saluda River Electric Cooperative, Inc., on behalf of its member cooperatives, including Little River Electric Cooperative, Inc. and Broad River Electric Cooperative, Inc., and Berkeley Electric Cooperative, Inc., filed with the Commission on August 17, 1973, are also applicable to the agreement filed herewith. Both that agreement and the agreement filed herewith shall be applicable to all the Company's wholesale customers. However, numbered paragraph 2 of the attached agreement is applicable only to the City of Orangeburg.

Upon approval by the Commission of this agreement, the Company and the City of Orangeburg will enter into a contract incorporating the changes made to the Company's FPC Electric Tariff, Original Volume No. 1, as indicated in the aforementioned settlement agreement. In addition, the contract will include terms and conditions presently found in the contract dated July 27, 1964, as amended between the Company and the City (Rate Schedule FPC No. 18), especially the terms of that contract dealing with the 46 Kv lines and substations.

As part of this settlement agreement, the City of Orangeburg has agreed to withdraw its intervention in this proceeding. The Company has, therefore, reached agreement with all intervenors and respectfully requests that the Commission suspend indefinitely all presently scheduled procedural dates in Docket No. E-8052 pending action on this agreement and the agreement filed August 17, 1973."

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before November 5, 1973. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this Agreement are on file with the Commission and are available for public inspection.

Secretary.
KENNETH F. PLUMB,

[FR Doc.73-22216 Filed 10-17-73;8:45 am]

[Docket No. RP72-102]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Filing of Service Agreements

OCTOBER 11, 1973.

Take notice that on September 27, 1973, Texas Eastern Transmission Corporation (Texas Eastern) submitted for filing with the Commission copies of two Service Agreements. The first, dated April 24, 1973, is between Texas Eastern, as Seller, and United Cities Gas Company (United Cities) as Buyer, and provides for service under Texas Eastern's Rate Schedules GS-B and I-B. The Service Agreement sets forth a maximum daily quantity of 12,364 Mcf in conformance with the Settlement Agreement approved by the Commission in the above-captioned proceeding in which United Cities agreed to relinquish 1,600 Mcf of natural gas being sold and delivered to it by Texas Eastern under the existing Service Agreement between the two parties dated October 21, 1970. The proposed effective date of the new Agreement is November 1, 1973.

The second Service Agreement, dated September 14, 1973, is between Texas Eastern, as Seller, and the Town of Smyrna, Tennessee, as Buyer, and provides for service under Texas Eastern's Rate Schedules SGS-B and I-B. The Service Agreement provides for a total MDQ of 2,986 Mcf for the Town of Smyrna and also a new delivery point in Rutherford County, Tennessee through which the additional 1,600 Mcf per day will be delivered. The proposed effective date of this agreement is November 1, 1973.

Any person desiring to be heard or to protest said filing should file a petition to intervene, unless such petition has

been filed previously, or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.18 and 1.10). All such petitions or protests should be filed on or before October 30, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22217 Filed 10-17-73;8:45 am]

[Docket No. RP72-64]

TEXAS GAS TRANSMISSION CORP.

Order Suspending Proposed Tariff Provision

SEPTEMBER 28, 1973.

On August 29, 1973, Texas Gas Transmission Corporation (Texas Gas) submitted for filing, pursuant to Section 4 of the Natural Gas Act, Substitute First Revised Sheet No. 91 to its FPC Gas Tariff, Third Revised Volume No. 1,[1] with the request that it be made effective as of the date of the Commission's approval of the requested substitution.

Texas Gas states that the sole purpose of its filing is to include in priority category number two of the curtailment priorities set forth in its filing of May 17, 1973, firm industrial sales up to 300 Mcf per day as authorized in Opinion No. 647-A, United Gas Pipe Line Company, Docket Nos. RP71-29, et al., issued May 30, 1973. Texas Gas asserts that as in the United Gas Pipe Line Company proceeding, the proposed modification would eliminate the logistical difficulties associated with the implementation of curtailment of such small volume industrial customers and also greatly facilitate the collection of end-use data by obviating the need to obtain data for such small volume users.

The tariff provisions containing Texas Gas' currently effective curtailment procedures went into effect on June 18, 1973, following a one day suspension, and their lawfulness is subject to a hearing and further Commission order. The proposed substitution modifies one of Texas Gas' priority-of-service categories in conformity with the sequence set forth in our Opinion No. 647-A. However, it would replace a tariff sheet now in effect after a suspension of one day. It therefore will be necessary to suspend its proposed substitute for one day from the date our order is issued herein; and upon becoming effective under the Natural Gas Act, it will be subject to the hearing scheduled herein and decision on Texas Gas' curtailment procedures and related tariff provisions.

The Commission finds

(1) The Substitute First Revised Sheet No. 91 tendered by Texas Gas on August 29, 1973, has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Substitute First Revised Sheet No. 91 to Texas Gas' FPC Gas Tariff, Third Revised Volume No. 1, be suspended and the use thereof deferred, all as hereinafter provided.

The Commission orders

Pending hearing and decision, Substitute First Revised Sheet No. 91 to Texas Gas' FPC Gas Tariff, Third Revised Volume No. 1, is hereby suspended and the use thereof deferred for one day from the date of issuance of this order, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

[SEAL] KENETH F. PLUMB,
Secretary.

[FR Doc.73-22218 Filed 10-17-73;8:45 am]

[Docket No. RP72-128]

TRANSWESTERN PIPELINE CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 11, 1973.

Take notice that Transwestern Pipeline Company (Transwestern) on September 27, 1973, tendered for filing as part of its FPC Gas Tariff, First Revised Volume No. 1 the following sheets:

Substitute Third Revised Sheet PGA-1
Substitute Thirty-second Revised Sheet No. 4
Substitute Twenty-seventh Revised Sheet No. 6-A
Substitute Eleventh Revised Sheet No. 6-D
Substitute Twenty-first Revised Sheet No. 7

The company states that these sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision set forth in section 19 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. This provision was approved by order of the Federal Power Commission dated September 19, 1972, in Docket No. RP72-128. This change in Transwestern's rates reflects a cost of gas adjustment to track increased purchased gas costs and a surcharge adjustment to clear the balance of the Gas Cost Adjustment Account. Transwestern proposes these tariff sheets become effective on October 1, 1973.

In the alternative, and in order to eliminate any possible disruptive effect on Transwestern's customers, Transwestern states that it would be willing to defer the proposed effective date of its supplemental rate increase from October 1, 1973, to November 2, 1973, with the understanding that the effective date of Transwestern's next purchased gas adjustment would be no later than April 1, 1974. Therefore, in the alternative and in the event the Commission deems it more appropriate that the effective date of Transwestern's supplemental increase be November 2, 1973, Transwestern tendered for filing as part of its FPC Gas Tariff, First Revised Volume No. 1:

Alternate Substitute Third Revised Sheet PGA-1
Alternate Substitute Thirty-second Revised Sheet No. 4
Alternate Substitute Twenty-seventh Revised Sheet No. 6-A
Alternate Substitute Eleventh Revised Sheet No. 6-D
Alternate Substitute Twenty-first Revised Sheet No. 7

Transwestern proposes these tariff sheets become effective on November 2, 1973.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22219 Filed 10-17-73;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS

EXPANSION ARTS PROGRAM

Funding Assistance for Community Arts Projects

Guidelines for fiscal 1975 (July 1, 1974–June 30, 1975).

Following are guidelines for grants made under the Expansion Arts Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline for applications under the Expansion Arts Program for Community Cultural Centers, Neighborhood Arts Services, Arts Exposure Programs, and Special Summer Projects is 1 November 1973, and for applications under the Expansion Arts Program for Instruction and Training is 10 February 1974. Interested persons should contact the Expansion Arts Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 382-6071 for further information and application forms. Only the Expansion Arts office may distribute application forms.

Signed at Washington, D.C., on 12 October 1973.

FANNIE TAYLOR,
Director, Program Information.

[1] Notice of Texas Gas' proposed tariff substitution in its FPC Gas Tariff was published in the FEDERAL REGISTER (38 FR 26641).

Expansion Arts Program

Introduction. The Expansion Arts Program of the National Endowment for the Arts assists, through matching grants, professionally directed, community-based arts organizations in urban, suburban, or rural communities.

The scope of the program, especially as it concerns "community-based arts projects," is subject to broad interpretation. Thus, it may be useful to describe the program further by identifying its target participants. Who are they? Diverse groups from all sections of the country—particularly young people—many of whom were formerly isolated from the cultural mainstream: Blacks, Spanish-speaking persons, and other ethnic minorities concentrated in urban neighborhoods, as well as residents of the more remote Appalachian, Indian, and rural American communities. Their artistic endeavors are linked, however, by a common pursuit of individual and cultural self-expression on all levels; the production of original and promising works of art; promotion of cross-cultural exchange; creation of innovative art forms and art-related activities; development of new ways to assimilate new and established art forms; and achievement of educational and social goals through the arts.

The Endowment feels that these projects should be encouraged through selective support. In addition, it is hoped that imaginative programming of Endowment funds in this area will point the way for more extensive public, private, foundation, and business support.

Grants to organizations, with few exceptions, must be matched at least dollar for dollar with non-federal funds. Expansion Arts Program grants generally will provide no more than 50 percent of the total project budget, and no more than 25 percent of any organization's total annual budget.

A Word on the Bicentennial

The Endowment recognizes that the arts will play an important role in the next few years in the celebration of our country's bicentennial. The Endowment welcomes this involvement on the part of artists and cultural organizations. The Endowment has an active interest in participating in these efforts, within funds available to it, and insofar as they are directed to professional creation and presentation of new works, improvement of artistic standards, preservation of our cultural heritage, and increasing the availability of the arts for all Americans. If funds under these guidelines are sought for projects deemed by the applicant to be related to the bicentennial, a brief description of this relationship should be made in the application.

Categories of Funding

Community cultural centers. Matching grants of up to $50,000 for major community-based cultural centers with extensive, multi-art activities, including workshops, as well as performing and exhibiting experiences. To be eligible for funding under this program, a community center must have had a continuing program in at least two art forms for at least three years.
(Deadline: November 1, 1973.)

Neighborhood arts services. Matching grants of up to $50,000 to assist service organizations which aid a variety of community cultural activities through equipment loans, publicity, sponsorship of activities, assistance in dealing with real estate, fundraising, accounting, and legal matters, and the like.
(Deadline: November 1, 1973.)

Arts exposure programs. Matching grants of up to $50,000 to organizations seeking to enable inner city, low-income young people, and others not in the cultural mainstream, to attend major cultural events which they would not otherwise see, by providing low-cost tickets and transportation. A major thrust of this program is active interchange between artists and the young people outside of the performance setting. The Endowment also hopes to be able to assist organizations active in programs of cross-cultural exchange between, for example, the old and young, the affluent and non-affluent, and between the races. Funds may also be available for organizations which provide arts activities for students to ease the transition between elementary and junior high/high school; arts projects to provide constructive alternatives in drug prevention and rehabilitation; and for programs involving convicts in and out of prisons. A limited number of grants may also be made to community-based cultural research organizations to provide information on regional and ethnic culture and cultural organizations.
(Deadline: November 1, 1973.)

Special summer projects. Matching grants of up to $20,000 to assist outstanding professionally directed summer projects by providing training, including active participation, in one or more art forms. A high standard of artistic achievement is the major consideration in review of applications.
(Deadline: November 1, 1973.)

Instruction and training. Matching grants of up to $30,000 to community-based cultural centers which offer first-rate professional training, including active participation, in one or more art forms. A high standard of artistic achievement is the major consideration in review of applications.

(Deadline: February 10, 1974.)

Pilot program. The Expansion Arts Program is considering a pilot touring program enabling a limited number of outstanding community groups to reach areas in their regions heretofore without such exposure, and to encourage young people in particular to pursue goals similar to those achieved by the groups they see. This pilot program, which the Endowment feels will make a significant contribution to the nation's bicentennial celebration, is in preliminary planning stages only, and is not open for applications.

Application Deadlines and Project Periods for Fiscal 1975

November 1, 1973. All applications for funding under the following categories must be postmarked no later than this date:

Community Cultural Centers.
Neighborhood Arts Services.
Arts Exposure Programs.
Special Summer Projects.

Notices of acceptance or rejection will not be sent before March 1974.

Applicants should not plan to start projects before July 15, 1974 with the exception of Special Summer Projects, which may begin their projects June 30, 1974.

February 10; 1974. All applications for funding under Instruction and Training must be postmarked no later than this date.

Notices of acceptance or rejection will not be sent before June 10, 1974.

Applicants should not plan to start projects before August 15, 1974.

Application Information

Eligibility. Although there are many outstanding community programs in which arts activities are one of several components, the Expansion Arts Program generally funds only those groups whose primary concern is with the arts and arts-related activities.

More specifically, eligibility generally is restricted to arts organizations which meet the following requirements:

(1) Are professionally directed and community-based.

(2) Have demonstrated a commitment to pursuit of the highest level of artistic achievement.

(3) Have demonstrated high standards of performance and administrative ability.

(4) Have been in operation for at least one year. (Exception: Community Cultural Centers which require three years.)

(5) Have nonprofit, tax-exempt status under Section 170(c) of the Internal Revenue Code.

Grant amounts. Organizations may apply for no more than the maximum amounts listed:

Community Cultural Centers	$50,000
Neighborhood Arts Services	50,000
Arts Exposure Programs	50,000
Special Summer Projects	20,000
Instruction and Training	30,000

Note: In most cases, grants will be for less than the maximum amounts listed above. Organizations are advised to apply for what they need to carry out the proposed project and can match at least dollar for dollar.

Internal revenue determination. Grants may be made to a group only if no part of its net earnings is for the benefit of a private stockholder or individual, and provided that donations to the group are allowable as charitable contributions under Section 170 (c) of the Internal Revenue Code of 1954, as amended.

In applying for an Endowment grant, an organization is required to submit a copy of its Internal Revenue Service tax-exemption letter together with its application.

In special cases, when tax-exempt status has not been attained by an otherwise qualified applicant group, sponsorship of the project by a related organization which has attained tax-exemption may be acceptable to the Endowment. The sponsoring organization must maintain a close working relationship with the group, as part of its own purposes as defined in its application for tax-exemption. It must undertake, and be able to provide, full and accurate accounting of the ways in which grant funds are expanded. In this capacity, professional organizations which are not themselves community-based, but which provide advisory services or other assistance to community-based organizations, may be given grants.

Methods of Funding—Program Funds method. Generally, grants to organizations will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on the application form (Project Grant Application/NEA–3 Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated sources of matching must be identified. Budgeted funds, as well as newly raised funds, may be used for matching in all programs. Applicants are urged to verify the terms for matching in the program descriptions.

Example:	
Applicant requests from NEA	$10,000
Matching amount from applicant	10,000
Total budget reflecting at least	20,000

Treasury Fund method. When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation allowing the Endowment to work in partnership with private and other non-federal sources of funding for the arts. Designed to encourage and stimulate continued private funding for the arts, the Treasury Fund allows non-federal contributors to join the Endowment in the grant-making process.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

Treasury Fund grants are project grants applied for and approved in the same manner and for the same purposes as regular grants.

Under the Treasury Fund method, when a donation is received, it frees an equal amount from the Treasury Fund, and the doubled amount is then made available to the grantee to match. Thus for every $1.00 given by private sources under this program, another $1.00 is released from the Treasury. The grantee then matches this $2.00 with an additional $2.00, since almost all Endowment grants are for only half the total budget of an approved project. Please see the enclosed brochure for further information.

Review criteria. All applications will be reviewed by the Expansion Arts staff, the Expansion Arts Advisory Panel, and by the National Council on the Arts according to the following criteria:

(1) Merit of the project.
(2) Organizational stability.
(3) Capacity to achieve objectives.
(4) Constituency served by the organization.
(5) Demonstrated need for support requested.
(6) Capacity of the organization to raise funds in addition to those provided by the Endowment.

Review process. The review process is as follows:

(1) The Endowment (Expansion Arts) staff reviews applications including supplementary information sheets.

(2) Applications are then referred to the Expansion Arts Advisory Panel and subsequently to the National Council on the Arts. Upon recommendation of these bodies and action by the Chairman, the Endowment will notify applicants of its decision by letter.

(3) Applicants receiving a grant will receive a grant letter and an acceptance copy. The grantee signs and returns to the Endowment the acceptance copy and a Labor Assurance Form.

(4) The initial payment is usually sent approximately one month after the Endowment's receipt of the signed acceptance and the completed Cash Request Form. The grantee designates on the Cash Request Form the amount desired in the initial payment for a period of time to be specified, in accordance with the Endowment's General Grant Provisions. Succeeding payments are spread throughout the remainder of the grant period. Details in this regard are communicated in the grant award letter.

Special instructions for completing application form. (1) All requests must be submitted in triplicate according to instruction of the Endowment's official application form (Project Grant Application/NEA–3 Rev.).

Please follow closely the instruction sheet attached to your application and supply all information requested. Use the check list at the end of the application form to be certain that you have supplied all the information necessary for prompt processing and consideration of your applications. Failure to do so will result in unavoidable delays that may adversely affect consideration of your proposal.

(2) Each request must be on a separate form. Multiple requests on one form will be returned.

(3) Applications must be submitted by the institution or association named in the IRS letter of determination of tax-exemption.

(4) Period of support requested/grant period (Sec. III). Period of Support Requested is the span of time necessary to plan, execute and close out the proposed project. Generally, the Endowment limits its financial participation in any project to no more than 12 months. Applicants are urged to verify the terms for the grant period in the program descriptions that follow.

(5) Project description (Sec. IV). The Project Description should be brief but specific. Spell out concrete details. All essential elements of the proposal must be included in a concise project summary in the space provided on the application. If applicants wish to supply additional information, they should submit no more than five pages (8½" x 11") with the application. Please also complete the Supplementary Information Sheets which request special information to assist the Endowment in its assessment of the project.

(6) Budget (Secs. VI and IX). Budget estimates cover the total project costs. Provide a breakdown on salaries, travel, and all other categories in the budget, including entries under Other. Travel items on the budget should be substantiated with a statement of the official policy of the institution and the specific nature of the travel. Indirect Costs (Secs. VI B. and IX B) are those costs (general and administrative) which must be apportioned to each project of the applicant organization. The Endowment does not advocate a single method of apportionment. The Endowment's sole criterion is that the proposed project carry no more or less than its fair share of those indirect costs not set out as direct costs in some other section of the application. If you use indirect costs in projecting your budget, do not assume that automatic recognition will be given to the figure indicated. The amount of indirect costs must be backed up with an explanation of the method used to compute it.

(7) Total amount requested from NEA (Sec. VII). Maximum amounts listed earlier are approximate. Applications should show actual expenses and an appropriate request (no more than 50 percent of total costs). Please be sure to complete this section. Applications will be returned if this section is not complete.

(8) Contributions, grants and revenues (Sec. X). All applicants must complete this section of the application. The matching funds plus the amount requested from the National Endowment for the Arts must equal the total project costs. The Endowment does not require that the applicant have in hand at the time of application those matching funds listed under Contributions, Grants and Revenues. However, the applicant is asked to list the possible sources and amounts of such anticipated funds.

(9) Certification (Sec. XII). The application must be signed by an official of the applicant organization with authority to legally obligate applicant. In addition, please be sure to type name, title and telephone number of the authorizing official(s), project director and payee.

(10) Applications must be postmarked no later than the deadline date for the program under which you are applying.

Supplementary information. Applicant must submit the following supplementary information with the application signed by the Director of the organization. Without the supplementary information, applications will not be considered complete and will not be processed. Attach one complete set of all the following information/support materials to your application (3 copies) and mail to:

Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

Supplementary Information should include the following:

(1) General Information:
Name of Organization
Director
Address
Phone
How long in existence
Purpose (be brief)
Activities (be brief)

(2) Fiscal Information:
What is your fiscal year?
Total budget for current fiscal year.
Estimate monthly operating costs.
List funding sources and amounts for current fiscal year.
List funds currently on hand (estimate).
Total budget for the past fiscal year.
List funding sources and amounts for past fiscal year.
List previous Endowment support, amount, year, and Endowment program under which grant was received.

(3) Information on Project for which assistance is requested:
Project Title
Length of time in operation
Project address (if different from organization address)
Project telephone number (if different from organization number)
Project Director (if different from organization director)

(4) Support Materials (to be attached to application and above information):
Brief resumes or biographies of key staff on the project.
Letters or other written evidence of support for your proposal from community leaders, art professionals, public officials, etc. (at least two)
Press clippings on your project or organization (if available).

Reminder for applicants.—(1) Have you attached your IRS letter?

(2) Have you typed (printed) as well as signed the application? Including titles? Is the person(s) who signed the official authorizing official?

(3) Have you specified the amount you are requesting from the Endowment? (Section VII on the application form)

(4) Have you specified amount(s) and source(s) of matching funds? (Section X on the application form)

(5) Have you specified cost breakdown of the total project, that is how you would spend both NEA and matching money? We need to have breakdown on the entire project.

(6) Have you completed four copies (the fourth is for your records) of the application for the Endowment? (Mail three to Grants Office, National Endowment for the Arts, Washington, D.C. 20506)

(7) Have you attached three complete sets of the supplementary information (one to each copy of the application)?

FOR ADDITIONAL INFORMATION

Additional Information and application forms may be obtained from Expansion Arts Program, National Endowment for the Arts, Washington, D.C. 20506. Telephone: (202) 382–6071.

[FR Doc.73-22227 Filed 10-17-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

EQUITY FUNDING CORP. OF AMERICA

Suspension of Trading

OCTOBER 12, 1973.

The common stock of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from October 14, 1973, through October 23, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22183 Filed 10-17-73;8:45 am]

[File No. 500-1]

FIRST LEISURE CORP.

Suspension of Trading

OCTOBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of First Leisure Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 13, 1973, through October 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22184 Filed 10-17-73;8:45 am]

[File No. 500-1]

GIANT STORES CORP.

Suspension of Trading

OCTOBER 12, 1973.

The common stock of Giant Stores Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from October 14, 1973, through October 23, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22185 Filed 10-17-73;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Suspension of Trading

OCTOBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 14, 1973, through October 23, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22186 Filed 10-17-73;8:45 am]

[811-1272]

MIDLAND BASIC, INC.

Proposal To Terminate Registration

OCTOBER 12, 1973.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Midland Basic, Inc. (Midland), % Trust Department National Bank of South Dakota, Sioux Falls, South Dakota, registered under the Act as a closed-end investment company, has ceased to be an investment company as defined in the Act.

Midland was organized under the laws of the State of South Dakota on November 13, 1963. At that time and shortly thereafter it acquired in the aggregate 89,664 shares of common stock of Commonwealth Investment Corporation (Commonwealth) from certain affiliated persons in exchange for Midland's common stock. Midland filed its Notification of Registration on Form N-8A under the Act on June 22, 1964.

The Commission's records indicate that Midland was placed in receivership shortly after it registered under the Act and that on December 19, 1970, the Federal District Court, Southern District of South Dakota, entered an order with respect to The Matter of Petition For Reorganization of Commonwealth Investment Corporation (Bankruptcy No. BK 65-63S) declaring that Midland's interests in Commonwealth, which now represent Midland's only asset, were subordinated to the interests of other shareholders of Commonwealth and prohibiting participation in any distribution by Midland unless such distribution would result in the payment of more than $1.00 per share.

The Commission has been informed that the ultimate liquidation of Commonwealth resulted in all other shareholders not subject to the subordination order receiving less than $9.30 per share for their stock upon the liquidation of all assets and that, accordingly, the trustee for Midland has taken the position that Midland's holdings of Commonwealth shares are totally worthless.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 7, 1973 at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission 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 Midland at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein will be issued as of course following said date unless the Commission thereafter orders

a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advise 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] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22190 Filed 10-17-73;8:45 am]

[70-5390]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Guarantee of Coal Mining Equipment Lease Obligations

OCTOBER 11, 1973.

Notice is hereby given that Ohio Edison Company (Ohio Edison), 47 North Main Street, Akron, Ohio 44308, an electric utility company and a registered holding company, and its electric utility subsidiary company, Pennsylvania Power Company (Penn Power) 1 East Washington Street, New Castle, Pennsylvania 16103, have filed an application-declaration with this Commission designating sections 6, 7, and 12(b) of the Public Utility Holding Company Act of 1935 (Act) and Rules 45 and 50 promulgated thereunder 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.

Ohio Edison and Penn Power along with Duquesne Light Company (Duquesne), the Cleveland Electric Illuminating Company (CEI) and the Toledo Edison Company (Toledo Edison), all unaffiliated with Ohio Edison or Penn Power, have entered a joint development program for power generation and transmission known as the Central Area Power Coordination Group (CAPCO). On December 22, 1969, Ohio Edison, Penn Power and Duquesne, as buyers, entered into a 25-year coal supply agreement with the North American Coal Corporation, as seller, for supplying the coal requirements of a CAPCO generating unit and a supplementary agreement to develop a new mine also to supply the said unit. These agreements were assigned by the seller to its wholly owned subsidiary, Quarto Mining Company (Quarto). An order has been issued authorizing Ohio Edison and Penn Power to acquire notes, together with Duquesne, to finance the new Quarto mine. (Holding Company Act Release No. 16905, November 16, 1970). On November 30, 1971, the CAPCO companies entered into an agreement directly with Quarto to provide for the coal requirements of other CAPCO company generating units and to provide for additions to the new mine and the development of other new mines.

The transactions that are the subject of this application-declaration relate to the permanent financing arrangements pursuant to which Quarto will complete additions to or the development of two of the new mines. The financing will include a lease portion and a debt portion. Under the lease portion Quarto will lease equipment to extract, haul, crush, clean, prepare, convey, and deliver to a large loading point mine run coal. Approximately $105,000,000 of the overall cost, estimated at approximately $140,000,000, is attributable to the lease portion of the financing arrangements.

The lease will be between Quarto, the lessee of the equipment, and the Central National Bank of Cleveland, lessor, acting as a trustee for the owner of the equipment, the General Electric Credit Corporation, (GE) a wholly owned subsidiary of the General Electric Company. GE will provide approximately 40% of the funds required under the lease portion, which will constitute all of the equity in the transaction. The balance of the funds required under the lease portion will be supplied as debt coming indirectly from institutional investors who will supply the money to a special purpose corporation which will in turn loan the money to the lessor-trustee. The debt, in the form of notes and loan certificates, will be issued under an indenture. The indenture trustee will receive, as security for the debt, an assignment of the lessor's rights under the lease as well as other collateral. The CAPCO companies will guarantee Quarto's obligations under the lease severally and not jointly, in proportion to their ownership interests in the CAPCO generating units being supplied coal by Quarto. As security for their several guarantees under the lease, the CAPCO companies will have a security interest in all of the leasehold interest in all of the leasehold interest of Quarto property and intangibles owned by Quarto and a second mortgage on all other property owned by Quarto.

The debt portion of the financing will entail the issuance by Quarto, pursuant to a separate indenture, of first mortgage bonds, which will be secured by a first lien on certain property owned by Quarto. Certain obligations of Quarto under the bond indenture and under the bonds, including the payment of principal, interest and premium, if any, thereon will be severally and not jointly guaranteed by the CAPCO companies in relation to their respective interests in the jointly owned CAPCO company generating units. Ohio Edison will guarantee the financing on 49.31 percent of the lease and of the debt portions. Penn Power will guarantee 8.61 percent of both portions. Under the debt portion of the financing, Quarto will issue through 1976 approximately $35,000,000 of first mortgage bonds. These first mortgage bonds will bear interest at 8¼ percent and will be due January 1, 2000.

Quarto or the lessor or both propose to make temporary borrowings pursuant to lines of credit extending until June 30, 1974, from the Chase Manhattan Bank, N.A. in the amount of $19,000,000 at an interest rate of 1½ percent of prime; from Central National Bank of Cleveland in an amount of $3,000,000 at an interest rate of 110 percent of prime. It is proposed that repayment of borrowings under these lines of credit will be guaranteed, severally and not jointly by the CAPCO companies in proportion to their respective interests in the CAPCO generating units. In conjunction with the proposed CAPCO guarantees of short-term borrowings by Quarto and/or the lessor until June 30, 1974, Ohio Edison and Penn Power request authorization to make short-term borrowings and/or guarantees not in excess of 10 percent of their respective capitalizations for the period ending June 30, 1974.

The applicants-declarants state that the Public Utilities Commission of Ohio has jurisdiction over the proposed transactions with respect to Ohio Edison, and the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions with respect to Penn Power. It is represented that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees, commissions, and expenses incurred or to be incurred, excluding such costs to be incurred by the CAPCO companies other than Ohio Edison and Penn Power, and to be incurred by Quarto, are: (a) $5,600 fees including counsel's fees and $800 miscellaneous expenses for Ohio Edison and (b) $1,400 fees including counsel's fees and $200 miscellaneous expenses for Penn Power.

Notice is further given that any interested person may, not later than October 30, 1973, request in writing that a hearing be held in respect of 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 should the Commission 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 address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the 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] GEORGE FITZSIMMONS, *Secretary.*

[FR Doc.73-22191 Filed 10-17-73;8:45 am]

[812-3338]

PIEDMONT CAPITAL CORP., ET AL.

Filing of Application

OCTOBER 12, 1973.

In the matter of Piedmont Capital Corp., Lexington Research Fund, Inc., Lexington Growth Fund, Inc., 177 North Dean St., Englewood, N.J. 07631.

Notice is hereby given that Piedmont Capital Corporation (PCC), a Delaware corporation, the sponsor of Corporate Leaders Trust Certificates, Series B (CLT), a unit investment trust registered under the Investment Company Act of 1940 (Act), and Lexington Research Fund, Inc. (LRF), a New Jersey corporation and Lexington Growth Fund, Inc. (LGF), a Maryland corporation, open-end investment companies registered under the Act, for which PCC acts as principal distributor, (collectively referred to as "Applicants"), have filed an application: (1) pursuant to section 11 (c) of the Act for an order approving the terms of certain proposed offers of exchange under section 11(a) of the Act and (2) pursuant to section 6(c) for an order exempting certain of such offers from the provisions of section 22(d) of the Act. 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.

The purpose of the application is to seek approval of the exchange, at net asset value, of:

(a) Shares of LRF or LGF for participations (shares) of CLT;

(b) Shares of CLT for shares of LRF and LGF and

(c) Shares of CLT issuable under uncompleted CLT monthly payment certificates for shares of LRF or LGF, together with the right to purchase additional shares of LRF or LGF at a sales charge substantially equivalent to that which would have been payable with respect to the balance of the purchases under the uncompleted CLT monthly payment certificate.

Section 11(c) of the Act provides, in pertinent part, that the terms of offers of exchanges involving the securities of registered unit investment trusts and registered open-end investment companies require approval by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus.

CLT was organized under the laws of New York pursuant to a trust agreement dated November 18, 1935, as amended, between corporate predecessors of The Bank of New York (the Trustee) and PCC. Corporate Leaders of America, Inc., PCC's predecessor, had acted as sponsor of CLT continuously from the initial organization of CLT and had also acted as principal underwriter for CLT shares until March 31, 1968, when the offering of such shares was discontinued.

CLT shares had been offered in either the form of monthly payment certificates calling for 200 monthly payments over a 16¾ year period or single payment certificates issuable in face amounts of $500 or more in multiples of $100. The application states that the amended prospectus contained in CLT's post-effective amendment to its registration statement under the Securities Act of 1933, filed herewith, provides only for the offering of CLT shares in the form of single payment certificates, as the trust agreement provisions relating to monthly payment certificates, as the trust agreement provisions of the Act as amended in 1970. At May 31, 1973, the market value of the CLT portfolio was approximately $55,287,175 and the cost thereof was approximately $52,385,284. On November 30, 1972, there were outstanding uncompleted monthly payment certificates with an aggregate amount payable of approximately $26,651,385.

The provisions of the CLT trust agreement require the Trustee to accumulate funds received for investment, after deduction of a 3 percent sales creation charge to the sponsor, until sufficient funds are available for the purchase of ten Stock Units, each such Unit consisting of one share of each of the 28 corporations constituting CLT's fixed portfolio. Shares are purchased at the net asset value at the close of business on the day payment is received by the Trustee, plus a sales service charge of 5 percent of such net asset value and plus a Stock Unit charge computed monthly, payable to CLT, approximating the brokerage commissions and odd-lot premiums currently applicable to Stock Unit purchases.

Income on portfolio securities and proceeds on the sale of additional securities received as stock dividends, stock splits or other recapitalizations are accumulated and distributed to holders of CLT shares semi-annually.

CLT pays no investment advisory or other management fee. The Trustee is compensated for its services by annual account fees imposed at the rate of $3 per year for each monthly payment certificate and 2/10 of 1 percent of the face amount (with a minimum of $3.60) per year with respect to each single payment certificate. In addition, the Trustee receives transaction fees of $1 for each conversion, liquidation, withdrawal or assignment of certificates, a transaction fee of 40¢ for each authentication of an original certificate issued, and a service charge of 1 percent of the amount of each payment made under monthly payment certificates. The sponsor's compensation consists of the sales creation fee of 3 percent of the amount paid by the investor plus 5 percent of the net asset value of the participation acquired by the investor. These charges range from 8.48 percent to 7.17 percent of the net amount invested under monthly payment certificates, and from 8.23 percent to 8.17 percent of the net amount invested under single payment certificates.

LRF is a diversified open-end investment company with a principal investment objective of capital appreciation, income return being a secondary consideration. It customarily seeks to invest its assets in common stocks and senior securities convertible into common stocks but may for defensive purposes make investments in bonds, debentures and preferred stock. Its net assets at June 30, 1973, were approximately $110,424,469. Lexington Management Corporation, an affiliate of PCC, receives a management fee of 6/10 of 1 percent per year of LRF's net assets up to $150,000,000, 5/10 of 1 percent of net assets from $150,000,000 to $400,000,000, 9/20 of 1 percent of net assets from $400,000,000 to $800,000,000, and 4/10 of 1 percent of net assets in excess of $800,000,000. The maximum sales charge for shares of LRF is 8.5 percent of the public offering price, which is the equivalent of 9.29 percent of the amount invested.

LGF is a diversified open-end investment company with an investment objective of capital appreciation by investment in growth-oriented common stocks. On June 30, 1973, its net asset value was approximately $12,906,649. Lexington Management Corporation, its investment adviser, is compensated by an annual incentive advisory fee consisting of 6/10 of 1 percent of the net asset value of the fund plus or minus 5/100 of 1 percent for each two percentage points of variation above or below the performance of the Standard & Poor's Composite 500 Stock Index reflected in the investment performance of LGF. The maximum sales charge for shares of LGF is 8.5 percent of the public offering price, which is the equivalent of 9.2 percent of the amount invested.

TERMS OF PROPOSED EXCHANGE

A. *CLT shares for shares of LRF or LGF.*—Exchanges of CLT shares will be on the basis of the relative net asset value per share at the time of exchange. Upon receipt by PCC of the CLT certificate with the exchange form and necessary supporting documents, the exchange would be effected by redemption of the CLT shares and issuance of LRF or LGF shares to the exchanging shareholder. The offer of exchange would be available only in such states where LRF or LGF, respectively, may legally be sold, and the privilege of exchange is revocable by LFG or LRF and is only available when described in current prospectuses of these respective funds. Each exchange must involve a minimum of $250, based on the per share net asset value of LRF, LGF or CLT.

An offer of exchange by a holder of an uncompleted monthly payment certificate of CLT would be effected as described in the preceding paragraph with respect to CLT shares paid for as of the

date of exchange. In addition, the CLT shareholder would be extended the privilege, subject to the continuing availability of an effective prospectus and legal right to sell in such shareholder's state, of purchasing LRF or LGF shares at a reduced sales charge of 4.7% of the public offering price, which is substantially equivalent to the sales charge which would have been applicable to continuing purchases of CLT shares under the uncompleted monthly payment certificate.

A service charge of $5.00 would be imposed by Lexington Management Corporation, shareholder services agent for LRF and LGF, in connection with each exchange.

B. *LRF or LGF shares for shares of CLT.*—Exchanges of LRF or LGF shares will be on the basis of the relative net asset value per share at the time of exchange. Upon receipt by Lexington Management Corporation of a properly executed exchange form, LRF or LGF certificates, if issued, and necessary supporting documents, the exchange would be effected by redemption of the LRF or LGF shares and issuance of a CLT single payment certificate to the exchanging shareholder. The offer of exchange would be available only in such states where CLT may then legally be sold and the privilege of exchange is revocable by CLT and is only available when described in the current CLT prospectus.

The trustee will impose a transaction charge of $2.50 on each exchange plus a termination fee of $1.00 on a complete exchange or a partial liquidation fee of $2.50 on a partial exchange. In addition, the issuance of CLT participations involves payment of the stock unit charge described above.

Among grounds for the application, Applicants state that the availability of a right of exchange, without payment of additional sales charges, is economically advantageous to the shareholders of CLT, LRF, and LGF inasmuch as shareholders of LRF and LGF may desire a more conservative investment vehicle, such as CLT, a fixed portfolio unit trust, as an alternative to a capital growth oriented fund while shareholders of CLT may prefer the capital growth investment approach of LRF or LGF.

Applicants further state that allowing exchanges of shares on a net asset value basis among CLT, LRF, and LGF could have the effect of reducing the redemptions to which CLT, in particular, has been prone in the last several years and thereby enhance the prospects for the continued survival and viability of CLT.

Applicants also state that in keeping with current practice among mutual fund organizations which offer a series of associated funds with investment objectives ranging from conservative to relatively volatile capital growth, and the availability of exchange among them without payment of additional sales charges, notwithstanding the fact that CLT is a unit investment trust, PCC's customers should have the same privilege.

Lastly, Applicants contend that the exchange privilege among CLT, LRF and LGF be revocable, and subject to modification, in the event that some circumstances, currently unforeseen, should render such exchange privilege inappropriate. However, Applicants undertake, prior to such revocation or modification, to furnish the Commission staff with resolutions of the respective parties detailing the reasons for such action.

Notice is further given that any interested person may, not later than November 6, 1973, at 5:30 p.m., submit to the Comission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposd to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-22192 Filed 10-17-73;8:45 am]

[File No. 500-1]

SANITAS SERVICE CORP.

Suspension of Trading

OCTOBER 12, 1973.

The common stock of Sanitas Service Corporation being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Sanitas Service Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from October 14, 1973, and continuing through October 23, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-22187 Filed 10-17-73;8:45 am]

[File No. 500-1]

TRIEX INTERNATIONAL CORP.

Suspension of Trading

OCTOBER 10, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Triex International Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 11, 1973, and continuing through October 20, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-22188 Filed 10-17-73;8:45 am]

[File No. 500-1]

U.S. FINANCIAL INC.

Suspension of Trading

OCTOBER 10, 1973.

The common stock of U.S. Financial Incorporated being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from October 11, 1973, and continuing through October 20, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-22189 Filed 10-17-73;8:45 am]

TARIFF COMMISSION

[AA1921-132]

ACRYLONITRILE-BUTADIENE-STYRENE TYPE OF PLASTIC RESIN

Investigation and Hearing

Having received advice from the Treasury Department on October 5, 1973, that acrylonitrile-butadiene-styrene type of plastic resin (in pellet and powder forms) from Japan (except resin the product of Ube Cycon, Ltd.) is being, or is likely to be, sold at less than fair value, the United States Tariff Commission on October 15, 1973, instituted investigation No. AA1921-132 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, 8th and E Streets, NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t., on Wednesday, November 14, 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, Friday, November 9, 1973.

By order of the Commission.

Issued October 15, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-22258 Filed 10-17-73;8:45 am]

[337-L-67]

CERTAIN FLUID LOGIC CONTROLS

Complaint Received

The United States Tariff Commission hereby gives notice of the receipt on July 16, 1973, of a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), filed by The ARO Corporation of Bryan, Ohio, alleging unfair methods of competition and unfair acts in the importation and sale of certain fluid logic controls which are embraced within the claims of U.S. Patent Nos. 3,403,693; 3,385,322; 3,389,720 and 3,419,032, all owned by the complainant, as well as made in accordance with certain unpatented designs and specifications developed by the complainant. Flick-Reedy Corporation, 7N015 York Road, Bensenville, Illinois 60106, through its subsidiary, Miller Fluid Power, has been named as importing and offering for sale the subject product.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the issues raised in the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation, and if so, whether the Commission should recommend to the President the issuance of a temporary exclusion from entry under section 337(f) of the Tariff Act.

A copy of the complaint is available for public inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than November 29, 1973. Extensions of time for submitting information will not be granted unless good and sufficient cause is shown thereon. Such information should be sent to the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C. 20436. A signed original and nineteen (19) true copies of each document must be filed.

By order of the Commission:

Issued October 15, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-22259 Filed 10-17-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-73-28]

PHILADELPHIA ELECTRIC CO., ET AL.

Applications for Variances; Grant of Interim Orders

I. *Philadelphia Electric Co.—notice of application.* Notice is hereby given that Philadelphia Electric Co., 2301 Market Street, Philadelphia, Pennsylvania 19101 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and an interim order pending a decision on the application for the variance, from the requirements of 29 CFR 1910.145(f)(3)(i), (ii), (4)(i), and (5)(i), concerning "Do Not Start," "Danger" and "Caution" tags.

The places of employment affected by this application are all generating stations, substations, steam plants, gas plants, and distribution and transmission lines in Philadelphia, Montgomery, Chester, Bucks, and York Counties in the State of Pennsylvania; Delaware; and Hartford and Cecil Counties in the State of Maryland.

The applicant certifies that the employees affected by the application have been notified by its posting copies of the application where notices to employees are normally placed and by its giving a copy to the President of the local union. The employees have been informed of their right to petition the Assistant Secretary of Labor for a hearing.

The applicant contends that it is providing employment and places of employment which are as safe as those required by the standards set forth in 29 CFR 1910.145(f)(3)(i), (ii), (4)(i), and (5)(i), which specify the design and use of "Do Not Start," "Danger" and "Caution" tags. Section 1910.145(f)(3)(i) and (ii) provides that "Do not Start" tags must have a red background with letters which are either etched or are white or grey. Section 1910.145(f)(4)(i) provides that danger tags should be used only where an immediate hazard exists, that there should be no variation in the type of design of tags posted or hung, and that the tags shall be white with white letters on a red oval within a black square. Section 1910.145(f)(5)(i) provides that caution tags should only be used to warn against potential hazards or to caution against unsafe practices, and the tags must be yellow with yellow letters on a black background. Figures J-10, J-11, and J-12 in § 1910.145 illustrate these tags.

The tagging system presently used by the applicant is as follows:

DANGER TAGS

Application	Tag type	Front legend	Back legend	Tag color	Lettering color
Station operating Department—Electrical and mechanical blocking.	Local permit	Local permit No.	Danger	Red	Black.
	Load dispatcher	Load dispatcher permit No.	Danger	Red	Black.
	Local permit (toggle switch tag).	Blocked—permit No.	(None)	Red	Black.
	Load dispatcher restriction.	Load dispatcher restriction No.	Danger	Blue	Black.
	Load dispatcher restriction (toggle switch tag).	Tagged—restriction No.	None	Blue	Black.
		CAUTION TAGS			
	Caution	Station Date This tag was attached for the following purpose Signed Sec Removed by Date	Caution—for local use only use a red tag in connection with load Dispatcher's or local permits.	Yellow	Black.
Transmission and distribution department.	Service maintenance switching and blocking.	This tag shall not be removed or equipment operated unless authorized by the Trouble Dispatcher Philadelphia Electric Company LO3-4285. Serial number	(None)	Red Yellow	Yellow. Black.
	Load dispatcher/T&D dispatcher permit.	Load dispatcher permit No. —— T&D dispatcher No. ——	Danger	Red	Black.

The applicant's tagging system has been in use since 1927 with revisions in 1939, 1955 and 1967. Employees are periodically reinstructed in the system governing the use of the tags. The applicant contends that changing the design or color of the tags to conform with 29 CFR 1910.145(f)(3)(i), (ii), (4)(i), and (5)(i) would provide no additional safety to its employees, and in fact may cause confusion, and therefore, additional hazards.

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Building
3535 Market Street, Room 15220
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
1317 Filbert Street, Suite 1010
Philadelphia, Pennsylvania 19107

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building, Room 1110A
31 Hopkins Plaza, Charles Center
Baltimore, Maryland 21201

Interim Order. It appears from the application for a variance and interim order, that the tagging system used by Philadelphia Electric Co. provides employment and places of employment as safe as those which would prevail if the applicant were to comply with 29 CFR 1910.145(f)(3)(i), (ii), (4)(i) and (5)(i). It further appears that an interim order is necessary, pending a decision on the application, in order to prevent undue hardships to the applicant and its employees. Therefore, it is ordered pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that the Philadelphia Electric Co. be, and it is hereby, authorized to continue using the tagging system described in its application, in lieu of complying with 29 CFR 1910.145(f)(3)(i), (ii), (4)(i), and (5)(i), at all working places indicated in this notice.

The applicant shall give notice to all affected employees of this interim order by the same means required to inform them of its application for a variance.

Effective date.—This interim order shall be effective on October 17, 1973 and shall remain in effect until a decision is rendered on the application for a variance.

II. *Cherry Knitting Mills Inc., and London Knitting Co., Inc.—notice of applications.* Notice is hereby given that Cherry Knitting Mills, Inc., and London Knitting Co., Inc., have filed applications pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), and 29 CFR 1905.11 for a variance from 29 CFR 1910.219(a)(3), dealing with mechanical power transmission apparatus.

The addresses of the places of employment affected by these applications are as follows:

Cherry Knitting Mills, Inc., 426 East Allegheny Avenue, Philadelphia, Pa. 19134.

London Knitting Co., Inc., 3799 Jasper Street, Philadelphia, Pa. 19124.

The applicants certify that the employees affected by these applications have been notified by their giving copies to the authorized employee representatives, and by their posting copies at places where notices to employees are normally placed. Employees have also been notified of their right to petition the Assistant Secretary of Labor for a hearing.

The applicants state that they are providing places of employment as safe as those which would prevail if they were to comply with 29 CFR 1910.219(a)(3), which reads as follows:

(3) For the Textile Industry, because of the presence of excessive deposits of lint, which constitute a serious fire hazard, the sides and face sections only of nip point belt and pulley guards are required, provided the guard shall extend at least six (6) inches beyond the rim of the pulley on the in-running and off-running sides of the belt and at least two (2) inches away from the rim and face of the pulley in all other directions.

The applicants contend that the nature of the construction of their machinery precludes exact compliance with the standard, in that the top pulley is ¾ of an inch short of meeting the 6 inch requirement. The applicants have, however, provided additional guarding at the in-running nip point on the upper pulley by means of a slotted guard. An existing sidewheel extends 2 inches around the pulley and guard, preventing access to the pulley from any direction. The applicants assert that the slotted guard and sidewheel provide the same protection intended in § 1910.219(a)(3).

For further information, interested persons are referred to copies of the applications which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Plaza Building
3535 Market Street—Room 15220
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
1317 Filbert Street
Suite 1010
Philadelphia, Pennsylvania 19107

III. *Quaker Lace Co.—notice of application.* Notice is hereby given that Quaker Lace Co., Fourth and Lehigh Avenue, Philadelphia, Pennsylvania 19133, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and an interim order pending a decision on the application for the variance, from the standard prescribed in 29 CFR 1910.212(a)(3)(ii), point of operation guarding.

The address of the place of employment affected by this application is the Quaker Lace Company, Fourth Street and Lehigh Avenue, Philadelphia, Pennsylvania 19133.

The applicant certifies that the employees affected by the application have been notified by its giving a copy of it to the authorized employee representative, and by its posting copies at places where notices to employees are normally placed. Employees have also been notified of their right to petition the Assistant Secretary of Labor for a hearing.

Section 1910.212(a)(3)(ii) provides that the point of operation of machines whose operation exposes an employee to injury, must be guarded with a device so designed as to prevent the operator from having any part of his body in the danger zone.

The applicant contends that employees operating its mending machines do their work free hand in recreating a pattern in a product, and that they have full vision of the surrounding field in relation to the needle on the mending machine.

The applicant contends that (a) an employee's vision would be impeded by a guard, resulting in an increased probability of the needle nicking the sides of the employee's fingers more so than if there were no guard; (b) a guard would make the fine free hand work that is required considerably more difficult; (c) where guards have been used in the past, employees have experienced difficulty in putting their fingers under the guard to obtain the thread from the bobbin, resulting in an increased probability of a nick; and that, (d) it becomes virtually impossible for employees to make certain mends.

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210 and at the following Regional and Area Offices.

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Building, Room 15220
3535 Market Street
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
1317 Filbert Street—Suite 1010
Philadelphia, Pennsylvania 19107

Interim order. It appears from the application for a variance and interim order, filed by Quaker Lace Co., that an

interim order is necessary pending a decision on the application, in order to prevent undue hardship to the applicant and its employees. Therefore, it is ordered, pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act and 29 CFR 1905.11(c), that the Quaker Lace Co. be, and it is hereby, authorized to continue its current operations without complying with 29 CFR 1910.212(a)(3)(ii) at the address given in this notice.

The applicant shall give notice to all affected employees of this interim order by the same means required to inform them of its application for a variance.

Effective date. This interim order shall be effective on October 17, 1973, and shall remain in effect until a decision is rendered on the application for a permanent variance.

IV. *Timber Operators Council, Inc.—notice of application.* Notice is hereby given that Timber Operators Council, Inc., 2326 NW. Westover Road, Post Office Box 230, Portland, Oregon 97207, on behalf of its member companies, has made application pursuant to section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1594; 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance, and interim order pending a decision on the application for a variance, from 29 CFR 1910.212(a)(1), dealing with types of guarding.

The addresses of the member companies and the places of employment affected by the application are as follows:

G. M. Butters Shingle and Shake Company
Box 373
North Bend, Washington 98045

Cook Creek Shake and Shingle Co.
Route 1, Box 342
Nehalem, Oregon 97131

Cowlitz Shingle Company, Inc.
Post Office Box 278
Longview, Washington 98632

D and G Shake
Box 673
Amanda Park, Washington 98526

Darrintgon Shingle Company
Post Office Box 145
Darrington, Washington 98241

Evans Products Company
Aloha Operation
Aloha, Washington 98525

Loth Shingle Company
Post Office Box 36
Lake Stevens, Washington 98258

Miami Shingle and Shake Co.
Route 1, Box 432
Nehalem, Oregon 97131

Midway Shake Company
Post Office Box 212
Tillamook, Oregon 97141

Miller Shingle Company, Inc.
Box K
Granite Falls, Washington 98252

Nehalem Bay Shake and Shingle Company, Inc.
Route 2, Box 19F
Sekiu, Washington 98381

Pioneer Shingle Company
Post Office Box 66
Anacortes, Washington 98221

Robert Gray Shake and Shingle, Inc.
Post Office Box 615
Hoquiam, Washington 98550

Hodgdon Shingle and Shake Company
385 Hodgdon Road
Tillamook, Oregon 97141

HOH River Cedar Products, Inc.
Post Office Box 127
Beaver, Washington 98305

Huntintgon Wood Industries, Inc.
Post Office Box 109
Springfield, Oregon 97477

Hurn Shingle Company
Route 1
Concrete, Washington 98237

Interstate Shingle Company
Post Office Box 68
Independence, Oregon 97351

Lester Shingle Company
Post Office Box 465
Sweet Home, Oregon 97386

R.C. and R., Inc.
Route 2, Box 19F
Sekiu, Washington 98381

Roseburg Shingle and Stud, Inc.
Post Office Box 1024
Roseburg, Oregon 97470

M. R. Smith Shingle Company
Box 2067
Seattle, Washington 98111

Snider Shake Company, Inc.
Post Office Box 186
Mineral, Washington 98553

SOL DUC Shake Company, Inc.
Post Office Box 127
Beaver, Washington 98305

Toledo Shingle Company, Inc.
Post Office Box 299
Toledo, Oregon 97391

Upland Cedar Products, Inc.
Post Office Box 23
Neilton, Washington 98566

The applicant certifies that the employees affected by the application have been notified by its giving a copy of it to the authorized employee representative, and by its posting copies at places where notices to employees are normally placed. Employees have also been notified of their right to petition the Assistant Secretary of Labor for a hearing.

The applicant, on behalf of its member companies, states that the requirements of § 1910.212(a)(1), requiring point of operation guarding for protection of employees, cannot be met due to the nature of the various cuts to be made, which require lifting and moving each piece during cutting. The applicant further asserts that there are no known guards available in the industry for saws such as the bolter, shingle, and clipper saws.

The applicant has taken the following steps to comply with the standard and to protect employees:

(1) Available saw guards as well as a brake have been installed on each saw;

(2) A feasibility study is being conducted by Black Clawsen Co., Inc. of Everett, Washington, for the purpose of designing, testing, producing, and distributing approved saw guards;

(3) Employees have been instructed that:

(i) Only clothing appropriate to a workman's occupation will be allowed (no loose or hanging clothes);

(ii) Work is to be performed in accordance with company safe job practices which include maintaining safe distances from the point of operation;

(iii) Work areas are to be maintained clear and free from clutter, and general good housekeeping is to be maintained throughout an operation;

(iv) Work stations are to be shut down and cleaned up when employees leave the work stations; and

(v) Gloves are to be worn to prevent sliver injuries;

(4) Caution tags have been posted to continually alert an operator to the hazards a saw presents;

(5) A saw guard currently under development should be available, and member companies should be able to comply with the standard by March 31, 1974.

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

U.S. Department of Labor
Occupational Safety and Health Administration
Pittock Block, Room 526
921 S.W. Washington Street
Portland, Oregon 97205

Interim order. It appears from the application for a variance and interim order that an interim order is necessary for the continuance of the present means and practices stated in the application, pending a decision on the application, in order to prevent undue hardship to the member companies and their employees. Therefore, it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970, and § 1905.10(c) that the member companies of the Timber Operators Council be, and are hereby, authorized to continue using the means and practices set forth in the application at all working places whose addresses are given in this notice, in lieu of complying with § 1910.212(a)(1).

The applicant shall give notice to all affected employees of this interim order by the same means required to inform them of its application for a variance.

Effective date. This interim order shall be effective on October 17, 1973, and shall remain in effect until a decision has been rendered on the application for a variance.

V. *General Insurance Company of America—Notice of application.* Notice is hereby given that General Insurance Company of America, 4347 Brooklyn Avenue NE., Seattle, Washington 98105 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), and 29 CFR 1905.11 for a variance, and an interim order pending a decision on the

application for a variance, from the standard prescribed in 29 CFR 1910.66 (b)(3), dealing with power platforms for exterior building maintenance.

The address of the place of employment affected by this application is General Insurance Company of America, Safeco Plaza, 4333 Brooklyn Avenue NE., Seattle, Washington 98185.

The applicant certifies that it has notified the employees affected by the application by its giving a copy of it to the authorized employee representative, and by its posting copies at places where notices to employees are normally placed. Employees have also been notified of their right to petition the Assistant Secretary of Labor for a hearing. A copy was also furnished to Pacific Window Washing Company, which provides window washing services to the applicant.

The applicant contends that it is providing employment and a place of employment as safe as that required by 29 CFR 1910.66(b)(3), which requires that all new powered platforms for exterior building maintenance, used after the effective date of the section, must meet certain requirements of the American National Standard Institute, namely ANSI A120.1–1970, paragraph 11.2.1a, which reads as follows:

> The design of the building or structure face in conjunction with the design of the building contact member on the working platform (see paragraph 13.8) shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform. The face of the building shall provide T rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platforms. Exception: On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required if the requirements of 13.8 are complied with.

The applicant states that although its platform does not positively engage building contact members, and the building exceeds 130 feet in height, it uses different engineering controls to absorb wind forces and horizontal components associated with live and dead loads on the work platform. A method has been devised to obtain angulated roping for its platform by using a cable restraint at every fourth floor (approximately 50 feet) limiting the pendulum movement, and face rollers are installed at each end of the working platform designed to bear on the columns of the building and act as a stop against lateral movement in accordance with paragraph 13.8 of ANSI A120.1–1970. The applicant asserts that by limiting the pendulum motion and installing the face rollers, it is providing the same safety as required by the standard.

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration.
506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

U.S. Department of Labor
Occupational Safety and Health Administration
506 Second Avenue
1906 Smith Tower Building
Seattle, Washington 98104

Interim order. It appears from the application for a variance and interim order, filed by the General Insurance Company of America that its method of angulated roping and the installation of face rollers, provide employment and places of employment as safe as those which would prevail if the applicant were to comply with all the terms of 29 CFR 1910.66(b)(3). It further appears that an interim order is necessary, pending a decision on the application, in order to prevent undue hardship to the applicant and those rendering services to the applicant. Therefore, it is ordered, pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and 29 CFR 1905.11(c), that the General Insurance Company of America be, and it is hereby, authorized to continue using the means and practices set forth in its application and described in this notice, in lieu of complying with paragraph 11.2.1a of ANSI A120.1–1970, at the address given in this notice.

The applicant shall give notice to all affected employees of this interim order by the same means required to inform them of its application for a variance.

Effective date. This interim order shall be effective on October 17, 1973, and shall remain in effect until a decision is rendered on the application for a variance.

VI. *International Association of Drilling Contractors—Notice of application.* Notice is hereby given that the International Association of Drilling Contractors, 211 N. Ervay Building, Dallas, Texas 75201, has made application, on behalf of its member companies, and pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11, for a variance, and an interim order pending a decision on the application for a variance, from the requirements of 29 CFR 1910.27(b)(1)(i), (ii), (iii) and (c)(4), pertaining to the dimensions of rungs, cleats, and clearances of fixed ladders.

The names and addresses of the member companies are as follows:

Aladdin-Middle East, Ltd.
809 Petroleum Building
Wichita, Kansas 67202

Alan Drilling Company
807 Oil and Gas Building
Wichita Falls, Texas 76301

Alanco Drilling Company
Post Office Box 1970
1315 East Main
Alice, Texas 78332

Allison Drilling Co., Inc.
1275 Sherman Street
Allison Building
Denver, Colorado 80203

Apollo Drilling and Exploration, Inc.
5115 McKinney Avenue, Suite D
Dallas, Texas 75205

Atlantic Pacific Marine Corp.
Post Office Box 8188
Houston, Texas 77004

Ard Drilling Company
Post Office Box 1030
Midland, Texas 79701

Ardmore Drilling Company
506 Ardmoreite Building
Post Office Box 308
Ardmore, Oklahoma 73401

Armstrong, W. B., Drilling Contractor
Post Office Box 75
Wooster, Ohio 44691

Atchafalaya Workover Contractors, Inc.
Post Office Box 2933
Lafayette, Louisiana 70501

Atlanta Drilling Co., Inc.
980 Jordan Street
Post Office Box 5248
Shreveport, Louisiana 71105

Atwood Oceanics, Inc.
301 Town and Country Office Park
Houston, Texas 77024

Austin Drilling Company
Post Office 1240
Seminole, Oklahoma 74868

B and N Drilling Company
A Division of BMG, Inc.
305 Professional Building
Box 846
Independence, Kansas 67301

Baggett Drilling Company
Post Office Box 526
Eagle Pass, Texas 78852

Bailey, Pernie, Drilling Co.
2309 Sage Road
Post Office Box 22775
Houston, Texas 77027

Bandera Drilling Company
294 Meadows Building
Dallas, Texas 75206

Banner Drilling Company
220 West 27th Street
Scottsbluff, Nebraska 69361

Barnes Core Drilling Company
1350 Roberts Lane
Bakersfield, California 93308

Barnhart Drilling Company, Inc.
Post Office Box 2976
Casper, Wyoming 82601

Barnwell Drilling Company, Inc.
Beck Building, Box 1748
Shreveport, Louisiana 71102

Barrett Drilling Company
423 Masonic Building
Shawnee, Oklahoma 74801

Barrios Well Service, Inc.
Route 1, Box 99
Lockport, Louisiana 70374

Basic Technical Services Company, Ltd.
Post Office Box N–1576
Nassau, New Providence, Bahamas

Houston, Texas 77002:
c/o Basic International, Inc.
1212 Main Street, Suite 705

Basin Petroleum Corporation
545 First National Center
Oklahoma City, Oklahoma 73102

Bawden, Peter, Drilling, Inc.
1085 North Main Street
Suite K, Box 5747
Orange, California 92667

Baxter Drilling, Inc.
Post Office Box 551
Morgan City, Louisiana 70380

Bay City Drilling Company
Post Office Box 1389
Room 201, First Nat'l Bank Bldg.
Bay City, Texas 77414

Bay Drilling Corporation
101 St. Louis Street
Thibodaux, Louisiana 70301

Bearden, Jack E. Drilling Co.
4726 Jacksboro Highway
Wichita Falls, Texas 76302

Bickham, J. C., Drilling Co., Inc.
Post Office Box 280
Richmond, Texas 77469

Big Chief Drilling Company
Post Office Box 14837
Oklahoma City, Oklahoma 73114

Big "6" Drilling Company
1228 Bank of the Southwest Bldg.
Houston, Texas 77002

Bodard Drilling Company
313 Masonic Building
Post Office Box 1565
Shawnee, Oklahoma 74801

Bomac Exploration Company
1776 Lincoln Street
Suite 714
Denver, Colorado 80203

Bonray Oil Company
7225 North May Avenue
Box 20746
Oklahoma City, Oklahoma 73120

Booker Drilling Company, Inc.
Post Office Box 7244
Metairie, Louisiana 70002

Boyd, Durst and Kuenstler, Inc.
McFaddin Building
Post Office Box 2488
Victoria, Texas 77901

Brinkerhoff Drilling Co., Inc.
870 Denver Club Building
Denver, Colorado 80202

Brown, Tom, Inc.
Post Office Box 5706
Midland, Texas 79701

Brownie Drilling Co., Inc.
E. Opelousas Street
Post Office Box 1445
Lake Charles, Louisiana 70601

Burns Drilling Company
608 Hulman Building
24 N.W. Fourth Street
Evansville, Indiana 47708

Butler Drilling Company
7440 Cullen Boulevard
Post Office Box 14291
Houston, Texas 77021

Butler-Johnson, Inc.
Post Office Box 306
Shreveport, Louisiana 71162

Buzzini Drilling Company
118-E Petroleum Center
San Antonio, Texas 78209

California Production Service, Inc.
Post Office Box 4489
19431 S. Santa Fe Avenue
Compton, California 90224

Calvert Western Exploration Company
1218 Continental National Bank Building
Fort Worth, Texas 76102

Camay Drilling Company
4250 Wilshire Boulevard
Los Angeles, California 90010

Cape Drilling Company
711 Citizens Bank Building
Tyler, Texas 75701

Capitan Drilling Co., Inc.
Post Office Box 6725
Odessa, Texas 79760

Caraway, Frank, Drilling Co.
Box 982, 1220 S. Bell
San Angelo, Texas 76901

Cardinal Petroleum Company
Post Office Box 1077
Billings, Montana 59103

Carlile Workovers Company
1500 Lafayette Street
Suite 119
Gretna, Louisiana 70053

Carmack Drilling Company
1129 Colorado Avenue
Suite 314
Grand Junction, Colorado 81501

Cedco Drilling Company
Route 130 North
Post Office Box 8
Olney, Illinois 62450

Centerville Petroleum, Inc.
2620 Fourth Street
Box 658
Harvey, Louisiana 70058

Chandler and Associates, Inc.
1401 Denver Club Building
Denver, Colorado 80202

Chaparral Drilling Company
Post Office Box 5635
1718 Wilco Building
Midland, Texas 79701

Chapman Drilling, Inc.
Post Office Box 52343
Lafayette, Louisiana 70501

Chapman, Ford, Drilling Contractor
1100 Vaughn Building
Midland, Texas 79701

Choya Drilling Company
Post Office Box 1939
Alice, Texas 78332

Chris Well Servicing Company
2909 Northwest 31st Street
Post Office Box 12250
Oklahoma City, Oklahoma 73112

Christie-Stewart Drilling Company
930 First-Wichita National Bank Bldg.
Wichita Falls, Texas 76301

Circle "A" Drilling Company
1110 Denver Club Building
Denver, Colorado 80202

Circle D Drilling Company, Inc.
Suite 380, Classen Terrace Bldg.
1411 Classen Boulevard, Box 25127
Oklahoma City, Oklahoma 73106

Clark, E. B., Drilling Co.
700 City National Building
Wichita Falls, Texas 76301

Clawson, Don, Drilling Co.
204 Townsend Building
Ada, Oklahoma 74820

Columbia Drilling Company
3700 Buffalo Speedway
Suite 601
Houston, Texas 77006

Comet Drilling Company
Box 51529, O.C.S.
Lafayette, Louisiana 70501

Cook Drilling Company
2305 Continental Life Bldg.
Fort Worth, Texas 76102

Crescent Drilling Company
Post Office Box 616
Calhoun Road
Owensboro, Kentucky 42301

Crestwave Offshore Service, Inc.
Post Office Drawer "J"
500 Veterans Memorial Blvd.
Metairie, Louisiana 70005

D-B Drilling Corporation
416 First National Bank Bldg.
Abilene, Texas 79601

Darling and Kelley, Inc.
Post Office Box 926
Opelousas, Louisiana 70570

Davidson, H. W.
423 Midland Tower Building
Midland, Texas 79701

Davis, Alva C., Exploration Co.
Post Office Box 469
Fairfield, Illinois 62837

Dearborn-Storm Corp.
Six North Michigan Avenu
Chicago, Illinois 60602

Deepwell Workover Corp.
Post Office Box 1016
New Iberia, Louisiana 70560

Del Oil and Gas Corp.
Post Office Box 380
Rayne, Louisiana 70578

Delaney, M.J., Company
1305 Dallas Federal Savings Bldg.
Dallas, Texas 75201

Delaune Drilling Service
1617 Rose Drive
Post Office Box 1469
Alice, Texas 78332

Delta Drilling Company
Delta Building
Post Office Box 2012
Tyler, Texas 75701

Delta Marine Drilling Company
Post Office Box 2012
Delta Building
Tyler, Texas 75701

Diamond M Drilling Company
4615 Post Oak Place Drive
Suite 101
Post Office Box 22738
Houston, Texas 77027

Dillingham Drilling Company
Post Office Box 1346
Alice, Texas 78332

Dixilyn Corporation
Post Office Box 14067
1012 First City National Bank Building
Houston, Texas 77021

Dixon Drilling Company
512 First National Bank Bldg.
Post Office Box 2320
Abilene, Texas 79604

Dreiling Oil, Inc.
Route 2
Victoria, Kansas 67671

Dresser Offshore Services, Inc.
Post Office Box 6504
Houston, Texas 77005

Dual Drilling Company
606 City National Building
Wichita Falls, Texas 76301

Dudley and Heath Drilling Company
818 West Sixth Avenue
Post Office Box 428
Stillwater, Oklahoma 74074

Dunn-Smith, Inc.
B-100 Douglas Plaza Bldg.
8226 Douglas Avenue
Dallas, Texas 75225

E and H Drilling Company
Newcastle Highway
Post Office Box 1058
Graham, Texas 76046

Eason Oil Company
Post Office Box 18755
5225 N. Shartel
Oklahoma City, Oklahoma 73118

Eastern Petroleum Company
Box 291
Carmi, Illinois 62821

Eggleston, A. W., Inc.
Post Office Box 425
Crowley, Louisiana 70526

Empire Drilling Company
2424 One Main Place
Dallas, Texas 75250

Exeter Drilling Company
Bk. of New Orleans Bldg.
1010 Common Street
New Orleans, Louisiana 70112

Exeter Drilling and Exploration Company
1010 Patterson Building
Denver, Colorado 80202

FWA Drilling Company, Inc.
320 Oil and Gas Building
Wichita Falls, Texas 76301

Fairman Drilling Company
Post Office Box 288
Du Bois, Pennsylvania 15801

Ferguson Drilling Company
3000 Drakestone
Oklahoma City, Oklahoma 73120

Field Drilling Company
930 Milam Building
San Antonio, Texas 78205

Field International Drilling Co.
930 Milam Building
San Antonio, Texas 78205

Finley Oil Well Service, Inc.
Post Office Box 7296
Long Beach, California 90807

Flournoy Drilling Company
Post Office Box 491
Alice, Texas 78332

Fluor Drilling Services, Inc.
(Subsidiary of Fluor Corp.)
2500 South Atlantic Boulevard
Los Angeles, California 90022

Fortenbery Drilling Co., Inc.
Post Office Box 430
Natchez, Mississippi 39120

Fox Rotary Drilling Corp.
Three Baltimore Avenue
Box 205
Washington, Pennsylvania 15301

Frio Drilling and Producing Co.
1120 Guaranty Bank Plaza
Corpus Christi, Texas 78401

Froman Drilling, Inc.
Post Office Box 383
Cut Bank, Montana 59427

Gabbert-Jones, Inc.
830 Sutton Place
Wichita, Kansas 67202

Garvey Drilling Company
Post Office Box 1164
Great Bend, Kansas 67530

Gear Drilling Company
470 Denver Club Building
Denver, Colorado 80202

General Well Service, Inc.
Post Office Box 308
Cut Bank, Montana 59427

Gibson Drilling Company
Post Office Box 1540
Kilgore, Texas 75662

Glasscock Drilling, Inc.
Post Office Box 51716, O.C.S.
Lafayette, Louisiana 70501

Global Marine, Inc.
811 West Seventh Street
Los Angeles, California 90017

Globe Drilling Company
434 Petroleum Building
Tyler, Texas 75701

Glyn Drilling Company
1132 Joseph Street
Shreveport, Louisiana 71107

Goldrus Drilling Company
1400 First City National
Bank Building
Houston, Texas 77002

Gracey-Hellums Corporation
410 First National Life Building
Houston, Texas 77002

Graham, Paul, Drilling and
Service Company
Post Office Box 822
Rio Vista, California 94571

Graves Drilling Company, Inc.
505 Union Center
Wichita, Kansas 67202

Grey Wolf Drilling Company
2000 West Loop South, Suite 1730
Houston, Texas 77027

Guffey, Roy, Drilling Company
5551 Yale Boulevard
Dallas, Texas 75206

Gulf Coast Drilling and
Exploration
Division of American Southwest Corp.
213 S. Lamar Street
Post Office Box 936
Jackson, Mississippi 39205

Gulf Offshore Company
Post Office Box 1837
McAllen, Texas 78501

Gwaltney Drilling, Inc.
Nineteen N.E. Third Street
Post Office Box 289
Washington, Indiana 47501

H and S Drilling Company
2000 National Bank of
Tulsa Building
Tulsa, Oklahoma 74103

Hack Drilling Company
Post Office Box 5108
2501 South Treadaway
Abilene, Texas 79605

Hackathorn Drilling Company
228 West Sixth Avenue
Denver, Colorado 80204

Harkins and Company
Post Office Box 1490
1801 East Main Street
Alice, Texas 78332

Harris Drilling Company
Post Office Box 99
Grayville, Illinois 62844

Harvey Workover, Inc.
Post Office Box 91
Harvey, Louisiana 70058

Hawkins, H. L., Drilling Co.
Suite 907, 225 Baronne Street
New Orleans, Louisiana 70112

Hay, Bill, Drilling Co., Inc.
2007 Polk Street
Great Bend, Kansas 67530

Helmerich and Payne
International Drilling Co.
Utica at Twenty-First
Tulsa, Oklahoma 74114

Hercules Drilling Corporation
1855 Wooddale Boulevard
Suite 602
Post Office Box 15489
Bator. Rouge, Louisiana 70815

Herring, Maxwell, Drilling
Corporation
Post Office Box 1297
Tyler, Texas 75701

Hillier, J. E.
Post Office B.. 67
509 Bentsdale
Pleasanton, Texas 78064

Hinton, W. B., Drilling Company, Inc.
Box 1237, Hinton Bldg.
Mt. Pleasant, Texas 75455

Hoover Drilling Company
3800 Pierce Road
Bakersfield, California 93308

Howell Drilling, Inc.
604 Milam Building
San Antonio, Texas 78205

Hudson, Leonard, Drilling Company, Inc.
P ..t Office Box 1876
Pampa, Texas 79065

Hunnicutt and Camp Drilling Co.
Post Office Box 39?
Rio Vista, California 94571

Hylton Drilling Company
308 Brink Drive
Bakersfield, California 93304

Ingle, Kenneth, R.
518 Court Building
Evansville, Indiana 47708

Inland Well Service
Post Office Box 488
Abbeville, Louisiana 70510

J and C Drilling Company
Jones Building, Box 216
Refugio, Texas 78377

Jackson, L. B., Company
4609 East 31st Street
Tulsa, Oklahoma 74135

Jet Drilling Company, Inc.
Suite 514
120 South Market Street
Wichita, Kansas 67202

Johnn Drilling Company
Post Office Box 6157 (E. Hwy. 80)
Odessa, Texas 79760

Jonco Drilling Company, Inc.
Post Office Box 1214
Seminole, Oklahoma 74868

Justiss-Mears Oil Company, Inc.
Post Office Drawer N
Jena, Louisiana 71342

Kadane, G. E., and Sons
Post Office Box 1740
Wichita Falls, Texas 76307

Kellogg, K. L. and Sons
301 IBM Building
3777 Long Beach Boulevard
Long Beach, California 90807

Kendal-Davis Drilling Company, Inc.
Post Office Box 5304
Evansville, Indiana 47715

Kern Drilling Company, Inc.
Post Office Box 688
Magnolia, Arkansas 71753

Kill Drilling Company
219 South Main Street
Mt. Pleasant, Michigan 48858

Krueger Drilling Company
Box 302
Littleton, Colorado 80120

L and H Drilling Company
Post Office Box 348
Owensboro, Kentucky 42301

La-Tex Gulf Drilling Company, Inc.
Post Office Box 1013
Houma, Louisiana 70360

Larco Drilling Company, Inc.
Post Office Box 3609
134 East Amite Street
Jackson, Mississippi 39207

Lauck Drilling Company, Inc.
301 South Broadway
Wichita, Kansas 67202

Leatherwood Drilling Company
Post Office Drawer N
Kermit, Texas 79745

Lester, Dan, Drilling Co., Inc.
Post Office Drawer N
Jefferson, Texas 75657

Lewmont Drilling Associates, Inc.
428 Midland Savings Building
Denver, Colorado 80202

Lindsey, W.W.
408 Main Street
Pikeville, Kentucky 41501

Lin-Mour Drilling Company
507 Oil and Gas Building
Wichita Falls, Texas 76301

Loffland Brothers Company
Post Office Box 2847
Tulsa, Oklahoma 74101

Lohmann-Johnson Drilling Co., Inc.
1302 Old National Bank Building
Evansville, Indiana 47708

MAC Drilling, Inc.
Post Office Box 97
Livonia, Louisiana 70755

Mack Oil Company
Post Office Box 400
Duncan, Oklahoma 73533

Mallard Well Service, Inc.
Post Office Box 51498, O.C.S.
106 Heymann Boulevard
Lafayette, Louisiana 70501

Manning, R. L., Company
2100 Tower Building
1700 Broadway
Denver, Colorado 80202

Marine Drilling Company
900 Corpus Christi State National Building
Corpus Christi, Texas 78401

Marlin Drilling Co., Inc.
Post Office Box 51887, O.C.S.
Lafayette, Louisiana 70501

Mayronne Company
Suite 2106, 225 Baronne Street
New Orleans, Louisiana 70112

McCall, Gabe, Drilling Company
Post Office Box 2068
108 Warehouse Road
Casper, Wyoming 82601

McCutchen, J. W., Drilling Co.
410 Oil and Gas Building
Wichita Falls, Texas, 76301

McDowell, Franks and Fowler, Inc.
Post Office Box 7775
Shreveport, Louisiana 71107

Megargel Drilling Co., Inc.
Post Office Box 356
Megargel, Texas 76370

Melco Drilling Co., Inc.
Post Office Box 1360
Seminole, Oklahoma 74868

Melton Drilling Company
7101 Downing Avenue
Bakersfield, California 93308

Miller Drilling Company
Box 6264, South
Ft. Smith, Arkansas 72901

Montgomery Drilling Company
Post Office Box 747
El Dorado, Arkansas 71730

Montgomery, R. B. Drilling Inc.
Post Office Box 2508
Bakersfield, California 93303

Moran Brothers, Inc.
1000 Petroleum Building
Wichita Falls, Texas 76301

Moran, E. W., Drilling Co.
1020 Oil and Gas Building
Wichita Falls, Texas 76301

Moran Oil Producing and Drilling Corporation
Post Office Box 1919
Hobbs, New Mexico 88240

Moranco
Post Office Box 1860
Hobbs, New Mexico 88240

Murco Drilling Corporation
1802 Beck Building
Shreveport, Louisiana 71101

Murfin Drilling Company
617 Union Center
Wichita, Kansas 67202

Mustang Drilling Corporation
730 Citizens Bank Building
Tyler, Texas 75701

Nabors Alaska Drilling, Inc.
Suite 140, 909 West 9th Avenue
Anchorage, Alaska 99501

National Energy Corporation
Post Office Box 762
Brentwood, Tennessee 37027

Neaves Petroleum Developments
239 South Beverly Drive
Beverly Hills, California 90212

New and Hughes Drilling Co., Inc.
Post Office Drawer 1487
Natchez, Mississippi 39120

Newman Brothers Drilling Co.
1432 Milam Building
San Antonio, Texas 78205

Nichols Drilling Company
1510 Main, Box 988
Duncan, Oklahoma 73533

Nicklos Drilling Company
518 First City National Bank Bldg.
Houston, Texas 77002

Noble Drilling Corporation
2200 Fourth National Bank Bldg.
Tulsa, Oklahoma 74119

Norris, W. D. I.
1116 Republic National Bank Bldg.
Dallas, Texas 75201

North American Drilling Co.
1104 N. Mission, P.O. Box 129
Mt. Pleasant, Michigan 48858

Ocean Drilling and Exploration Company
1600 Canal Street
Post Office Box 61780
New Orleans, Louisiana 70160

Offshore Company, The
Post Office Box 2765
Houston, Texas 77001

O'Neal Drilling Company, Inc.
Post Office Box 12278
Oklahoma City, Oklahoma 73312

Owens, Jack, Service Co.
1237 Monte Vista Way
Sacramento, California 95831

Parker Drilling Company
518 National Bank of Tulsa
Tulsa, Oklahoma 74103

Pearl, Bill, Drilling Company
1023 East Main
Alice, Texas 78332

Penrod Drilling Company
3333 First National Bank Bldg.
Dallas, Texas 75202

Pool Company
Post Office Box 1940
San Angelo, Texas 76901

Porter, Gene, Drilling Co.
317 W. Broadway, Box 389
Cushing, Oklahoma 74023

Power Rig Drilling, Co., Inc., The
503 Pinhook Road
Post Office Box 51436, O.C.S.
Lafayette, Louisiana 70501

Prairie Drilling Company
5730 W. Yellowstone
Casper, Wyoming 82601

Precision Drilling, Inc.
Fifteen W. 130 Plainfield Road
Hinsdale, Illinois 60521

Pruet, Chesley, Drilling Co.
Post Office Box 31
El Dorado, Arkansas 71730

Pyburn Drilling Company
Post Office Box 4276
Shreveport, Louisiana 71104

Quasar, Incorporated
Post Office Box 3246
Evansville, Indiana 47701

R. K. Petroleum Corp.
Post Office Box 192
Petroleum Building
Mt. Carmel, Illinois 62863

Rains and Williamson Oil Co., Inc.
1425 Vickers-KSB & T Building
Wichita, Kansas 67202

Rea, Slim Drilling Company
Post Office Box 149
London, Kentucky 40741

Reading and Bates Offshore Drilling Company
1100 Philtower Building
Tulsa, Oklahoma 74103

Rebstock Drilling Company
3525 North Causeway Boulevard
Suite 724
Metairie, Louisiana 70002

Rhodes and Hicks Drilling Corp.
1315 East Main Street
Post Office Box 1579
Alice, Texas 78332

Rine Drilling Co., Inc.
Suite 600, 300 West Douglas
Wichita, Kansas 67202

Robinson Bros. Drilling Co.
506 Vaughn Building
Midland, Texas 79701

Rod Ric Corporation
Post Office Box 1767
Midland, Texas 79701

Roden Drilling Company
531 Wyoming Building
Post Office Box 2895
Casper, Wyoming 82601

Rogers and Briscoe Drilling Company
Post Office Box 461
Dunlap Building
Ardmore, Oklahoma 74301

Rowan Companies, Inc.
1900 Post Oak Tower
5051 Westheimer
Houston, Texas 77027

Rutledge, Paul P.
Post Office Box 2303
Petroleum Building
Sante Fe, New Mexico 87501

Sabre Drilling Company
113 North Harrison
Cushing, Oklahoma 74023

Sage Drilling Co., Inc.
500 Bitting Building
Wichita, Kansas 67202

San Jacinto Drilling Co.
407 San Jacinto Building
Houston, Texas 77002

Sanders Workover and Drilling Company, Inc.
Post Office Box 1086
New Iberia, Louisiana 70560

Sante Fe Drilling Company
A Division of Sante Fe Int'l Corp.
Union Bank Square, South Tower
Post Office Box 1401
Orange, California 92668

Sawyer Drilling and Service, Inc.
817 Lane Building
Post Office Box 1533
Shreveport, Louisiana 71165

Schlaikjer, A. L., Inc.
Post Office Box 761
New Castle, Wyoming 82701

Schlensker Drilling Corp.
Box 1003
Richardson, Texas 75080

Scott, Don, Drilling Co., Inc.
Post Office Box 177
128 E. Chicago Road
Jonesville, Michigan 49250

Sea Drilling Corporation
307 Maryland Casualty Building
New Orleans, Louisiana 70112

Seaboard Well Service, Inc.
Post Office Box 51286
Lafayette, Louisiana 70501

Sedco, Inc.
1901 North Akard, Cumberland Hill
Dallas, Texas 75201

Services, Equipment and Engineering, Inc.
Route 5, Box 350-A
Conroe, Texas 77301

Shaft Drillers, Inc.
East 905 Third Avenue
Spokane, Washington 99202

Sharp Drilling Company
Box 1271
Midland, Texas 79701

Shuler Drilling Co., Inc.
3514 West Hillsboro
El Dorado, Arkansas 71730

Signal Drilling Company, Inc.
1200 Security Life Building
Denver, Colorado 80202

Sitton, C. W., Drilling Co., Inc.
412 Court Building
Evansville, Indiana 47708

Sitton and Norton Drilling Company
503 Lubbock National Bank Building
Lubbock, Texas 79401

Snyder Drilling-Well Servicing Company
Post Office Drawer East
Highway 1 South
Grayville, Illinois 62844

Soape Drilling Company
Box 1284
Billings, Montana 59103

Sojourner Drilling Corp.
Post Office Box 3234
417 Citizens National Bank Building
Abilene, Texas 79604

Southern Marine Drilling Co.
900 Corpus Christi State National Building
Corpus Christi, Texas 78401

Southland Drilling Co., Inc.
D-308 Petroleum Center
San Antonio, Texas 78209

Standard Drilling Co., Inc.
Post Office Box 1172
Oklahoma City, Oklahoma 73101

Stickle Drilling Company
1100 Bitting Building
Wichita, Kansas 67202

Storm Drilling Company
4141 Southwest Freeway
Box 22791
Houston, Texas 77027

Strata Drilling, Inc.
2421 Tenth Street
Post Office Box 355
Great Bend, Kansas 67530

Stuarco Drilling Company
2117 First National Bank Building
Denver, Colorado 80202

Sumpter and Barker Drilling Company, Inc.
Post Office Box 1081
Stillwater, Oklahoma 74074

Sun Marine Drilling Company
4250 Wilshire Boulevard
Los Angeles, California 90010

Symons Drilling Company
Post Office Box 51142, O.C.S.
Lafayette, Louisiana 70501

T-L Drilling Company, Inc.
Post Office Box 33349
Houston, Texas 77033

Teledyne Movible Offshore
Post Office Box 51936, OCS
Heymann and Travis Building 22
Lafayette, Louisiana 70501

Thompson, A.W., Inc.
Post Office Box 1726
407 Midland National Bank Bldg.
Midland, Texas 79701

Thompson Drilling Company
3333 West Coast Highway
Suite 402
Newport Beach, California 92660

Toltek Drilling Company
340 Denver Club Building
Denver, Colorado 80202

Transworld Drilling Company
Kerr-McGee Building
Post Office Box 25861
Oklahoma City, Oklahoma 73102

Troop, R.H., Drilling Company
Post Office Box 156
St. Elmo, Illinois 62458

True Drilling Company
Post Office Drawer 2360
Casper, Wyoming 82601

Two "R" Drilling Co., Inc.
450 Saratoga Building
New Orleans, Louisiana 70112

Unit Drilling Company
1101 Petroleum Club Building
Tulsa, Oklahoma 74119

United Drilling Company of Tyler
497 Petroleum Building
Tyler, Texas 75701

V-T Drilling Company
711 Hulman Building
Post Office Box 3787
Evansville, Indiana 47701

Verna Drilling Company
Post Office Box 1000
Levelland, Texas 79336

Viersen and Cochran Drilling Company
Box 280
McCulloch Building
Okmulgee, Oklahoma 74447

W. E. K. Drilling Co., Inc.
Post Office Box 2055
1200 South Richardson
Roswell, New Mexico 88201

Walker-Huthnance Offshore Workover Co.
514 Southwest Tower
Houston, Texas 77002

Ward Drilling Co., Inc.
Post Office Box 357
2137 Peters Road
Harvey, Louisiana 70058

Warren, O. F., and Co., Inc.
17 West Fourth Street
Tulsa, Oklahoma 74103

Warton Drilling Company
Box 3747
Odessa, Texas 79760

Wes-Tex Drilling Company
Post Office Box 2895
Abilene, Texas 79604

Western Oceanic
A Division of The Western Company of North America
2000 West Loop South
Suite 2222
Houston, Texas 77002

Wheless Drilling Company
Post Office Box 1746
Shreveport, Louisiana 71166

Whitley, Frank J.
Briar Dale Petroleum Building
No. 1 Brair Dale
Houston, Texas 77027

Williams Drilling Company, Inc.
Post Office Box 64658
Baton Rouge, Louisiana 70806

Willis Drilling Company, Inc.
Post Office Box 479
Edinburg, Texas 78539

Wilson Brothers Corporation
707 Petroleum Tower
Post Office Box 22
Shreveport, Louisiana 71161

Wilson, Fred, Drilling Co., Inc.
707 Petroleum Tower
Post Office Box 22
Shreveport, Louisiana 71161

Woolf and Magee, Inc.
Post Office Box 635
Tyler, Texas 75701

John R. Burns, Owner
Burns Drilling Company
P.O. Box 451
Dover, Ohio

I. W. Lovelady, Owner
Byrd Drilling Company
406 N. Marienfield
Midland, Texas

M. M. Dillard, Exec. Vice. Pres.
Garvey Drilling Company
300 West Douglas
Wichita, Kansas

Robert N. Hillin, President
Hillin Drilling Company
P. O. Box 2889
Odessa, Texas

Peter Jones, Co-ordinator
Kingsnorth Marine Drlg. Co. Ltd.
% Houlder Brothers & Co.
53 Leadenhall Street
London, England

K. E. Murdoch, President
Midstates Drilling Company
Box 3194, Suite 404
Petroleum Bldg.
Abilene, Texas 79604

Pete Murphy, President
Murlynson Drilling Company
P. O. Box 185
Alice, Texas

C. A. Janicke
Norwegian Association of Drilling Contractors
Tordenskioldsgate 8-10-11
Oslo 1, Norway

William V. Wiseman, President
United Drilling Co., Inc.
5412 Woodway
Houston, Texas

Robert T. Birdsong, President
Webb Resources, Inc.
1776 Lincoln Street
Denver, Colorado

Yohe, Don, Drilling Company
23091 Main Street
Post Office Box 250
Armada, Michigan 48005

Young Drilling Company
Post Office Box 717
Farmington, New Mexico 87401

Zapata Off-Shore Company
1701 Houston Club Building
Houston, Texas 77002

Chaffin Workover, Inc.
Box 1227
New Iberia, Louisiana 70560

The companies construct and use drilling rigs at various locations for temporary periods of time. All of the present and future drilling locations are affected worksites.

The applicant certifies that the employees affected by this application have been notified by giving a copy of it to the authorized employee representative, and by posting copies at places where notices to employees are normally posted. Employees have also been notified of their right to petition the Assistant Secretary of Labor for a hearing.

Section 1910.27(b)(1)(i) through (iii) reads as follows:

(1) *Rungs and cleats.* (i) All rungs shall have a minimum diameter of ¾ inch for metal ladders, except as covered in subparagraph (7)(i) of this paragraph, and a minimum diameter of 1⅛ inches for wood ladders.

(ii) The distance between rungs, cleats, and steps shall not exceed 12 inches and shall be uniform throughout the length of the ladder.

(iii) The minimum clear length of rungs or cleats shall be 16 inches.

Section 1910.27(c)(4) reads as follows:

(4) *Clearance in back of ladder.* The distance from the centerline of rungs, cleats, or steps to the nearest permanent object in back of the ladder shall be not less than

7 inches, except that when unavoidable obstructions are encountered, minimum clearances as shown in figure D–3 shall be provided.

The applicant states that due to the configuration of the derricks used by the member companies, to which the ladders are attached, a variance is necessary. The ladders are permanently affixed flush to the cross members of the derricks, so that the 7 inch clearance as required by 29 CFR 1910.27(c)(4) is not always met. The applicant contends that if the ladders were extended 7 inches from the derrick, this would greatly increase the danger of structural damage to the ladders when the derricks are moved. The ladders also fail to meet the requirements of § 1910.27(b)(1)(ii), concerning the distance between rungs, because derrick cross members will cause variation in this distance. The applicant further states that not all ladders meet the requirements of 29 CFR 1910.27(b)(1)(i) and (iii) because the derricks in question are made by different manufacturers.

The applicant, on behalf of its member companies, proposes to require all employees using the derricks in question to use ladder safety devices similar to those mentioned in § 1910.27(d)(5). The applicant contends that the derricks together with the use of the safety devices, provide places of employment as safe as those required by §§ 1910.27(b)(1)(i), (ii), and (iii), and (c)(4).

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210 and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
1375 Peachtree Street
Suite 587
Atlanta, Georgia 30309

U.S. Department of Labor
Occupational Safety and Health Administration
Todd Mall, 2047 Canyon Road
Birmingham, Alabama 35216

U.S. Department of Labor
Occupational Safety and Health Administration
300 South Wacker Drive
Room 1201
Chicago, Illinois 60606

U.S. Department of Labor
Occupational Safety and Health Administration
Room 224, Bryson Building
700 Bryden Road
Columbus, Ohio 43215

U.S. Department of Labor
Occupational Safety and Health Administration
Michigan Theatre Building
Room 626, 220 Bagley Avenue
Detroit, Michigan 48226

U.S. Department of Labor
Occupational Safety and Health Administration
Room 6B1, Federal Building
1100 Commerce Street
Dallas, Texas 75202

U.S. Department of Labor
Occupational Safety and Health Administration
Room 421, Federal Building
1205 Texas Avenue
Lubbock, Texas 79401

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Building
3535 Market Street, Room 15220
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
1600 Hayes Street, Suite 302
Nashville, Tennessee 37203

U.S. Department of Labor
Occupational Safety and Health Administration
Room 561, 600 Federal Place
Louisville, Kentucky 40202

U.S. Department of Labor
Occupational Safety and Health Administration
300 South Wacker Drive
Room 1200
Chicago, Illinois 60606

U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Post Office and Courthouse
Room 423, 46 East Ohio St.
Indianapolis, Indiana 46204

U.S. Department of Labor
Occupational Safety and Health Administration
Seventh Floor, Texaco Building
1512 Commerce Street
Dallas, Texas 75201

U.S. Department of Labor
Occupational Safety and Health Administration
307 Central National Bank Bldg.
Houston, Texas 77002

U.S. Department of Labor
Occupational Safety and Health Administration
546 Carondelet Street
4th Floor
New Orleans, Louisiana 70130

U.S. Department of Labor
Occupational Safety and Health Administration
Room 802, Jonnet Building
4099 William Penn Highway
Monroeville, Pennsylvania 15146

U.S. Department of Labor
Occupational Safety and Health Administration
Room 512, Petroleum Building
420 South Boulder
Tulsa, Oklahoma 74103

U.S. Department of Labor
Occupational Safety and Health Administration
1627 Main Street, Room 1100
Kansas City, Missouri 64108

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building, Room 15010
Post Office Box 3588
1961 Stout Street
Denver, Colorado 80202

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 525, Petroleum Building
2812 First Avenue North
Billings, Montana 59101

U.S. Department of Labor
Occupational Safety and Health Administration
100 McAllister Street
Room 1706
San Francisco, California 94102

U.S. Department of Labor
Occupational Safety and Health Administration
506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building, Room 227
605 West Fourth Avenue
Anchorage, Alaska 99501

U.S. Department of Labor
Occupational Safety and Health Administration
823 Walnut Street
Waltower Building, Room 300
Kansas City, Missouri 64106

U.S. Department of Labor
Occupational Safety and Health Administration
City National Bank Building
Room 803, Harney & 16th St.
Omaha, Nebraska 68102

U.S. Department of Labor
Occupational Safety and Health Administration
Squire Plaza Building
8527 W. Colfax Avenue
Lakewood, Colorado 80202

U.S. Department of Labor
Occupational Safety and Health Administration
9470 Federal Building
450 Golden Gate Avenue
Box 36017
San Francisco, California 9410

U.S. Department of Labor
Occupational Safety and Health Administration
Hartwell Building, Room 514
Nineteen Pine Avenue
Long Beach, California 90802

U.S. Department of Labor
Occupational Safety and Health Administration
506 Second Avenue
1906 Smith Tower Building
Seattle, Washington 98104

Interim order. It appears from the application for a variance and interim order, filed by the International Association of Drilling Contractors, that the derricks affected by its application, together with ladder safety devices, provide employment and places of employment as safe as those which would prevail if the Association members were to comply fully with the requirements of 29 CFR 1910.27(b)(1)(i), (ii), (iii), and (c)(4). It further appears that an interim order is necessary, pending a decision on the application, in order to prevent undue hardship to Association members and to their employees. Therefore, it is ordered, pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c), that the member companies of the International Association of Drilling Contractors be, and they are hereby, authorized to continue using the derricks referred to in the application for a variance, provided that ladder safety devices are also used, in lieu of complying with 29 CFR 1910.27

(b)(1)(i), (ii), (iii), and (c)(4), at all workplaces indicated in this notice.

The applicant shall give notice to all affected employees of this interim order by the same means required to inform them of its application for a permanent variance.

Effective date. This interim order shall be effective on October 17, 1973, and shall remain in effect until a decision is rendered on the application for a variance.

VII. *E. F. Houghton & Co.—notice of application.* Notice is hereby given that E. F. Houghton & Co., 303 W. Lehigh Avenue, Philadelphia, Pennsylvania has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), and 29 CFR 1905.11 for a permanent variance from the standard set forth in 29 CFR 1910.219(e)(2)(ii), concerning guarding for overhead horizontal belts.

The address of the place of employment affected by the application is E. F. Houghton & Co., 2742 N. Masher Street, Philadelphia, Pennsylvania.

The applicant certifies that the employees affected by this application have been notified by its giving a copy of it to the authorized employee representative and by its posting copies at places where notices to employees are normally placed. Employees have also been notified of their right to petition the Assistant Secretary of Labor for a hearing.

The applicant contends that it is providing employment and a place of employment as safe as that required by 29 CFR 1910.219(e)(2)(ii) which reads as follows:

> (ii) Horizontal overhead belts more than seven (7) feet above floor or platform shall be guarded for their entire length under the following conditions:
> (a) If located over passageways or workplaces and traveling 1800 feet/minute or more.
> (b) If the center to center distance between pulleys is ten (10) feet or more.
> (c) If the belt is eight (8) inches or more in width . . ."

The applicant uses a transmission belt for its tannery pickling machine which is horizontal, 8 feet from the floor, a pulley center to center distance exceeding 10 feet and a maximum speed of 2515 feet/minute. The applicant proposes to build "U-shaped" guards of 2" x 2" pine lumber straddling the lower belt at 4–5 feet intervals to prevent the belt from falling on anyone if it should break or slip off the pulley. The applicant states that since the pulley is belt driven, if the belt should slip off either pulley, a complete loss of power will result precluding any flailing motion.

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210 and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Building
3535 Market Street, Room 15220
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
1317 Filbert Street, Suite 1010
Philadelphia, Pennsylvania 19107

VIII. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of any of the above applications for variances are invited to submit written data, views and arguments regarding the pertinent application no later than November 16, 1973. In addition, employers and employees who believe they would be affected by a grant or denial of any of the variances may request a hearing on the relevant application no later than November 16, 1973, in conformity with 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate and must be addressed to the Office of Standards, U.S. Department of Labor, Railway Labor Building, Room 500, 400 First Street NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of October 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.73-22143 Filed 10-17-73;8:45 am]

Office of the Secretary

WESTERN STATES REGIONAL MANPOWER ADVISORY COMMITTEE

Notice of Meeting

The Western States Regional Manpower Advisory Committee will meet in Palm Springs, Calif., on October 25–26. Appointed by the Secertary of Labor, the Committee makes recommendations to the Secretary relative to the carrying out of his duties under the Manpower Development and Training Act. Members of the Committee are chosen from representatives of labor, management, agriculture, education, training and the public at large. The chairman is Mrs. Ruth C. Chance of The Rosenberg Foundation.

At its meeting in October the WSRMAC will review the mission of the Committee and of the Manpower Administration (U.S. Department of Labor) and the Office of Education (Department of Health, Education & Welfare); discuss manpower revenue sharing and the revitalization of the State ES; and hear a report on the Work Incentive Program. The meeting will be held in the Director's Room of the International Hotel, starting at 10 a.m. on October 25, and is expected to adjourn at 12:30 p.m. on the 26th. The meeting will be open to the public.

Signed at San Francisco, Calif., this 10th day of October 1973.

[SEAL] FLOYD E. EDWARDS,
Assistant Regional Director for Manpower, Department of Labor.

[FR Doc.73-22181 Filed 10-17-73;8:45 am]

FEDERAL RESERVE SYSTEM

MERCANTILE BANCORPORATION, INC.

Order for Hearing

In the matter of the application of Mercantile Bancorporation, Inc., St. Louis, Missouri, for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Lewis & Clark State Bank of St. Louis County, St. Louis County, Missouri.

On September 21, 1973, notice of subject application was published in the FEDERAL REGISTER (38 FR 26507). Additionally, in accordance with section 3(b) of the Act (12 U.S.C. 1842(b)), notice of receipt of subject application was duly given to the Commissioner of Finance of the State of Missouri. Within 30 days thereafter, the Commissioner submitted to the Board in writing his statement expressing disapproval of the application. In light of the Commissioner's submission, the Board is required by section 3(b) of the Act to schedule a hearing on the application. Accordingly, *It is hereby ordered*, That, pursuant to section 3(b) of the Bank Holding Company Act (12 U.S.C. 1842(b)), a public hearing with respect to this application be held commencing at 9:30 a.m., on Thursday, November 8, 1973, at the Federal Reserve Bank of St. Louis, 411 Locust Street (Post Office Box 442, St. Louis, Missouri 63166), before a duly designated Administrative Law Judge, such hearing to be conducted in accordance with the Board's Rules of Practice For Formal Hearings (12 CFR Part 263).

It is further ordered, That the following matters will be the subject of consideration at said hearing, without prejudice to the designation of additional related matters and questions upon further examination:

(1) Whether the proposed acquisition would result in a monopoly, or would be in futherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

(2) Whether the effect of the proposed acquisition in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or in any other manner would be in restraint of trade, and whether any anticompetitive effects found with respect to the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; and

(3) The financial and managerial resources and future prospects of the Applicant and of the bank proposed to be acquired, and the convenience and needs of the community to be served.

It is further ordered, That any person desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before October 25, 1973, a written request containing a statement of the

nature of the Petitioner's interest in the proceedings, the extent of the participation desired, a summary of the matters concerning which the Petitioner desires to give testimony or submit evidence, and the names and identity of witnesses who propose to appear. Requests will be submitted to the designated Administrative Law Judge for his determination and persons submitting them will be notified of his decision.

By order of the Board of Governors, October 17, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-22394 Filed 10-17-73;10:42 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Participation of Head Start Program

The purpose of this notice is to revoke paragraph IV D 2 of FNS(SL) Instruction 776-2, Rev. 1, which excludes Head Start Programs established as of November 1, 1969, from participating in the Special Food Service Program for Children (7 CFR Part 225). This exclusion was a 1969 administrative decision based on budgetary considerations at the time. The present change is based on an administrative review of the current funding policies for food service in Head Start Programs. Accordingly, effective January 1, 1974, paragraph IV D 2 of FNS (SL) Instruction 776-2, Rev. 1, is revoked, and Head Start Programs shall become eligible to participate in the Special Food Service Program for Children at the rates specified in § 225.10(b) of the regulations, without regard to the date of their establishment.

Dated October 17, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-22393 Filed 10-17-73;10:35 am]

Forest Service

BIG CREEK PLANNING UNIT; MULTIPLE USE PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Multiple Use Plan Big Creek Planning Unit, Forest Service report number USDA-FS-FES (Adm). 73-57.

The environmental statement concerns a proposed implementation of a revised multiple use plan for the Big Creek Planning Unit, Rexford Ranger District, Kootenai National Forest, and located in Lincoln County, Montana. The proposal affects approximately 91,000 acres of National Forest lands which have been stratified into nine management situations or units with similar resource implications.

This final environmental statement was filed with CEQ on October 12, 1973.

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

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Northern Region
Federal Building
Missoula, Montana 59801

USDA, Forest Service
Kootenai National Forest
Box AS
Libby, Montana 59923

A limited number of single copies are available upon request to Acting Forest Supervisor Robert W. Damon, Kootenai National Forest, Box AS, Libby, Montana 59923.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 12, 1973.

[FR Doc.73-22264 Filed 10-17-73;8:45 am]

CENTENNIAL MOUNTAIN PLANNING UNIT; LAND USE PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a final environmental statement for the purpose of identifying and evaluating the effects of implementing the plan for the Centennial Mountain Planning Unit. The Forest Service Report Number is USDA-FS-FES (Adm) 74-6.

The environmental statement concerns a land use plan governing the management of lands on the Targhee National Forest. Management includes timber harvesting, forage utilization by domestic livestock, watershed improvement practices, maintenance of suitable wildlife habitat, provision for minerals extraction, recreation, road construction, protection of esthetic values, and other uses which are available from the National Forests.

The final environmental statement was filed with CEQ on October 15, 1973.

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

USDA, Forest Service
Federal Office Building, Room 2025
324 25th Street
Ogden, Utah 84401

Forest Supervisor's Office
Targhee National Forest
420 North Bridge Street
St. Anthony, Idaho 83445

District Ranger's Office
Dubois Ranger District
Dubois, Idaho 83423

District Ranger's Office
Island Park Ranger District
Island Park, Idaho 83429

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th Street & Independence Ave. SW.
Washington, D.C. 20250

A limited number of single copies are available upon request to Forest Supervisor, Targhee National Forest, 420 North Bridge Street, St. Anthony, Idaho 83445.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 15, 1973.

[FR Doc.73-22262 Filed 10-17-73;8:45 am]

ROADLESS AND UNDEVELOPED AREAS WITHIN NATIONAL FORESTS; SELECTION OF NEW STUDY AREAS

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Selection of New Study Areas from Roadless and Undeveloped Areas within National Forests. Report number USDA-FS-FES (Adm) 73-42.

The environmental statement concerns proposed action to select 274 New Study Areas from an inventory of 1,499 areas of undeveloped National Forest lands, such areas to be further evaluated as to the desirability of adding them to the National Wilderness Preservation System.

This final environmental statement was filed with CEQ on October 15, 1973.

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

USDA, Forest Service
South Agriculture Bldg.
12th Street & Independence Avenue SW.
Washington, D.C. 20250

Copies will also be available at Forest Service Regional Offices and Forest Supervisors' Headquarters.

A limited number of single copies are available upon request to Chief John R. McGuire, Forest Service, South Agriculture Bldg., Washington, D.C. 20250.

Copies of this environmental statement have been sent to various Federal, State, and local agencies as outlined in

the Council on Environmental Quality guidelines.

Copies have been sent to the 50 State Clearinghouses.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement when ordering.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 15, 1973.

[FR Doc.73-22263 Filed 10-17-73;8:45 am]

SALMON RIVER WILDERNESS AND IDAHO WILDERNESS PROPOSAL

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Salmon River Wilderness and Idaho Wilderness Proposal, Report Number USDA-FS-DES (Leg) 74-36.

The environmental statement concerns review of the Idaho and Salmon River Breaks Primitive Areas and a proposal to establish the Salmon River Wilderness and Idaho Wilderness.

This draft environmental statement was filed with CEQ on October 12, 1973.

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

USDA, Forest Service
South Agriculture Building, Room 3231
12th and Independence Avenue SW.
Washington, D.C. 20250

USDA, Forest Service
Federal Building
Missoula, Montana 59801

USDA, Forest Service
Federal Building, Room 4002
324 25th Street
Ogden, Utah 84401

USDA, Forest Service
316 North Third Street
Hamilton, Montana 59840

USDA, Forest Service
1075 Park Boulevard
Boise, Idaho 83706

USDA, Forest Service
Forest Service Building
P.O. Box 1026
McCall, Idaho 83638

USDA, Forest Service
319 East Main
Grangeville, Idaho 83530

USDA, Forest Service
Forest Service Building
Challis, Idaho 83226

USDA, Forest Service
Forest Service Building
P.O. Box 729
Salmon, Idaho 83467

A limited number of single copies are available upon request to John R. McGuire, Chief, Forest Service, South Agriculture Building, 12th and Independence Avenue SW., Washington, D.C. 20250.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdiction by law or special expertise with respect to any environment impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Steve Yurich, Regional Forester, Federal Building, Missoula, Montana 59801, and Vernon O. Hamre, Regional Forester, Federal Building, 325 25th Street, Ogden, Utah 84401. Comments must be received by January 7, 1974, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 12, 1973.

[FR Doc.73-22267 Filed 10-17-73;8:45 am]

SALMON RIVER WILDERNESS AND IDAHO WILDERNESS PROPOSAL

Hearings

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890-892; 16 U.S.C. 1131-1132), that a public hearing will be held, beginning at 9 a.m. on November 26, 1973, in the Rodeway Inn, Boise, Idaho; on November 28, 1973, in the Ponderosa-Lewis and Clark Motor Inn, Lewiston, Idaho; and on November 30, 1973, in the Holiday Inn, Boise, Idaho, on a proposal for a recommendation to be made by the Secretary of Agriculture to the President of the United States that a recommendation be submitted to the Congress for establishment of the Salmon River Wilderness and the Idaho Wilderness, comprised of approximately 1,531,876 acres within and contiguous to the Idaho and Salmon River Breaks Primitive Areas. The proposed Salmon River Wilderness and Idaho Wilderness are located in the Bitterroot, Boise, Challis, Payette, Salmon, and Nezperce National Forests in the counties of Custer, Idaho, Lemhi, and Valley in the State of Idaho.

This public hearing will be concurrent with a public hearing on a proposal for a recommendation to be made by the Secretary of Agriculture to the President of the United States that a recommendation be submitted to the Congress for the establishment of the Salmon Wild and Scenic River in accordance with provisions of the Wild and Scenic Rivers Act of October 2, 1968 (P.L. 90-542), the proposed Wild and Scenic River flows from North Fork, Idaho, to the Snake River, a distance of 237.1 miles.

Brochures containing a map and information about the proposed Wildernesses and the proposed Wild and Scenic River may be obtained from the following:

Bitterroot National Forest
316 North Third Street
Hamilton, Montana 59840

Boise National Forest
1075 Park Boulevard
Boise, Idaho 83706

Payette National Forest
Forest Service Building
P.O. Box 1026
McCall, Idaho 83638

Regional Forester
Northern Region
Federal Building
Missoula, Montana 59801

Nezperce National Forest
319 East Main
Grangeville, Idaho 83530

Challis National Forest
Forest Service Building
Challis, Idaho 83226

Salmon National Forest
Forest Service Building
P.O. Box 729
Salmon, Idaho 83467

Regional Forester
Intermountain Region
Federal Building
Ogden, Utah 84401

Individuals and organizations may express their views by appearing at these hearings or, following the hearings, may submit written comments for inclusion in the official record to the Regional Forester, Federal Building, Missoula, Montana 59801, or the Regional Forester, Federal Building, Ogden, Utah 84401, by January 7, 1974.

Because of the large attendance anticipated, those wishing to make prior arrangements to express their views at these hearings should notify Regional Forester, Federal Building, Ogden, Utah 84401, of their intent by November 19, 1973. Such notice should state at which hearing location the views will be expressed and whether they deal with the proposed Wildernesses, the proposed Wild and Scenic River, or both.

JOHN R. MCGUIRE,
Chief, Forest Service.

OCTOBER 12, 1973.

[FR Doc.73-22265 Filed 10-17-73;8:45 am]

VEGETATION MANAGEMENT WITH HERBICIDES SISKIYOU, SIUSLAW, AND UMPQUA NATIONAL FORESTS, 1974-1975

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement on Vegetation Management With Herbicides on the Siskiyou, Siuslaw, and Umpqua National Forests, for the period January 1, 1974-July 1, 1975. USDA-FS-DES (Adm) 74-35.

The environmental statement concerns the use of selective herbicides to reduce

the competition from native vegetation where it hampers forest management activities.

This draft environmental statement was filed with CEQ on October 12, 1973.

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

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave. SW
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 SW Pine Street
Portland, Oregon 97208

Siskiyou National Forest
1504 NW 6th Street
P.O. Box 440
Grants Pass, Oregon 97526

Siuslaw National Forest
545 SW 2nd Street
P.O. Box 1148
Corvallis, Oregon 97330

Umpqua National Forest
Federal Office Building
P.O. Box 1008
Roseburg, Oregon 97470

A limited number of single copies are available upon request to:

Regional Forester
319 SW Pine Street
P.O. Box 3623
Portland, Oregon 97208

Forest Supervisor
Siskiyou National Forest
1504 NW 6th Street
P.O. Box 440
Granta Pass, Oregon 97526

Forest Supervisor
Siuslaw National Forest
545 SW 2nd Street
P.O. Box 1148
Corvallis, Oregon 97330

Forest Supervisor
Umpqua National Forest
Federal Office Building
P.O. Box 1008
Roseburg, Oregon 97470

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to:

Theodore A. Schlapfer
Regional Forester
P.O. Box 3623
Portland, Oregon 97208

Comments must be received by December 12, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 12, 1973.

[FR Doc.73-22266 Filed 10-17-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 365]

ASSIGNMENT OF HEARINGS

OCTOBER 15, 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 October 18, 1973.

MC 129282 Sub 17, Berry Transportation, Inc., now assigned November 19, 1973, at Washington, D.C., is canceled and application dismissed.

MC-C-8093, Philipp Transit Lines, Inc., V-Daniel Hamm Drayage Co., now assigned November 6, 1973, will be held in the Penthouse Jefferson Bldg., 101 Capital Street, Jefferson City, Mo.

MC-C-8139, E. L. Farmer & Company—Investigation and Revocation of Certificates—now being assigned hearing November 29, 1973 (2 days), at Dallas, Tex., in a hearing room to be later designated.

MC 116073 Sub 270, Barrett Mobile Home Transport, Inc., now being assigned hearing December 3, 1973 (1 week), at Dallas, Tex., in a hearing room to be later designated.

FD-27438, National Railroad Passenger Corporation Discontinuance of Trains Nos. 98 & 99 Between Norfolk, Newport News and Richmond, Virginia, now assigned October 24, 1973 at Newport News, Va., is postponed to November 26, 1973 (2 days), at Newport News, Va., now assigned October 28, 1973, at Richmond, Va., is postponed to November 28, 1973 (1 day), at Richmond, Va., in a hearing room to be later designated.

No. 35849, Barton Truck Line, Inc., Et Al. v. Garrett Freightlines, Inc., now being assigned January 23, 1974, at Salt Lake City, Utah, in a hearing room to be later designated.

No. 35794, Northville Dock Pipe Line Corp. and Consolidated Petroleum Terminal, Inc.—Petition for Declaratory Order of Investigation and No. 35852, Northville Dock Pipe Line Corp., Northville Industries Corp., Consolidated Petroleum Terminal, Inc. and Total Resources, Inc.—Investigation of Operations, now assigned November 5, 1973, at New York, New York, will be held in Room E-2222, 26 Federal Plaza, New York, New York.

No. 35869, Continental Bus System, Inc., Continental Southern Lines, Inc., Continental Trailways Tours, Inc., and Ray A. Johnson, Dba Universal Travel Service—Investigation of Operations and Practices—, now being assigned hearing November 27, 1973, (2 days), at Dallas, Tex., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-22271 Filed 10-17-73;8:45 am]

[Notice No. 374]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 7, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74471. By second supplemental order of October 11, 1973, the Motor Carrier Board approved for inclusion in the subject proceeding, the transfer to Wayne Daniel Truck, Inc., Mount Vernon, Mo., of Certificate No. MC-133591 (Sub-No. 6), issued August 9, 1973, to Wayne Daniel, doing business as Wayne Daniel Truck, Mount Vernon, Mo., authorizing the transportation of toys, barbeque grills, and barbeque equipment, except sandboxes, blackboards, and chalkboards, from the facilities of Buddy Corporation at or near Neosho, Mo., to El Paso, Tex., and points in California, Nevada, Utah, Washington, Oregon, New Mexico, Arizona, Colorado, and Idaho. Dual operations were authorized. Frederick J. Coffman, 521 South 14th Street, P.O. Box 80806, Lincoln, Nebr. 68501, attorney for applicants.

No. MC-FC-74613. By order of October 4, 1973, the Motor Carrier Board approved the transfer to Municipality of Metropolitan Seattle, doing business as METRO, Seattle, Wash., of the operating rights in Certificate No. MC-129375 issued January 27, 1970, to Metropolitan Transit Corporation, Seattle, Wash., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Seattle, Wash., and

Auburn, Wash., between Seattle and Everett, Wash., between junction U.S. Highway 99 and Washington Highway 147 and Tacoma, Wash., between Seattle and Redmond, Wash., between junction U.S. Highway 99 and Washington Highway 104 and Edmonds, Wash., between Seattle and Des Moines, Wash., between junction U.S. Highway 10 and Washington Highway 901 and North Bend, Wash., between Seattle and Renton, Wash., and between junction U.S. Highway 99 and Richmond Beach Road and Richmond Beach, Wash., serving all intermediate points except those between junction U.S. Highway 99 and Richmond Beach Road and Richmond Beach, Wash. Michael B. Crutcher, 2000 IBM Building, Seattle, Wash. 98101, attorney for applicants.

No. MC-FC-74727. By order of October 12, 1973, the Motor Carrier Board approved the transfer to R. B. N. Transportation Co., Montebello, Calif., of Certificate of Registration No. 96697 (Sub-No. 1), issued on October 27, 1965, to City Transfer, Inc., Santa Fe Springs, Calif., evidencing the authority to perform a transportation service in interstate or foreign commerce corresponding in scope to the intrastate authority granted in Certificate No. 59618 by the Public Utilities Commission of the State of California. Mr. Charles R. Hart, Jr., Attorney at Law, 6055 E. Washington Blvd., Los Angles, Calif. 90040.

No. MC-FC-74734. By order of October 11, 1973, the Motor Carrier Board approved the transfer to Moore's Hauling, Inc., Lansdale, Pa., of Certificates No. MC-133082 and MC-133082 (Sub No. 2), issued to James E. Moore, dba Moore's Hauling, Lansdale, Pa., authorizing the transportation of: Packaging materials and general commodities, with exceptions, between specified points in Pennsylvania, and points in New York, New Jersey, Maryland, and the District of Columbia. The general commodities move only between points in Pennsylvania. Raymond A. Thistle, attorney, 4 Penn Center Plaza, Phila., Pa., 19103.

No. MC-FC-74749. By order entered October 11, 1973, the Motor Carrier Board approved the transfer to Newland Incorporated, Wellsville, Kans., of the operating rights set forth in Certificates Nos. MC-40494, MC-40494 (Sub-No. 5), MC-40494 (Sub-No. 7), and MC-40494 (Sub-No. 9), issued by the Commission August 2, 1967, January 12, 1945, February 3, 1947, and June 14, 1949, respectively, in the name of J. S. Byard, Enid, Oklahoma, authorizing the transportation of farm machinery, horses, livestock, washing machines, agricultural machinery and tractors, and parts, new and used combines, knocked-down, and combines, set up and parts thereof, from, to, or between points in Arkansas, Iowa, Kansas, Minnesota, Missouri, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, and Texas. John L. Richeson, First National Bank Bldg., Ottawa, Kansas 66067, attorney for applicant.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-22274 Filed 10-17-73;8:45 am]

[Notice No. 138]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 11, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 26396 (Sub-No. 95 TA), filed September 27, 1973. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, 201 W. Park, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Wayne Waggoner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bee keepers' supplies and accessories* used in the installation thereof, from (1) Polson, Mont., to Paris and Dallas, Tex.; Sioux City, Iowa; Watertown, Wis.; Hornell, N.Y.; Lynchburg, Va.; Hihira and Atlanta, Ga.; Umatilla, Fla.; Oakland and Los Angeles, Calif.; Memphis, Tenn.; and Greensboro, N.C., and (2) between Polson, Mont., and Hamilton, Ill., for 180 days. SUPPORTING SHIPPER: Western Bee Supplies, Inc., P.O. Box 8, Polson, Mont. 59860. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 29910 (Sub-No. 134 TA), filed October 1, 1973. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. 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 of DLM, Inc., located five miles east of Malvern, Ark., as an off-route point in connection with applicant's regular route authority to and from Malvern, Ark., for 180 days.

NOTE.—Applicant intends tack with MC 29910 and Subs thereto.

SUPPORTING SHIPPER: DLM, Inc., P.O. Box 37, Malvern, Ark. 72104. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 88161 (Sub-No. 88 TA), filed October 2, 1973. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, Wash. 98108. Applicant's representative: Stephen A. Cole (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resins*, in bulk and *resin catalysts*, in drums or bags, on the same vehicle, in combinations for the same shipper, from Kent, Wash., to Emmett and Salmon, Idaho, and Columbus, Mont.; and from Portland, Oreg., to Spokane, Wash., for 180 days. SUPPORTING SHIPPERS: Able Fabricators, Inc., P.O. Box 5274, N. 1407 Elm, Spokane, Wash.; Borden Chemical, Division of Borden, Inc., 200 112th Avenue NE., Bellevue, Wash. 98004; Pacific Resins & Chemicals, Inc., 1754 Thorne Road, Tacoma, Wash. 98421; The Intermountain Company, Division of Hoerner-Waldorf Corp., P.O. Box 1208, Salmon, Idaho 83467; and Timberweld Manufacturing, P.O. Box 66B, Columbus, Mont. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 96770 (Sub-No. 10 TA), filed October 2, 1973. Applicant: FLORIDA TERMINALS AND TRUCKING COMPANY, 921 East Landstreet, P.O. Box 13607, Orlando, Fla. 32809. Applicant's representative: Gregory A. Presnell, 17th Floor, CNA Building, Orlando, Fla. 32802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except items of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Orange County, Fla., on the one hand, and, on the other, points in Pinellas, Manatee, Hillsborough, Sarasota, Charlotte, Lee, Palm Beach, Broward, and Dade Counties, Fla., and points in that portion of Martin County south of St.

Lucie River, for 180 days. RESTRICTIONS: The authority sought will be subject to the following restrictions: (1) Restricted to traffic having a prior or subsequent movement by rail, and (2) restricted against shipments weighing less than 1,000 pounds consisting of items weighing less than 125 pounds; however, said weight restriction shall not apply to traffic moving on freight forwarder or government bills of lading.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority.

SUPPORTING SHIPPER: Donmark Division of Northrup, Inc., 2836 Scarlet Road, Winter Park, Fla. 32789. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 111289 (Sub-No. 3 TA), filed October 3, 1973. Applicant: RICHARD D. FOLTZ, 806 North Warren Street, Orwigsburg, Pa. 17961. Applicant's representative: James W. Hagar, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, chocolate coating, cocoa, flavoring syrup, cocoa butter, and milk chocolate or cocoa compounds* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Derry Township (Dauphin County), Pa., to Baltimore, Md., and Washington, D.C., and their commercial zones as defined by the Commission, for 180 days. SUPPORTING SHIPPERS: Hershey Foods Corporation, Hershey, Pa. 17033, and H. B. Reese Candy Co., Inc., Hershey, Pa. 17033. SEND PROTESTS TO: Paul J. Kenworth, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 112520 (Sub-No. 275 TA), filed October 3, 1973. Applicant: McKENZIE TANK LINES, INC., New Quincy Road, P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Ronald D. Peterson, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste liquor*, in bulk, in tank vehicles, between Union Camp Corporation facilities near Montgomery, Ala., and Taylor County, Fla., for 180 days. SUPPORTING SHIPPER: Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 114533 (Sub-No. 281 TA), filed October 3, 1973. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Indianapolis, Ind., on the one hand, and, on the other, points in Stephenson, Ogle, Lee, Will, Whiteside, Grundy, LaSalle, Bureau, Livingston, Peoria, Henry, Knox, Warren, McDonough, Fulton, Tazewell Champaign, Dewitt, Macon, Sangamon, Logan, and McLean Counties, Ill., for 180 days. SUPPORTING SHIPPER: The Kroger Co., 1014 Vine St., Cincinnati, Ohio. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 115331 (Sub-No. 350 TA), filed October 2, 1973. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 N. Geyer Road, St. Louis, Mo. 63131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Depue, Ill., to Fort Madison, Iowa, for 180 days. SUPPORTING SHIPPER: Firstmiss, Inc., Fort Madison, Iowa 52627. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 116544 (Sub-No. 143 TA), filed September 21, 1973. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, P.O. Box 636, Carthage, Mo. 64836. Applicant's representative: Robert Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Clearfield Cheese Co., at br near Clinton, Mo., to points in Arizona, California, Colorado, and New Mexico, for 180 days. RESTRICTION: Restricted to traffic originating at Clinton, Mo. SUPPORTING SHIPPER: Clearfield Cheese Co., Inc., P.O. Box 313, Clinton, Mo. 64735. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 117765 (Sub-No. 166 TA), filed October 3, 1973. Applicant: HAHN TRUCK LINE, INC., 5315 NW. 5th, P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages*, in containers, and *related advertising material*, from Memphis, Tenn., to Colby and Hutchinson, Kans., for 180 days. SUPPORTING SHIPPER: Richard R. Blick, Blick Sales, 526 West 1st, Hutchinson, Kans. 67501. SEND PROTESTS: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old Post Office Building, 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 123233 (Sub-No. 51 TA), filed October 2, 1973. Applicant: PROVOST CARTAGE INC., 7887 Second Avenue, Ville d'Anjou 437, Quebec, Canada. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the Ports of Entry on the International Boundary line between the United States and Canada located in New York, Vermont, and Maine, to all points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Ohio, Rhode Island, and Vermont, restricted to traffic having a prior movement in foreign commerce originating at the plantsites of Canadian Industries Limited and of Cornwall Chemicals Limited at Cornwall, Ontario, Canada, for 180 days. SUPPORTING SHIPPER: Canadian Industries Limited, 630 Dorchester Boulevard West, Montreal 101, Quebec, Canada (P.O. Box 10). SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, 87 State Street, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 123640 (Sub-No. 11 TA), filed October 1, 1973. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Avenue, Fort Wayne, Ind. 46803. Applicant's representative: Irving Klein, 280 Broadway, New York, N.Y. 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold or dealt in by wholesale hardware houses, between Dixon, Ill., on the one hand, and, on the other, points in Indiana, Missouri, Wisconsin, Minnesota, Iowa, Nebraska, Illinois, and points in Michigan on the west of a line beginning at the Indiana-Michigan state line, thence northerly along Interstate Highway 69 to its junction U.S. Highway 27, thence along U.S. Highway 27 (through and including Lansing, Mich.) to its junction with Interstate Highway 75, thence along Interstate Highway 75 to the Canadian border, points in the Sioux City, Iowa Commercial Zone, for 180 days. SUPPORTING SHIPPER: Hardware Wholesalers Inc., P.O. Box 868, Nelson Road, Fort Wayne, Ind. 46801. SEND PROTESTS TO: J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 128988 (Sub-No. 32 TA), filed October 1, 1973. Applicant: JO/KEL, INC., P.O. Box 1249, 159 South Seventh Avenue, City of Industry, Calif. 91749. 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: *Home decorating trimmings and accessories and items* used in the sale, distribution, and installation of home decorating trimming and accessories, (1) from Montgomery, Pa., to Dallas, Tex., and Sun Valley, Calif., and

(2) from Dallas and Lockhart, Tex., to Sun Valley, Calif., for 180 days. RESTRICTION: Restricted to traffic originating at or destined to the facilities of Conso Products, Division of Consolidated Food Corporation, further restricted against the transportation of commodities in bulk and those commodities which because of their size or weight require the use of special equipment and further restricted to a transportation service to be performed under a continuing contract or contracts with Conso Products, Division of Consolidated Food Corporation. SUPPORTING SHIPPER: Conso Products, Division of Consolidated Food Corporation, 999 Central Park Avenue, Yonkers, N.Y. 10704. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 129159 (Sub-No. 4 TA), filed October 3, 1973. Applicant: A. T. PINTO, INC., 3320 South 3d Street, Philadelphia, Pa. 19148. Applicant's representative: V. Baker Smith, 2107 The Fidelity Bldg., Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, conduit, couplings, and accessories* necessary for the installation thereof (except commodities in bulk), from the plantsite and storage facilities of Certain-Teed Products Corporation at Ambler, Pa., to points in Connecticut, Delaware, Maryland, New Jersey, New York, Virginia, Massachusetts and Rhode Island, for 180 days. SUPPORTING SHIPPER: Certain-Teed Products Corporation, P.O. Box 860, Valley Forge, Pa. 19482. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 129942 (Sub-No. 2 TA), filed October 3, 1973. Applicant: KEITH WILLIAMS TRANSPORT, INC., P.O. Box 45, Vicksburg, Miss. 39180. Applicant's representative: William G. Beanland, P.O. Box 991, Vicksburg, Miss. 39180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires* in containers from Vicksburg, Miss., to Natchez, Miss. and *empty containers* on return, restricted to traffic having a prior or subsequent movement by water, for 180 days. SUPPORTING SHIPPER: Lykes Bros. Steamship Co., Inc., Lykes Center, 300 Poydras St., New Orleans, La. 70130. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 134696 (Sub-No. 4 TA), filed October 2, 1973. Applicant: BEAR CAT, INC., 1750 Homedale Rd., Klamath Falls, Oreg. 97601. Applicant's representative: Earle V. White, 2400 S. W. Fourth Ave., Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and road oil*, in bulk, for the account of Witco Chemical Corp., (a) from Bakersfield, Calif., to Arden, Nev., and points in Mojave County, Ariz. and (b) from Arden, Nev., to points in Mojave County, Ariz., for 180 days. SUPPORTING SHIPPER: Witco Chemical Corp., 1800 Avenue of Stars, Los Angeles, Calif. 90067. SEND PROTESTS TO: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Bldg., 319 S. W. Pine Street, Portland, Oreg. 97204.

No. MC 136386 (Sub-No. 8 TA), filed October 1, 1973. Applicant: GO LINES, INC., 8023 E. Slauson Avenue (Suite 6), Montebello, Calif. 90640. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (1) from Prosser, Wash., to points in Oregon, Idaho, Montana, Utah, Wyoming, Colorado, Nevada, California, Arizona, New Mexico, and Texas; and (2) from Longshot, Nev.*, to points in Oregon, Idaho, Montana, Wyoming, Colorado, Utah, Nevada, California, Arizona, New Mexico, Texas, and Washington, for 180 days. Note: Applicant intends to take paragraphs (1) and (2) for purposes of providing storage intransit service at Longshot, Nev.* *Long-Shot, Nev. is located in Lyon County, Nev. on Nevada State Highway 1C, Nevada State Highway 1C is known as the Weeks cut-off. It is approximately 4 miles west or south of Silver Springs, and runs between U.S. Highway 50 and U.S. Highway 95 (alternate). Nevada State Highway 1C is in a remote location and is approximately 4 miles long. Long-Shot is in the approximate center thereof, or halfway between Highways 50 and 95 (alternate). The name Long-Shot has been assigned this location by its developer in order to simply identify the afore described location as a point of reference. SUPPORTING SHIPPER: Seneca Foods Corporation, P.O. Box 71, Prosser, Wash. 99350. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 139110 (Sub-No. 1 TA), filed October 1, 1973. Applicant: MINN-CAL, INC., Box 98, Mandan, N. Dak. 58554. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses and *materials and supplies* used in connection therewith, in the conduct of such business, from the facilities of Fingerhut Corporation at St. Cloud, Minn., to Los Angeles and Oakland, Calif., for 180 days. SUPPORTING SHIPPER: Fingerhut Corporation, 11 McLeland Road, St. Cloud, Minn. 56395. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 139111 (Sub-No. 1 TA) (Correction), filed September 26, 1973, published in Notice No. 135, dated October 3, 1973, and republished as corrected this issue. Applicant: ROBERT P. HINSON, doing business as KNIGHTWOOD ENTERPRISES, 3903 North Monroe, Hutchinson, Kans. 67501.

NOTE.—The purpose of this partial republication is to correct the MC number to No. MC 139111 (Sub-No. 1 TA) in lieu of No. MC 139119 TA, which was published in error. The rest of the application remains the same.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22272 Filed 10-17-73;8:45 am]

[Notice No. 139]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 12, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107576 (Sub-No. 23 TA), filed October 2, 1973. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 S.E. Water Avenue, Portland, Oreg. 97214. Applicant's representative: Kenneth G. Thomas, 900 Failing Building, Portland, Oreg. 97204. 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 I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Missouri Beef Packers, Inc. at or near Boise, Idaho, to points in Idaho, Oregon and Washington, for 180 days. SUPPORTING SHIPPER: Missouri

Beef Packers, Inc., 630 Amarillo Bldg., Amarillo, Tex. 79101. SEND PROTESTS TO: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Bldg., 319 S.W. Pine, Portland, Oreg. 97204.

No. MC 117765 (Sub-No. 167 TA), filed October 3, 1973. Applicant: HAHN TRUCK LINE, INC., 5315 N.W. 5th Street, P.O. Box 75213, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers and *related advertising material*, from Monroe, Wis., to Hutchinson and Topeka, Kans., for 180 days. SUPPORTING SHIPPER: Casement Distributing Inc., 327 South Walnut, Hutchinson, Kans. 67501. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old Post Office Building, 215 NW Third, Oklahoma City, Okla. 73102.

No. MC 139119 TA, filed October 2, 1973. Applicant: PETE KING CORPORATION, 10651 N. 21st Avenue (P.O. Box 9158), Phoenix, Ariz. 85029. Applicant's representative: A. Michael Bernstein, 1327 United Bank Bldg., 3550 N. Central, Phoenix, Ariz. 85012. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated fiberboard sheets*, from Glendale, Ariz., to Calexico, Calif., and Mexicali, Mexico, for 180 days. SUPPORTING SHIPPER: Southwest Forest Industries, Inc., Phoenix, Ariz. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 139130 (Sub-No. 1 TA), filed October 2, 1973. Applicant: GTS CARTAGE, INC., 2641 Orchard Street, Blue Island, Ill. 60406. Applicant's representative: Donald S. Mullins, 4704 West Irving Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Audio, phonograph, radio, sound playing, sound recording, television, and video electrical/electronic sets, systems, and equipment, and parts and related accessories thereto*, from the warehouse facilities of Playback Incorporated at or near West Chicago, Ill., to stores and outlet facilities of Playback Incorporated located at Bloomington, Evansville, Fort Wayne, Gary, Indianapolis, and Merrillville, Ind.; Lexington and Louisville, Ky.; Ann Arbor, Benton Harbor, East Lansing, Kentwood, and Saginaw, Mich.; Madison, Milwaukee, and Racine, Wis., for 180 days. SUPPORTING SHIPPER: E. R. Carey, Vice Pres.—Operations, Playback Incorporated, 2000 Spring Road, Oak Brook, Ill. 60521. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 139135 TA, filed October 2, 1973. Applicant: WILEY REYNOLDS, SR. AND WILEY REYNOLDS, JR., doing business as: SHOE NAIL SUPPLY, P.O. Box 2435, Pampa, Tex. 79065. Applicant's representative: Mario V. Mirabelli, 1250 Connecticut Ave., NW., Suite 527, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scraps, bone meal, meat meal and blood meal*, from Clovis, N. Mex., to points in Texas, Oklahoma, Arkansas, and Missouri; and from Pampa, Tex., to points in Oklahoma, Arkansas and Missouri, for 180 days. SUPPORTING SHIPPERS: William N. Hart, Plant Manager, Tri-State Ind., Inc., P.O. Box 1092, Clovis, N. Mex. 88101 and Howard D. Clausen, Assistant Vice-President, Wellens & Company, 6700 France Ave. So., Minneapolis, Minn. 55435. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 139136 TA, filed October 2, 1973. Applicant: DANVILLE TRANSFER & STORAGE CO., INC., 12-18 College Street, Danville, Ill. 61832. Applicant's representative: Paul J. Maton, 10 So. LaSalle St., Suite 1620, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General merchandise* as is usually dealt in and handled by wholesale and retail establishments, including household appliances, new household furniture and household furnishings, musical instruments, plumbing and heating equipment, fixtures, accessories and supplies, office equipment, fixtures, accessories and supplies; building and remodeling equipment, accessories and supplies, between Danville, Ill., on the one hand, and the Indiana Counties of Warren, Fountain, Montgomery, Vermillion, and Parke, for 180 days. SUPPORTING SHIPPER: T. W. Pacholick, Territorial Traffic Representative, Sears, Roebuck and Co., 7447 Skokie Blvd., Skokie, Ill. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 139137 TA filed October 2, 1973. Applicant: COMMODITY CARRIERS, LTD., P.O. Box 221, Butler, Wis. 53007. Applicant's representative: Frederick T. Schraeder (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen bakery products and incidental supplies*, from Plover, Wis., to points in Minnesota and Illinois; Indianapolis and South Bend, Ind.; St. Louis, Mo.; Des Moines, Cedar Rapids and Davenport, Iowa; Detroit, Mich.; and Findlay, Ohio, and *materials and supplies*, from said points to Plover, Wis., for the account of School Services, Inc. of Plover, Wis., for 180 days. SUPPORTING SHIPPER: School Services, Inc., 136 River Drive, Appleton, Wis. 54911. SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 139138, TA filed October 3, 1973. Applicant: A.T.D. TRUCKING, INC., 55 Station Drive, Greenwich, Conn. 06830. Applicant's representative: William J. Meuser, 86 Cherry Street, Milford, Conn. 06460. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, between points in Fairfield County, Conn. and Westchester, Nassau, and Suffolk Counties, N.Y. and the New York Commercial Zone; and Bergen, Essex, Hudson, Union, Passaic and Middlesex Counties, N.J., for 180 days. SUPPORTING SHIPPERS: Lancer Graphic Industries, Inc., 200 Henry Street, Stamford, Conn.; Colonial Lithograph Corp., 22 South Smith Street, East Norwalk, Conn.; Markal Finishing Company, 172 Bostwick Street, Bridgeport, Conn.; New England Printing & Lithographing Co., Inc., 60 Merritt Blvd., Trumbull, Conn.; Efficiency Bindery, Inc., 1595 Stratford Avenue, Stratford, Conn.; and Compucolor, Inc., Sniffens Lane, Stratford, Conn. SEND PROTESTS TO: District Supervisor David J. Kiernan, Interstate Commerce Commission, Bureau of Operations, 135 High Street, Room 324, Hartford, Conn. 06101.

No. MC 139139 TA, filed October 3, 1973. Applicant: LESTER GRAY, P.O. Box 372, Bemidji, Minn. 56601. Applicant's representative: F. H. Kroeger, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing and rails*, from Kelliher, Minn., to the Chicago, Ill. Commercial Zone; Cedar Rapids, Des Moines, Dubuque, Fort Madison, Mason City and Waterloo, Iowa; Bismarck, Fargo and Grand Forks, N. Dak.; and Aberdeen and Sioux Falls, S. Dak., for 180 days. SUPPORTING SHIPPER: Par-Mark Fence, Kelliher, Minn. 56650. SEND PROTESTS TO: Joseph H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22273 Filed 10-17-73;8:45 am]

[No. 35899]

WYOMING INTRASTATE FREIGHT RATES AND CHARGES, 1973

Investigation

By joint petition filed September 14, 1973, under the provisions of sections 3, 13(3), 13(4), and 15a of the Interstate Commerce Act, Burlington Northern, Inc., Chicago & North Western Transportation Company, Colorado & Southern Railway Company, Colorado & Wyoming Railroad Company, and Union

Pacific Railroad Company, common carriers by railroad operating within the State of Wyoming, seek increases in their intrastate rates from and to points in Wyoming corresponding to the increases in interstate rates and charges which have been authorized on an interim basis pursuant to order of August 2, 1973, in pending Ex Parte No. 295, Increased Freight Rates and Charges, 1973, Nationwide, and which may be authorized on a permanent basis in that same investigation; and

It appearing, That the current general level of intrastate freight rates and charges maintained by petitioners, as authorized by the Public Service Commission of Wyoming, is approximately the same as the interstate increases authorized by this Commission through Ex Parte No. 281, except that in connection with Ex Parte No. 262 increase, intrastate rates on sugar beets were not increased; in connection with Ex Parte No. 265, intrastate rates on sugar beets and from and to certain points on coal were not increased; and in connection with Ex Parte No. 267, an 8 percent increase was authorized on intrastate commerce instead of the 12 percent authorized on interstate commerce; and that these indicated exceptions are under investigation in docket No. 35596, Wyoming Intrastate Freight Rates and Charges—1972, wherein an Administrative Law Judge's recommended decision was served August 2, 1973;

It further appearing, That petitioners allege that the present interstate basis of rates is just and reasonable and that a disparity exists between those rates and the current intrastate rates applicable from and to points in the State of Wyoming, which latter rates would also constitute a just and reasonable basis if increased to the interstate level, namely, to the extent of the interim increase authorized in Ex Parte No. 295 and to the further extent of the increases which may be finally authorized in that proceeding;

It further appearing, That petitioners allege that Wyoming intrastate rates have historically been maintained on the same general level as the corresponding interstate rates; that transportation conditions incident to traffic moving in intrastate commerce within Wyoming are no more favorable than conditions incident to interstate commerce; and that the described relationship between intrastate and interstate rates had remained constant, except for intervals, as indicated above, between the effectiveness of interstate rate increases and the application of corresponding increases to intrastate rates and charges;

It further appearing, That petitioners allege that the present intrastate rates within Wyoming fail to produce their fair share of earnings required to enable petitioners under honest, economical and efficient management to provide adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; that such intrastate rates create undue and unreasonable advantage, preference and prejudice as between persons and localities in intrastate commerce within Wyoming on the one hand, and interstate and foreign commerce on the other, and result in undue, unreasonable and unjust discrimination against and undue burden on interstate and foreign commerce in violation of the said sections of the act, such unlawfulness to continue until the Wyoming intrastate rates are increased to the level authorized or which may be authorized in Ex Parte No. 295;

It further appearing, That insofar as petitioners seek to increase their intrastate rates by the same amount of increases finally authorized in interstate rates in Ex Parte No. 295, Increased Freight Rates and Charges, 1973, Nationwide, supra, which matter is still under investigation, the instant petition is premature, pursuant to Intrastate Freight Rates and Charges (Pulpwood & Woodchips), 344 I.C.C. 108 (1973), wherein a petition to investigate and establish certain intrastate rates and charges on the same basis as a proposed increased level of interstate rates under investigation and suspension was found to be premature and was denied.

And it further appearing, That, accordingly, there have been brought in issue by the said petition matters sufficient to require an investigation into the lawfulness of intrastate rates and charges made or imposed by the State of Wyoming solely to the extent that they do not reflect the effective interim increase authorized in Ex Parte No. 295, Increased Freight Rates and Charges, 1973, Nationwide, supra;

Wherefore, and good cause appearing therefor:

It is ordered, That the petition be, and it is hereby, granted, and that an investigation be, and it is hereby, instituted under sections 13 and 15a of the Interstate Commerce Act solely to determine whether the said rates and charges of carriers by railroad, or any of them, operating in the State of Wyoming cause or will cause, by reason of the failure of such rates and charges to include the 3 percent interim increase authorized by the Commission and which has become effective on interstate commerce in Ex Parte No. 295 Increased Freight Rates and Charges, 1973, supra, any undue or unreasonable advantage, preference or prejudice as between persons or locations in intrastate commerce, on the one hand, and those in interstate or foreign commerce, on the other, or any unjust discrimination against or undue burden on interstate or foreign commerce; and to determine what rates and charges, if any, or what maximum, or minimum, or maximum, and minimum rates and charges shall be prescribed to remove the unlawful advantage, preference, discrimination, or undue burden, if any, that may be found to exist; and that the said petition be, and it is hereby denied in all other respects.

It is further ordered, That all carriers by railroad operating within the State of Wyoming subject to the jurisdiction of this Commission be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish actively to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Interstate Commerce Commission, in writing on or before November 5th, 1973. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date for indicating a desire to participate in the proceeding has passed, the Commission will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That a copy of this order be served upon each of the said petitioners; that the State of Wyoming be notified of the proceeding by sending copies of this order and of said petition by certified mail to the Governor of Wyoming and to the Public Service Commission of Wyoming, Cheyenne, Wyo.; and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register, for publication therein.

And it is further ordered, That this proceeding be assigned for hearing as may hereafter be designated.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-22268 Filed 10-17-73;8:45 am]

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THURSDAY, OCTOBER 18, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 201

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

FERROALLOY MANUFACTURING POINT SOURCE CATEGORY

Proposed Guidelines and Standards

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 424]

FERROALLOY MANUFACTURING POINT SOURCE CATEGORY

Proposed Effluent Limitations Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources

Notice is hereby given that effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA) for the open electric furnaces with wet air pollution control devices subcategory (Subpart A), the covered electric furnaces and other smelting operations with wet air pollution control devices subcategory (Subpart B), the slag processing subcategory (Subpart C), and the noncontact cooling water subcategory (Subpart D) of the ferroalloys manufacturing category of point sources pursuant to sections 301, 304(b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and 1317(c); 86 Stat. 816 et seq.; P.L. 92-500) (the "Act").

(a) *Legal authority.* (1) *Existing point sources.* Section 301(b) of the Act requires the acheiyement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives. The regulations proposed herein set forth effluent limitations guidelines, pursuant to section 304(b) of the Act, for the open electric furnaces with wet air pollution control devices subcategory (Subpart A), the covered electric furnaces and other smelting operations with wet air pollution control devices subcategory (Subpart B), the slag processing subcategory (Subpart C), and the noncontact cooling water subcategory of the ferroalloy manufacturing category.

(2) *New sources.* Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973 (38 FR 1624), a list of 27 source categories, including the ferroalloy manufacturing source category. The regulations proposed herein set forth the standards of performance applicable to new sources for the open electric furnaces with wet air pollution control devices subcategory (Subpart A), the covered electric furnaces and other smelting operations with wet air pollution control devices subcategory (Subpart B), the slag processing subcategory (Subpart C), and the noncontact cooling water subcategory (Subpart D) of the ferroalloys manufacturing category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Sections 424.15, 424.25, 424.35 and 424.45, proposed below, provide pretreatment standards for new sources within the open electric furnaces with wet air pollution control devices subcategory (Subpart A), the covered electric furnaces and other smelting operations with wet air pollution control devices subcategory (Subpart B), the slag processing subcategory (Subpart C), and the noncontact cooling water subcategory (Subpart D), of the ferroalloy manufacturing category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under Section 306 of the Act. The Development Document referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(3) *Thermal discharges.* Section 316(a) of the Act provides a means for further consideration of thermal effluent limitations required under sections 301 and 306 of the Act. Section 316(a) states that with respect to any point source subject to the provisions of sections 301 or 306, whenever the owner or operator of any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or, if, appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose a different effluent limitation for the thermal component of the discharge than would ordinarily be required under sections 301 and 306 of the Act. Effluent limitation imposed under section 316(a) must assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made.

(b) *Summary and basis of proposed effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources.*—(1) *General methodology.* The effluent limitations guidelines and standards of performance proposed herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of (1) the source, flow and volume of water used in the process employed and the sources of waste and waste waters in the operation; and (2) the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations guidelines and standards of performance were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which are existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air,

solid waste, noise and radiation, was identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available," the "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and factors.

The data upon which the above analysis was performed included EPA sampling and inspections, consultant reports, industry submissions, and EPA permit applications.

The pretreatment standards proposed herein are intended to be complementary to the pretreatment standard proposed for existing sources under Part 128 of 40 CFR. The bases for such standards are set forth in the FEDERAL REGISTER of July 19, 1973, 38 FR 19236. The provisions of Part 128 are equally applicable to sources which would constitute "new sources," under section 306 if they were to discharge pollutants directly to navigable waters except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires the application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards proposed herein apply to new sources, §§ 424.15, 424.25, 424.35, and 424.45 below amend § 128.133 to require application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

(2) Summary of conclusions with respect to the open electric furnaces with wet air pollution control devices subcategory (Subpart A), the covered electric furnaces and other smelting operations with wet air pollution control devices subcategory (Subpart B), the slag processing subcategory (Subpart C), and the noncontact cooling water subcategory (Subpart D) of the ferroalloys manufacturing category of point sources.

(i) *Categorization.* For purposes of establishing effluent limitations and standards of performance, the ferroalloy manufacturing source category was divided into subcategories on the basis of processes employed, furnace types and water uses. The subcategories are: open electric furnaces with wet air pollution control devices (Subpart A); covered electric furnaces and other smelting operations with wet air pollution control devices (Subpart B); slag processing (Subpart C); and noncontact cooling water (Subpart D).

The consideration of other factors such as waste water constituents and waste control technologies further substantiates the above categorization. This method of subcategorization permits an equitable waste load to those furnaces which are controlled for air pollution with wet systems (since they are separately categorized) and is not excessively permissive to those furnaces which are controlled with dry systems. Any furnace with wet air pollution controls will be controlled by the regulations of either Subpart A or B, depending upon the type of furnace, and also by the regulations of Subpart D, since all electric furnaces have cooling water. Existing furnaces with dry air pollution control systems, or no air pollution control systems will be allowed to discharge only under the provisions of Subpart D.

(ii) *Waste characteristics.* The known significant pollutants contained in the waste water from this industry are as follows, by subpart:

Parameters	Subpart			
	A	B	C	D
Heat content				×
Suspended solids	×	×	×	×
Chromium	×	×	×	×
Hexavalent chromium	×	×	.....	×
Total cyanide		×		
Manganese	×	×	×	.....
Oil	×	×	×	×
Phenols	×	×		
Orthophosphate	×	×	.....	×

While other pollutants, such as dissolved solids, iron, aluminum, zinc, chloride, copper, etc., sometimes may be present in the process waste waters, effluent limitations were not developed for these constituents because (i) they are discharged intermittently and in small quantities, (ii) they are effectively removed from the effluent by the application of waste water control and treatment technology required for the removal of process waste water constituents which are subject to effluent limitations, (iii) there is insufficient data available upon which to base effluent limitations, or (iv) the known methods for their removal from waste water are prohibitively expensive at this time.

In the Development Document, phosphorus compounds were reported as phosphate [$(PO4)^{-3}$]. However, for consistency with EPA methods of analysis and reporting, these value have been converted to orthophosphate [P].

(iii) *Origin of waste water pollutants in the ferroalloy manufacturing category.*—(1) Open electric furnaces with wet air pollution control devices subcategory. Wet air cleaning devices collect particulates from furnace gases, either by gas scrubbing or by water sprays prior to electrostatic precipitation. The particulates are generally oxides of the material being smelted. In this type of furnace, the off-gases are combusted and cyanide and most of the phenol thereby destroyed. Waste water from this source, therefore, contains large quantities of suspended solids, and smaller quantities of manganese and chromium, depending upon the product being smelted. Smaller amounts of phenol and oil are also found in the waste water.

(2) *Covered electric furnaces and other smelting operations with wet air pollution control devices subcategory.* Wastes are essentially similar to those from open electric furnaces with wet air pollution controls (regulated in Subpart A), but since in covered smelting furnaces the off-gas is not combusted, cyanide and phenol are present in significant quantities in the scrubber waste water.

(3) *Slag processing subcategory.* Wastes in this subcategory are derived from either concentration or "shotting" processes. The concentration process uses the "float-sink" method where the metal particles sink to the bottom, and the slag floats in the water, for recovery of metallic values from the slag. "Shotting" involves the granulation of molten slag in water. The concentration process is generally used on ferrochromium slags, while shotting may be performed on ferromanganese slags. The major pollutant is suspended solids, with manganese and chromium present in smaller concentrations.

(4) *Noncontact cooling water subcategory.* The principal waste from this source is heat, although chromium and phosphates may also be present if the water is recirculated and treated for corrosion control, etc. Suspended solids and other parameters may be present in higher concentrations than those of the intake if the water is recirculated, because of concentration effects in the cooling tower. However, noncontact cooling water is water used for cooling which does not directly contact the product and should therefore contain no pollutants assignable to the production process. For example, chromium may be present in cooling tower blowdown, if chromate corrosion compounds are used, but none should be present because of the product. Manganese, which is not used as a water treatment agent, would not be present in noncontact cooling water, although the water is used to cool a furnace smelting ferromanganese.

(iv) *Control and treatment technology.* Waste water control techniques have been used in the industry, particularly for treating waste water from scrubbers, but the sophistication of the systems and techniques varies widely. Where the huge quantities of water needed for furnace cooling are not available on a once through basis (for instance, if the plant draws its water supply from wells), cooling towers with recycle of cooling water are commonly utilized. Waste water control techniques such as water conservation, and good housekeeping techniques are generally available to reduce the

quantities of pollutants ultimately discharged from ferroalloy plants. These control techniques have been effectively demonstrated and are considered normal practice in the industry where restricted supplies of water have dictated the implementation of water conservation measures.

Process modifications may be available to reduce the quantity of pollutants in the waste waters from plants of other industries. However, there does not seem to be any process modification in the ferroalloys industry, other than the use of an open furnace with a baghouse rather than a scrubber for the control of air emissions, which will reduce or eliminate the raw waste loads of pollutants in the process waste water. Water conservation techniques may reduce the amount of water used in ferroalloy plants and also can reduce the amount of pollutants in the effluent following treatment. Some of these include (i) using cooling towers and recycling water rather than using water for once-through cooling; (ii) using cooling tower blowdown as makeup for scrubbers; and (iii) recycling the overflow from scrubber water clarifiers.

Good housekeeping techniques can reduce the amount of pollutants in the waste waters from ferroalloy plants. These include techniques to (1) prevent the formation of standing pools of water in the raw and finished materials storage areas; (2) maintain environmentally adequate settling lagoons of sufficient size and good design (e.g., impervious liners); and (3) maintain piping installed for waste water flow.

(v) *Treatment and control technology within subcategories.* Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is (i) the best practicable control technology currently available; (ii) the best available technology economically achievable; and (iii) the best available demonstrated control technology, processes, operating methods or other alternatives.

(1) *Treatment in the open electric furnaces with wet air pollution control devices subcategory.* Control and treatment techniques consist of physical-chemical treatment for removal of metals and suspended solids, with sedimentation and clarification. Sedimentation and clarification may be accomplished in settling ponds (or lagoons), in clarifiers or in sand or multi-media filters. Settling ponds and clarifiers, when well designed and operated, are capable of produring effluent levels of 25 mg/l suspended solids, independent of the influent concentrations. This means that greater removals are accomplished if the influent is more concentrated. For example, a scrubber on a furnace which utilizes less water (for the same particulate removal) will have less of an effluent load after similar clarification than a scrubber which uses more water. Sand filters (when well designed and operated) are capable of reducing the suspended solids effluent concentration to 10 mg/l. In all types of clarification equipment, proper operation is important, since (for example) excessive solids buildup in a lagoon can reduce the detention time and thereby reduce the solids which are removed.

The effluent after clarification may be recycled back to the scrubber. This may possibly require additional treatment such as softening for removal of calcium and magnesium, which may cause scaling. Blowdown from softening systems should be treated prior to discharge.

Open furnaces which constitute new sources have available another technology which permits no discharge of waterborne pollutants to navigable waters. This is the use of dry dust collectors (i.e., fabric filters or baghouses) rather than wet collectors for air pollution control. Properly designed baghouses are capable of collection efficiencies at least as good as wet scrubbers, and have been extensively utilized in the industry on this type of furnace. Additionally, baghouses can be installed on existing furnaces which are presently not controlled for air emissions. There is also a potential for the recovery and reuse of the metallic particulates. Although it is possible to replace existing wet scrubbers with baghouses, the capital investment required makes this appear to be an unfeasible alternative at this time.

It has been determined that best practicable control technology currently available for this subcategory consists of use of a clarifier flocculator, with chemical treatment where needed, sludge dewatering and water recirculation at the scrubber. Best available technology economically achievable consists of best practicable control technology currently available plus use of sand or multi-media filters and optimum process water recirculation. The best available demonstrated control technology, processes, operating methods, or other alternatives for new sources includes the use of dry dust collectors (such as fabric filters or baghouses) for air pollution abatement, rather than wet scrubbers.

(2) *Treatment in the covered electric furnaces and other smelting operations with wet air pollution control devices subcategory.* Control and treatment techniques are essentially identical to those described for open electric furnaces above, with the additional need for the destruction of cyanide and phenol. Cyanide destruction can be accomplished by alkaline chlorination, although other methods such as oxidation or ozonation may be used depending on the design of the water treatment system. Alkaline chlorination can reduce the effluent cyanide concentration to about 0.2 mg/l. No plant surveyed was specifically treating for phenols. Phenols can be converted to relatively innocuous compounds by breakpoint chlorination, oxidation (trickling filter) and by biological methods. The latter would probably require the addition of bacterial nutrients.

The effluent after clarification may be recycled back to the scrubber. This may possibly require additional treatment such as softening.

The best practicable control technology currently available has been determined to be use of a clarifier flocculator, sludge dewatering, and biological or chemical treatment, the latter by alkaline (breakpoint) chlorination and other chemical treatment as needed. The best available control technology economically achievable and best available demonstrated control technology, processes, operating methods, or other alternatives for new sources consists of the use of best practicable control technology currently available, plus use of sand or multi-media filters and optimum process water recirculation.

(3) *Treatment in the slag processing subcategory.* Treatment is essentially sedimentation. Lagoons or settling ponds or clarifier flocculators may be used. In slag processing, water is important only as a cooling or transport medium and the quality of the recirculated water is of importance only to the extent of abrasion of pumps, valves, etc. Therefore, sedimentation for recirculation need not be carried out to the levels which would be necessary if the water were to be discharged directly and no blowdown from the recirculating system is necessary.

The best practicable control technology currently available is sedimentation in clarifier-flocculators. The best available technology economically achievable and the best available demonstrated control technology, processes, operating methods, or other alternatives for new sources is total recirculation of process waste water, which may be accomplished after sedimentation in clarifier-flocculators.

(4) *Treatment in the noncontact cooling water subcategory.* Applicable treatment and control techniques include cooling ponds and towers with recirculation and reuse of water. Where chromate corrosion compounds are added to the recycled water, reduction of hexavalent chromium and subsequent removal of the less harmful trivalent chromium by precipitation is necessary. If phosphate compounds are used, rather than chromates, removal is also necessary. Cooling towers may effect a 5–20° F approach to the wet bulb temperature (i.e., 5–20° F above the wet bulb temperature), while cooling ponds are capable of minimizing the temperature rise over that of ambient water temperatures to 5° F.

Cooling ponds, spray canals or spray ponds, and cooling towers may be utilized for the control of discharge temperatures of noncontact cooling water. They do differ, however, with respect to costs, and with respect to land area requirements. A cooling pond, where the water is simply allowed to remain quiescent in the open air until it has reached approximately the temperature of natural surface water bodies in that area, is the least expensive of the options, as regards both investment and annual costs. Operating costs are negligible. However, large areas of land may be required for such ponds—it was estimated that one plant, operating at 22 mw would require 17.5 ac, or 0.8 ac/mw, for control

of the thermal discharge. Spray canals or spray ponds, which utilize evaporative, rather than convective cooling (the principle behind cooling ponds), require only about 10 percent of the area required for cooling ponds. Cooling towers, which also utilize evaporative, rather than convective cooling, require even less area than do spray ponds—about a quarter acre for a 30 mw plant. Some plants, because of land availability problems, may not be able to utilize cooling ponds, and would therefore have to select cooling towers or spray ponds as an alternative. However, in the long run these plants would be ahead, since they could more easily go on to a recirculation system than could a plant utilizing cooling ponds. Cooling towers and spray canals, however, do cost more than cooling ponds, both in investment and operating costs.

Best practicable control technology consists of the use of cooling ponds to reduce the heat load in the effluent. If land is not available for cooling ponds, spray ponds or cooling towers may be substituted. Where recirculation is presently being used, chemical treatment may be necessary to reach the specified levels for chromium and phosphate. Best available technology economically achievable and the best available demonstrated control technology, processes, operating methods, or other alternatives for new sources consists of partial recirculation, through the use of cooling towers, and chemical treatment of blowdown. The limitations for best available technology and new sources are based upon a blowdown rate of 5 percent of the circulation rate. Apart from this blowdown, there would be no other discharge from this subcategory.

(vi) *Cost estimates for control of waste water pollutants in the ferroalloy manufacturing subcategory.* The annual cost, including depreciation, capital costs, and operating and power costs, of achieving the levels of treatment specified for 1977 for the smelting and noncontact cooling water segments was estimated. Costs for adequate land disposal of treatment residues were not estimated. The annual cost varies from $.041 to $12.26/ton, and from 0.021 to 3.39 percent of the listed sale price of the alloy. Annual cost varies from $0.017 to 0.876/mwhr. The annual cost for these segments of achieving the levels of treatment and control specified for 1983 was similarly estimated. The cost varies from $1.23 to $21.95/ton, and from 0.61 to 5.64 percent of the listed sale price of the alloy. Annual cost varies from $0.512 to $1.880/mwhr. These figures reflect the costs which would be incurred from plants without any water pollution controls. The lower figures represent those which would be incurred for the treatment of noncontact cooling water only. The higher figures are the sum of the costs of treatment of scrubber waste water and noncontact cooling water. The cost of treatment of slag processing waste water is estimated at $1.28/ton processed to meet the 1977 limitations and $1.31/ton processed to meet the 1983 and new source limitations. Preliminary estimates of the annual cost of gas cleaning (including equipment, accessories, operating costs, etc.) in dollars/ton of product have been made on the basis of a 30 mw open furnace and for four common products: high carbon (HC) ferromanganese, HC ferrochromium, 50 percent ferrosilicon and silicomanganese. These figures indicate that the annual cost of a baghouse is approximately half that of a scrubber system with the attendant water treatment system ($4.51 to 14.68/ton, vs $8.37 to 39.72/ton).

(vii) *Establishing daily maximum limitations.* The twenty-four hour maximum limitations, except pH, are generally twice the 30-day average limitations. These daily maximum limitations should be approached only under unusual conditions, such as treatment system upsets, and the like, and are based upon waste generation at existing exemplary plants. It is intended that these limitations and the maximum 30-day average limitations be applied on a "building block" basis.

Megawatt-hour (mwhr) equal to 1,000 kilowatt hours was used as the unit of production, for most of the categories, for the following reasons: power usage (about 30 percent of production costs) is accurately monitored and generally automatically recorded at each furnace; the raw waste load is more uniform when expressed as kg/mwhr (lb/mwhr); tonnage production varies widely depending on the product at the same power usage, and different alloys can be produced in the same furnace; and furnaces are generally described in the trade as "15 mw" or "30 mw", rather than "50 ton" or "100 ton", as is common practice in the steel industry.

(viii) *Nonwater quality aspects of pollution control.* Power requirements for waste water treatment systems other than cooling towers are generally low, and range from less than 0.1 percent to 2.0 percent of the power used in the smelting furnaces. The power requirements for cooling towers may range up to about 1.8 percent of the power used in the smelting furnaces. Power requirements for the use of the most power-intensive treatment systems for process and cooling water could thus amount to about 3 or 4 percent of the power used in production. It is probably a safe assumption that all new furnaces will be equipped with air pollution abatement devices. A high energy scrubber on an open furnace requires 10 percent of furnace power (i.e., productive power) for operation. Based on the necessary pressure drops, the power requirement for a fabric filter system is one-third that of a high energy scrubber.

One of the nonwater quality impacts of the treatment of waste water from ferroalloy plants consists of increased volumes of sludge resulting from increased waste water treatment and requiring proper disposal. Solid wastes containing hazardous substances must be controlled to prevent their reentry via the land into surface and subsurface waters.

Solid constituents from waste treatment operations should be disposed in an acceptable landfill. An acceptable landfill means a landfill at which complete protection is provided for the long term, for the quality of surface and sub-surface waters, from hazardous substances contained in wastes deposited therein, and against hazard to public health and the environment. Such landfill sites should be located and engineered to avoid direct hydraulic continuity with surface and sub-surface waters, and any leachate or sub-surface flow into the disposal area should be contained within the site unless treatment is provided. A sampling and analysis program of leachates is advisable. The location of the disposal site should be permanently recorded in the appropriate office of legal jurisdiction.

(ix) *Economic impact analysis.* The conclusion drawn from a study of the economic impact of proposed water pollution controls is that the costs will be minimal in the ferroalloys industry. The costs to meet the effluent limitations are not expected to affect production levels or employment. It is not anticipated that the effluent limitations will threaten the economic viability of any plants in the industry. Hence, no community impacts are anticipated. Continued strong competition from foreign imports may affect this industry, but this industry will not be significantly affected by the proposed water effluent limitations.

Increases in annual operating costs to meet 1977 standards are estimated to amount to $4.0 million. To maintain return on investment in the face of these cost increases would require price increases of 1.2 percent. It is difficult to project the industry's pricing reactions to such cost increases for the following reasons: (1) The industry is very competitive and ferroalloys are commodity-type products with little product differentiation; (2) Foreign products are available at lower prices than domestically produced ferroalloys and imports have supplied as much as 40 percent of the domestic market; (3) The major portion of the plants (14 out of 22) will experience no cost increases to comply with 1977 standards. Thus, there is a great deal of uncertainty as to the likelihood of price increases.

By 1983, the annual costs of meeting the effluent limitations will have risen to $8.2 million. To maintain return on investment in the face of these increased costs would necessitate price increases of 2.3 percent. In the short run the market conditions cited above might discourage price increases of this magnitude. In the long run the industry can be expected to attempt to recover the cost increases and maintain profitability.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Smelting and Slag Processing Segments of the Ferroalloy Manufacturing Point Source Category" details the analysis undertaken in support of the regulations being proposed herein and is available for inspection in the EPA Information Center, Room 227, West Tower, Waterside Mall, Washington, D.C., at all EPA regional offices, and at State water pollution con-

trol offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulations is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulations, or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman.

(c) *Summary of public participation.* Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of the effluent limitations guidelines and standards proposed for the ferroalloy manufacturing category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) All State and U.S. Territory Pollution Control Agencies; (3) Ohio River Valley Water Sanitation Commission; (4) New England Interstate Water Pollution Control Commission; (5) Hudson River Sloop Restoration, Inc.; (6) Conservation Foundation; (7) Businessmen for the Public Interest; (8) Environmental Defense Fund, Inc.; (9) Natural Resources Defense Council; (10) The American Society of Civil Engineers; (11) Water Pollution Control Federation; (12) National Wildlife Federation; (13) The American Society of Mechanical Engineers; (14) U.S. Department of Commerce; (15) Water Resources Council; (16) U.S. Department of the Interior; (17) U.S. Department of the Treasury; and (18) The Ferroalloys Association.

The following organizations responded with comments: Urban Carbide Corporation, Shieldalloy Corporation, Airco, Inc., Ohio Ferro-Alloy Corporation, Foote Mineral Company, Interlake, Inc., The Ferroalloys Association, the Commonwealth of Pennsylvania, Hawaii Department of Health, Maine Department of Environmental Protection, Texas Water Quality Board, Nebraska Department of Environmental Control, New York Department of Environmental Conservation, Florida Department of Pollution Control, Arizona Department of Health, Illinois Environmental Protection Agency, U.S. Department of the Interior, U.S. Department of Commerce, Colorado Department of Public Health, and United States Water Resources Council.

The primary issues raised in the development of the proposed effluent limitations guidelines and standards of performance and the treatment of these issues herein are as follows:

1. The requirement of dry dust collectors for new sources of open electric furnaces was questioned. It was contended that usage of certain raw materials (high in chlorides, fluorides or sulfur) would require the use of a scrubber for effective air pollution abatement. To the best of our knowledge these raw materials are not presently in use, and the proposed standard is valid. It should be recognized that this regulation will be reviewed by EPA at regular intervals, and at such times, it may be found to be no longer valid, based on conditions existing at that time.

2. It was contended that the contractor's recommended limitations and standards were restrictive as to product. The proposed limitations and standards now allow for production of any product.

3. It was requested that once-through noncontract cooling water be exempted from any limitations. Due to the large quantities of heat which can be discharged from this source, it is felt reasonable to limit such thermal pollution that is defined as a pollutant under section 502 of the Act.

4. It was requested that the limitations and standards take into account dissolved solids levels. Cited was one type of ore, which would result in K20 concentrations of 1,000 mg/l in one pass of the water through a scrubber. Although certain dissolved solids such as calcium and magnesium may present scaling problems, these can be controlled by softening or other procedures. One ferroalloy plant recirculates 97 percent of its scrubber waste water after treatment, the only blowdown being from the clarifier underflow. A blast furnace producing ferromanganese which was studied as part of the iron and steel industry study had a closed recycle system for gas scrubber water. Dissolved solids levels were 70,600 to 82,300 mg/l in the clarifier overflow, with potassium levels of 24,000 to 25,600 mg/l. If this blast furnace can operate successfully at those levels, the ferroalloy industry should have no probelms operating at levels less than half of those.

5. It was contended that the use of non-chromate water treatment chemicals, as suggested in the contractor's report, is not always feasible, due to differing water chemistries in the makeup water. This is a valid point, and an allowance has been made for the use of chromate or phosphate water treatment chemicals.

6. Included in the original contractor's report was a subcategory for the electrolytic production processes, and comments were received that the data base for this particular subcategory was insufficient for the promulgation of standards. It is agreed that this is a valid point, and this particular segment of the industry will be addressed at a later date, after further study.

7. Another point raised was that the discharge conditions could not be met, simply because of existing intake water quality conditions. Although some plants may have to discharge water containing lower concentrations of pollutants than their intake water, the present pollution levels in some waters are not sufficient reason to relax standards, which are based on technology and independent of intake conditions.

8. It was remarked that the process water recirculation suggested for Subpart C would not be possible without solids removal. The suggested technology did indeed call for removal of solids via a settling pond. However, this technology has been modified somewhat to allow for lack of land area, and clarifier-flocculators are now suggested, again with total recirculation of the overflow for 1983.

9. It was suggested that consideration be given to the possibility of "zero discharge" for Subpart A for the 1983 limitations. This was considered, and although it is technologically possible to convert from the use of a wet scrubber or precipitator to a dry baghouse, the cost of doing so is about twice the cost of the proposed 1983 limitations. Therefore, it was not deemed to be economically achievable to require such technology for 1983.

10. It was said that the costs as presented in the contractor's report did not appear to include all portions of a waste water treatment system, since they appeared to be low. Costs as presented in that report were as reported to EPA by the various plants surveyed. Costs as presented in the Development Document are based upon best engineering judgment and estimation, and although they may be subject to judgmental errors, they are believed to be essentially correct. Obviously, any small plant installing a waste water treatment system will have to pay a higher price, per unit of capacity, than a very large plant.

11. Some confusion was expressed as to where an exothermic smelting operation fits within the categorization as given. We believe that the Document now makes it clear, as do the proposed regulations, that it belongs in Subpart B.

12. Some comments were made regarding the use of mwhr as the production basis, rather than tonnage. Since electrical energy consumption is directly related to production (although the quantity required to produce a given tonnage varies from product to product), and is readily measured (and usually automatically recorded), it was deemed to be a valid basis for the guidelines and standards, and to be a simpler basis than tonnage. A comparison of the power consumption required per ton for various products is shown in Table 18 of the Development Document.

13. The suggested technologies in the contractor's report were questioned because of the possibility of nonavailability of land. The technologies as presently set forth minimize the required land areas, and where land may not be available at a particular plant, alternate technologies are suggested.

14. It was suggested that the building block approach may not be acceptable to certain states, since they are only interested in the final effluent. In line with this comment, another was raised regarding the use of a production rate basis, rather than a concentration basis.

The production rate basis eliminates the possibility of dilution to meet the limitations, as is possible with a concentration basis.

15. The point was raised that the contractor's recommended guidelines showed no chromium in the effluent (from noncontact cooling water), which is not a valid standard for ferroalloy plants producing ferrochromium. The commentor's attention is directed toward the definition of noncontact cooling water, as contained in Subpart D, which does not allow for the contact of cooling water and product. Therefore, no chromium or other metal (attributable to the product being smelted) should be contained in the noncontract cooling water discharge, although some chromium used for water treatment may be present.

16. It was suggested that the guidelines be issued as a range of numbers, rather than as a single number, so that the permit-issuing authorities will have the needed flexibility to deal with the real variations among existing plants, climates, and other factors. After consideration of this suggestion, it was rejected because: (1) Climate has no substantial effect upon the treatments specified (i.e., sedimentation should take place at about the same rate whether the temperature is 40° F or 80° F); (2) In the thermal limitations, the limitations are written as net numbers; and (3) Variation among existing plants has been taken into account with the categorization selected.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the agency in establishing an effluent limitation guideline or standard of performance, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304(b), 306 and 307 of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before November 19, 1973, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated October 10, 1973.

JOHN QUARLES,
Acting Administrator.

PART 424—EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE FERROALLOY MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Open Electric Furnaces With Wet Air Pollution Control Devices Subcategory

Sec.

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424.32 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.
424.33 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.
424.34 Standards of performance for new sources.
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Subpart D—Noncontact Cooling Water Subcategory

Sec.

424.40 Applicability; description of the noncontact cooling water subcategory.
424.41 Specialized definitions.
424.42 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.
424.43 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.
424.44 Standards of performance for new sources.
424.45 Pretreatment standards for new sources.

Subpart A—Open Electric Furnaces With Wet Air Pollution Control Devices Subcategory

§ 424.10 Applicability; description of the open electric furnaces with wet air pollution control devices subcategory.

The provisions of this subpart are applicable to the smelting of ferroalloys in open electric furnaces with wet air pollution control devices. This subcategory includes those electric furnaces of such construction or configuration that the furnace off-gases are burned above the furnace charge level by air drawn into the system. After combustion the gases are cleaned in a wet air pollution control device, such as a scrubber, an electrostatic precipitator with water or other aqueous sprays, etc. The provisions of this subpart are not applicable to noncontact cooling water (regulated in Subpart D), nor to those electric furnaces which are covered, closed, sealed, or semicovered and wherein the furnace off-gases are not burned prior to collection (regulated in Subpart B).

§ 424.11 Specialized definitions.

For the purposes of this subpart:

(a) The term "process waste water" shall mean any water which during the maufacturing process comes into direct contact with any raw material, intermediate product, by-product, waste product or finished product (but not including slag, when such slag is subject to regulation under Subpart C) used in or resulting from the manufacture of ferroalloys and related products.

(b) The term "process waste water pollutants" shall mean pollutants contained in process waste waters.

(c) The term "oil" shall mean those components of a waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

(d) The term "phenols" shall mean those components of a waste water amenable to measurement by the method described in "1972 Annual Book of ASTM Standards, Part 23," 1972, Standard D1783–70, page 445.

(e) The term "hexavalent chromium" shall mean those components of a waste water amenable to measurement by the

method described in "Standard Methods for the Examination of Water and Wastewater, 13th Edition," Method 211 (II) D, page 429.

(f) The following abbreviations shall have the following meaning: (i) "mwhr" shall mean megawatt-hour of electrical energy applied to the furnace (furnace power consumption), (ii) "kg" shall mean kilogram(s), (iii) "lb" shall mean pound(s) and (iv) "TSS" shall mean total suspended non-filterable solids.

§ 424.12 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart:

Effluent Characteristic	*Effluent Limitation*
TSS	Maximum for any one day 0.319 kg/mwhr (0.703 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.160 kg/mwhr (0.352 lb/mwhr).
Chromium	Maximum for any one day 0.006 kg/mwhr (0.014 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0032 kg/mwhr (0.007 lb/mwhr).
Hexavalent Chromium.	Maximum for any one day, 0.0006 kg/mwhr (0.0014 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0002 kg/mwhr (0.0004 lb/mwhr).
Manganese	Maximum for any one day 0.064 kg/mwhr (0.141 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.032 kg/mwhr (0.070 lb/mwhr).
Oil	Maximum for any one day 0.064 kg/mwhr (0.141 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.045 kg/mwhr (0.098 lb/mwhr).
Phenols	Maximum for any one day 0.004 kg/mwhr (0.010 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0032 kg/mwhr (0.007 lb/mwhr).
Ortho-phosphate.	Maximum for any one day 0.004 kg/mwhr (0.010 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0002 kg/mwhr (0.005 lb/mwhr).
pH	Within the range of 6.0 to 9.0.

§ 424.13 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitation*
TSS	Maximum for any one day 0.024 kg/mwhr (0.052 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.012 kg/mwhr (0.026 lb/mwhr).
Chromium	Maximum for any one day 0.0008 kg/mwhr (0.0017 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0004 kg/mwhr (0.0009 lb/mwhr).
Hexavalent Chromium.	Maximum for any one day 0.00006 kg/mwhr (0.00006 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00001 kg/mwhr (0.00002 lb/mwhr).
Manganese	Maximum for any one day 0.008 kg/mwhr (0.017 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0039 kg/mwhr (0.0086 lb/mwhr).
Oil	Maximum for any one day 0.008 kg/mwhr (0.017 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0055 kg/mwhr (0.012 lb/mwhr).
Phenols	Maximum for any one day 0.0003 kg/mwhr (0.0007 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0002 kg/mwhr (0.0003 lb/mwhr).
Ortho-phosphate.	Maximum for any one day 0.00002 kg/mwhr (0.00004 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00003 kg/mwhr (0.00006 lb/mwhr).
pH	Within the range of 6.0 to 9.0.

§ 424.14 Standards of performance for new sources.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants by a new point source subject to the provisions of this subpart: there shall be no discharge of process waste water pollutants to navigable waters.

§ 424.15 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act, for a source within the open electric furnaces with wet air pollution control devices subcategory of the ferroalloy manufacturing category which is an industrial user of a publicly owned treatment works, (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.133, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 424.14, 40 CFR, Part 424: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

Subpart B—Covered Electric Furnaces and Other Smelting Operations With Wet Air Pollution Control Devices Subcategory

§ 424.20 Applicability; description of the covered electric furnaces and other smelting operations with wet air pollution control devices subcategory.

The provisions of this subpart are applicable to covered electric furnaces or other smelting operations, not elsewhere included in this part, with wet air pollution control devices. This subcategory includes those electric furnaces of such construction or configuration (known as covered, closed, sealed, semi-covered or semi-closed furnaces) that the furnace off-gases are not burned prior to collection and cleaning, and which off-gases are cleaned after collection in a wet air pollution control device such as a scrubber, "wet" baghouse, etc. This subcategory also includes those nonelectric furnace smelting operations, such as exothermic (aluminothermic, etc.) smelting, ferromanganese refining, etc., where these are controlled for air pollution by wet air pollution control devices. This subcategory does not include noncontact cooling water (regulated in Subpart D) or those furnaces which utilize dry dust collection techniques, such as dry baghouses.

§ 424.21 Specialized definitions.

For the purposes of this subpart:

(a) The term "oil" shall mean those components of a waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

(b) The term "total cyanide" shall mean cyanide amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 41.

(c) The term "phenols" shall mean those components of a waste water amenable to measurement by the method described in "1972 Annual Book of ASTM Standards, Part 3," 1972, Standard D1783–70, page 445.

(d) The term "hexavalent chromium" shall mean those components of a waste water amendable to measurement by the method described in "Standard Methods for the Examination of Water and Wastewater, 13th Edition," Method 211 (II) D, page 429.

(e) The following abbreviations shall have the following meaning: (i) "mwhr" shall mean megawatt-hour of electrical energy, applied to the furnace (furnace power consumption), (ii) "kg" shall mean kilogram(s), (iii) "kkg" shall mean 1000 kilograms, (iv) "lb" shall mean pound(s) and (v) "TSS" shall mean total suspended non-filterable solids.

§ 424.22 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitation*
TSS	Maximum for any one day 0.419 kg/mwhr (0.922 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.209 kg/mwhr (0.461 lb/mwhr).
Chromium	Maximum for any one day 0.008 kg/mwhr (0.018 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.004 kg/mwhr (0.009 lb/mwhr.)
Hexavalent Chromium.	Maximum for any one day 0.0008 kg/mwhr (0.0018 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.003 kg/mwhr (0.0006 lb/mwhr.)
Total Cyanide	Maximum for any one day 0.004 kg/mwhr (0.009 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.002 kg/mwhr (0.005 lb/mwhr.)
Manganese	Maximum for any one day 0.084 kg/mwhr (0.184 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.042 kg/mwhr (0.092 lb/mwhr.)
Oil	Maximum for any one day 0.084 kg/mwhr (0.184 lb/mwhr.) Maximum average of daily values for any period of thirty consecutive days 0.059 kg/mwhr (0.129 lb/mwhr).
Phenols	Maximum for any one day 0.006 kg/mwhr (0.013 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.004 kg/mwhr (0.009 lb/mwhr.)
Orthophosphate.	Maximum for any one day 0.006 kg/mwhr (0.013 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.003 kg/mwhr (0.006 lb/mwhr.)
pH	Within the range of 6.0 to 9.0.

(b) For nonelectric furnace smelting processes, the units of the effluent limitations set forth in this section shall be read as "kg/kkg product (lb/ton product)", rather than "kg/mwhr (lb/mwhr)", and the limitations (except for pH) shall be three (3) times those listed in the table in this section.

§ 424.23 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitation*
TSS	Maximum for any one day 0.032 kg/mwhr (0.071 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.016 kg/mwhr (0.035 lb/mwhr).
Chromium	Maximum for any one day 0.001 kg/mwhr (0.002 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0005 kg/mwhr (0.0012 lb/mwhr).
Hexavalent Chromium.	Maximum for any one day 0.00002 kg/mwhr (0.00005 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00001 kg/mwhr (0.00002 lb/mwhr).
Total Cyanide.	Maximum for any one day 0.0005 kg/mwhr (0.001 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0003 kg/mwhr (0.0006 lb/mwhr).
Manganese	Maximum for any one day 0.011 kg/mwhr (0.023 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.005 kg/mwhr (0.012 lb/mwhr).
Oil	Maximum for any one day 0.011 kg/mwhr (0.023 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.007 kg/mwhr (0.016 lb/mwhr).
Phenols	Maximum for any one day 0.0004 kg/mwhr (0.0009 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0002 kg/mwhr (0.0005 lb/mwhr).
Orthophosphate.	Maximum for any one day 0.00007 kg/mwhr (0.0002 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00004 kg/mwhr (0.00008 lb/mwhr).
pH	Within the range of 6.0 to 9.0.

(b) For nonelectric furnace smelting processes, the units of the effluent limitations set forth in this section shall be read as "kg/kkg product (lb/ton product)", rather than "kg/mwhr (lb/mwhr)", and the limitations (except for pH) shall be three (3) times those listed in the table in this section.

§ 424.24 Standards of performance for new sources.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants by a new point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitation*
TSS	Maximum for any one day 0.032 kg/mwhr (0.071 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.016 kg/mwhr (0.035 lb/mwhr).
Chromium	Maximum for any one day 0.001 kg/mwhr (0.002 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0005 kg/mwhr (0.0012 lb/mwhr).
Hexavalent Chromium.	Maximum for any one day 0.00002 kg/mwhr (0.00005 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00001 kg/mwhr (0.00002 lb/mwhr).

Effluent characteristic	*Effluent limitation*
Total Cyanide.	Maximum for any one day 0.0005 kg/mwhr (0.001 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0003 kg/mwhr (0.0006 lb/mwhr).
Magnanese....	Maximum for any one day 0.011 kg/mwhr (0.023 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.005 kg/mwhr (0.012 lb/mwhr).
Oil.....	Maximum for any one day 0.011 kg/mwhr (0.023 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.007 kg/mwhr (0.016 lb/mwhr).
Phenols.....	Maximum for any one day 0.0004 kg/mwhr (0.0009 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.0002 kg/mwhr (0.0005 lb/mwhr).
Orthophosphate.	Maximum for any one day 0.00007 kg/mwhr (0.0002 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00004 kg/mwhr (0.00008 lb/mwhr).
pH.....	Within the range of 6.0 to 9.0.

(b) For nonelectric furnace smelting processes, the units of the effluent limitations set forth in this section shall be read as "kg/kkg product (lb/ton product)", rather than "kg/mwhr (lb/mwhr)", and the limitations (except for pH) shall be three (3) times those listed in the table in this section.

§ 424.25 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act, for a source within the covered electric furnaces or other smelting operations with wet air pollution control devices subcategory of the ferroalloy manufacturing category which is an industrial user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR, shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants, introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 424.24, 40 CFR, Part 424: Provided, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

Subpart C—Slag Processing Subcategory

§ 424.30 Applicability; description of the slag processing subcategory.

The provisions of this subpart are applicable to slag processing, wherein (a) the residual metallic values in the furnace slag are recovered via concentration for return to the furnace, or (b) the slag is "shotted", for other further use.

§ 424.31 Specialized definitions.

For the purposes of this subpart:

(a) The term "process waste water" shall mean any water which during the manufacturing process comes into direct contact with any raw material, intermediate product, by-product, waste product or finished product used in or resulting from the manufacture of ferroalloys and related products.

(b) The term "process waste water pollutants" shall mean pollutants contained in process waste waters.

(c) The term "oil" shall mean those components of a waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

(d) The following abbreviations shall have the following meaning: (i) "kg" shall mean kilogram(s), (ii) "kkg" shall mean 1000 kilograms, (iii) "lb" shall mean pound(s) and (iv) "TSS" shall mean total suspended non-filterable solids.

§ 424.32 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
TSS.....	Maximum for any one day 2.659 kg/kkg processed (5.319 lb/ton processed). Maximum average of daily values for any period of thirty consecutive days 1.330 kg/kkg processed (2.659 lb/ton processed).
Chromium....	Maximum for any one day 0.053 kg/kkg processed (0.106 lb/ton processed). Maximum average of daily values for any period of thirty consecutive days 0.026 kg/kkg processed (0.053 lb/ton processed).
Manganese....	Maximum for any one day 0.532 kg/kkg processed (1.064 lb/ton processed). Maximum average of daily values for any period of thirty consecutive days 0.266 kg/kkg processed (0.532 lb/ton processed).
Oil.....	Maximum for any one day 0.532 kg/kkg processed (1.064 b/ton processed). Maximum average of daily values for any period of thirty consecutive days 0.372 kg/kkg processed (0.745 lb/ton processed).
pH.....	Within the range of 6.0 to 9.0.

§ 424.33 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart: there shall be no discharge of process waste water pollutants to navigable waters.

§ 424.34 Standards of performance for new sources.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants by a new point source subject to the provisions of this subpart: there shall be no discharge of waste water pollutants to navigable waters.

§ 424.35 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act, for a source within the slag processing subcategory of the ferroalloy manufacturing category which is an industrial user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR, shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 424.34, 40 CFR, Part 424: Provided, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

Subpart D—Noncontract Cooling Water Subcategory

§ 424.40 Applicability; description of the noncontact cooling water subcategory.

The provisions of this subpart are applicable to all noncontact cooling water uses from ferroalloy electric smelting furnaces, both with and without wet air pollution control devices.

§ 424.41 Specialized definitions.

For the purposes of this subpart:

(a) The term "noncontact cooling water" shall mean water used for cooling, and which does not come into direct contact with any raw material, intermediate product, by-product, waste product or finished product.

(b) The term "heat content" shall mean the difference in heat of the noncontact cooling water discharge and the receiving water, as calculated by the following formula: $q = mc\ T/P$. In this formula q is the heat content in kg-cal/mwhr (BTU/mwhr); m is the mass flow rate of the noncontact cooling water discharge in kg/day (lb/day); c is the constant pressure heat capacity of the water in kg-cal/kg/°C (BTU/lb/°F); T is the difference in temperature between the noncontact cooling water discharge (before mixing with any other discharge stream) and the receiving water upstream of the thermal discharge in °C (°F); and P is the mwhr used in electric furnace production per day, in mwhr/day.

(c) The term "oil" shall mean those components of a waste water amenable to measurement by the method described in "Methods for Chemical Analysis of Water and Wastes," 1971, Environmental Protection Agency, Analytical Quality Control Laboratory, page 217.

(d) The term "hexavalent chromium" shall mean those components of a waste water amenable to measurement by the method described in "Standard Methods for the Examination of Water and Wastewater, 13th Edition," Method 211 (II) D, page 429.

(e) The following abbreviations shall have the following meaning: (i) "kg" shall mean kilogram(s), (ii) "lb" shall mean pound(s), (iii) "mwhr" shall mean megawatt-hour of electrical energy applied to the furnace (furnace power consumption), (iv) "kg-cal" shall mean kilogram-calories, (v) "BTU" shall mean British Thermal Unit(s), (vi) "°C" shall mean degrees Centigrade, (vii) "°F" shall mean degrees Fahrenheit and (viii) "TSS" shall mean total suspended nonfilterable solids.

§ 424.42 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitation*
TSS	Maximum for any one day 2.686 kg/mwhr (5.917 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 1.343 kg/mwhr (2.959 lb/mwhr).
Chromium	Maximum for any one day 0.054 kg/mwhr (0.118 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.027 kg/mwhr (0.059 lb/mwhr).
Hexavalent Chromium.	Maximum for any one day 0.005 kg/mwhr (0.012 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.002 kg/mwhr (0.004 lb/mwhr).
Oil	Maximum for any one day 0.537 kg/mwhr (1.183 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.376 kg/mwhr (0.828 lb/mwhr).
Orthophosphate.	Maximum for any one day 0.107 kg/mwhr (0.237 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.054 kg/mwhr (0.118 lb/mwhr).
pH	Within the range of 6.0 to 9.0.
Heat Content.	Maximum for any one day 298,000 kg-cal/mwhr (1,184,000 BTU/mwhr). Maximum average of daily values for any period of thirty consecutive days 149,000 kg-cal/mwhr (592,000 BTU/mwhr).

§ 424.43 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitation*
TSS	Maximum for any one day 0.134 kg/mwhr (0.296 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.067 kg/mwhr (0.148 lb/mwhr).
Chromium	Maximum for any one day 0.003 kg/mwhr (0.006 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.001 kg/mwhr (0.003 lb/mwhr).
Hexavalent Chromium.	Maximum for any one day 0.00005 kg/mwhr (0.0001 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00003 kg/mwhr (0.00006 lb/mwhr).
Oil	Maximum for any one day 0.027 kg/mwhr (0.059 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.019 kg/mwhr (0.041 lb/mwhr).
Orthophosphate.	Maximum for any one day 0.003 kg/mwhr (0.006 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.001 kg/mwhr (0.003 lb/mwhr).
pH	Within the range of 6.0 to 9.0.
Heat Content.	Maximum for any one day 14,900 kg-cal/mwhr (59,000 BTU/mwhr). Maximum average of daily values for any period of thirty consecutive days 7,500 kg-cal/mwhr (30,000 BTU/mwhr).

§ 424.44 Standards of performance for new sources.

(a) The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants by a new point source subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitation*
TSS	Maximum for any one day 0.134 kg/mwhr (0.296 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.067 kg/mwhr (0.148 lb/mwhr).
Chromium	Maximum for any one day 0.003 kg/mwhr (0.006 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.001 kg/mwhr (0.003 lb/mwhr).
Hexavalent Chromium.	Maximum for any one day 0.00005 kg/mwhr (0.0001 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.00003 kg/mwhr (0.00006 lb/mwhr).
Oil	Maximum for any one day 0.027 kg/mwhr (0.059 lb/mwhr). Maximum average of daily values for any period of thirty consecutive days 0.019 kg/mwhr (0.041 lb/mwhr).

Effluent characteristic	*Effluent limitation*
Orthophosphate.	Maximum for any one day 0.003 kg/mwhr (0.006 lb/mwhr).
	Maximum average of daily values for any period of thirty consecutive days 0.001 kg/mwhr (0.003 lb/mwhr).
pH	Within the range of 6.0 to 9.0.
Heat Content.	Maximum for any one day 14,900 kg-cal/mwhr (59,000 BTU/mwhr).
	Maximum average of daily values for any period of thirty consecutive days 7,500 kg-cal/mwhr (30,000 BTU/mwhr).

§ 424.45 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act, for a source within the noncontact cooling water subcategory of the ferroalloy manufacturing category which is an industrial user of a publicly owned treatment works (and which would be a new source subject to section 306 of the act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CF, except that for the purposes of this section, § 128.133, 40 CFR shall be amended to read as follows: "In addition to the prohibitions set forth in section 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 424.44, 40 CFR, Part 424: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

[FR Doc.73-21897 Filed 10-17-73;8:45 am]

federal register

THURSDAY, OCTOBER 18, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 201

PART III

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

Rural Development Coordination and Programs

■

FARMERS HOME ADMINISTRATION

Community Facility Loans and Grants; Guaranteed Loans

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 22—RURAL DEVELOPMENT COORDINATION

In the FEDERAL REGISTER of June 20, 1973, 38 FR 16077, there was published a notice of proposed rulemaking with a proposed amendment to Subtitle A, Office of the Secretary of Agriculture, Title 7 Agriculture, Code of Federal Regulations. The proposed amendment adds a new Part 22 which carries out the provisions of section 603 of the Rural Development Act of 1972 (Public Law 92-419). It provides for the coordination of rural development activities under section 603 of the Rural Development Act of 1972, and further provides for the coordination of authorization embracing grants, loans, and administrative provisions specifying the roles of Federal departments and agencies, the executive branch and the Federal government, of States and local governments and Federal Regional Councils and rural development committees.

The proposed new part has been revised primarily for purposes of clarity. Other minor revisions have been made as a result of comments received.

On August 10, 1973, the President signed into law the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86). Sections 816 and 817 of this act amend the Rural Development Act of 1972. In particular section 817(4) of Public Law 93-86 prohibits prior approval by any State official of any loan or grant under any program authorized by Title I of the Rural Development Act of 1972.

The regulations herein adopted further differ from the notice of proposed rulemaking as a result of the provisions of section 817(4) of Public Law 93-86. It does not appear, however, that further public participation concerning those changes would make additional information available to the Department.

New Part 22 reads as follows:

Subpart A—General

Sec.
22.1-22.100 [Reserved]
22.101 The Rural Development Act of 1972 (Public Law 92-419).
22.102 Summary of authorities.
22.103 Purpose.
22.104 General policy.

Subpart B—Roles and Responsibilities of Federal Government

22.201 Coordination.
22.202 Federal unit responsibilities.
22.203 Major responsibilities under Title VI, Sec. 603 of Rural Development Act.
22.204 Rural development committees.
22.205 Allocation of loan and grant funds.

Subpart C—Roles and Responsibilities of State Governments

22.301 Selection and designation.
22.302 Area eligibility.
22.303 Cooperation with Federal Regional Councils.
22.304 Multiyear planning and programming.
22.305 Conformance with OMB Circular No. A-95.
22.306 Financing rural development planning.
22.307 Program evaluation.
22.308 Project approval.
22.309 Seeking Federal review.

AUTHORITY.—Sec. 301, 80 Stat. 379, 5 U.S.C. 301 and delegations of authority by the Secretary of Agriculture, 38 FR 14944-14948, 7 CFR 2.23, as amended by 38 FR 24633.

Subpart A—General

§§ 22.1—22.100 [Reserved]

§ 22.101 The Rural Development Act of 1972 (Public Law 92-419).

The Rural Development Act of 1972 (Public Law 92-419), herein called the Act consists of six titles designed to facilitate the development of rural communities through a series of authorizations including grants, loans, and administrative provisions. This Act adds new statutory rural development coordination responsibilities to certain Federal departments and agencies to be carried out under the leadership of the Secretary of Agriculture.

§ 22.102 Summary of authorities.

The purpose of this section is to give notice that certain authorities have been delegated by the Secretary of USDA agencies for implementation. New Secretarial delegations covering the Rural Development Act were effective May 31, 1973, and were published in the FEDERAL REGISTER June 7, 1973 (38 FR 14944-14953). These are as follows:

(a) *Title I (38 FR 14948).*—Responsibility delegated to the Assistant Secretary for Rural Development. The responsibility for administering loan and grant authorities is redelegated to the Farmers Home Administration, except the responsibility for administering loan authorities with respect to rural electrification and telephone facilities and service which has been redelegated to the Rural Electrification Administration.

(b) Titles II (38 FR 14945-14948), III (38 FR 14945-14948), and V (38 FR 14945-14948).—Responsibility delegated to the Assistant Secretary for Conservation, Research and Education and redelegated as follows:

(1) Titles II (38 FR 14951-14952) and III (38 FR 14951-14952) to the Administrator, Soil Conservation Service.

(2) Title V (38 FR 14949-14950) to the Administrators, Cooperative State Research Service and the Extension Service respectively.

(c) Title IV (38 FR 14945-14948).—Responsibility delegated to the Assistant Secretary for Conservation, Research and Education and redelegated (38 FR 14950-14951) to the Chief of the Forest Service.

(d) Title VI, section 603 (38 FR 14948).—Responsibility delegated to Assistant Secretary for Rural Development and redelegated (38 FR 14953) to the Administrator, Rural Development Service.

The Rural Development Act recognizes that many Federal departments and agencies of the executive branch of government administer programs and provide services which are applicable to the needs of rural communities. Section 603 of the Rural Development Act charges the Secertary of Agriculture with providing governmentwide leadership for, and with coordinating a nationwide rural development program. In such coordination, the Secretary shall seek measures that will achieve effective integration of relevant Federal services in rural areas as provided by Agriculture agencies and other Departments and agencies. This section also requires that the Secretary shall establish goals and report to the Congress on progress in complying with specified purposes of the Act. The Federal Regional Council will play a major role in coordination at the field level. An organic Act of the Department (7 U.S.C. 2201) has been amended to require the Secretary to add Rural Development to those purposes for which he is authorized to acquire and diffuse useful information.

§ 22.103 Purpose.

The purpose of these regulations is to establish the policies, procedures, and responsibilities required by section 603 of the Rural Development Act.

§ 22.104 General policy.

Federal implementation of the Act will be consistent with the President's policy of decentralized decisionmaking and administrative responsibility which gives fullest possible consideration to State and local rural development goals and priorities. As a result of section 817(4) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86) which prohibits prior approval by any State officials of any loan or grant under any program authorized by Title I of the Rural Development Act of 1972 (Public Law 92-419), it has been necessary to substantially modify the planned administration of programs under section 603 of the Rural Development Act.

Subpart B—Roles and Responsibilities of Federal Government

§ 22.201 Coordination.

The following identifies types and levels of coordination:

(a) Washington level interdepartmental and interagency coordination for purposes of the Act.

(b) Coordination for purposes of the Act among agencies within the U.S. Department of Agriculture.

(c) Coordination among and between the field operations of Federal agencies for purposes of the Act.

(d) Coordination for purposes of the Act between levels of field operations of the Federal government and State governments.

§ 22.202 Federal unit responsibilities.

The following Federal units have major responsibilities in implementing the Act.

(a) Rural Development policy questions requiring resolution by the Committee on Community Development of the President's Domestic Council may be so referred by the Secretary of Agriculture, who will sit as a member and as Chairman of the Rural Development Committee.

(b) The Under Secretary of Agriculture will represent the Secretary in matters pertaining to rural development policy when such matters are of mutual concern to the Under Secretaries' Group for Regional Operations (Executive Order 11647 as amended by E.O. 11731) and the Federal Regional Councils, or at such other times that he or the Secretary may deem appropriate.

(c) The Assistant Secretary of Agriculture for Rural Development will chair an Assistant Secretaries' Working Group consisting of interdepartmental and interagency members from Agriculture, Health, Education, and Welfare, Housing and Urban Development, Defense, Labor, Commerce, Transportation, Environmental Protection Agency, Small Business Administration and others as appropriate. This working group will operate under the aegis of the Rural Development Committee of the Domestic Council. The purpose of this working group is:

(1) To develop and recommend rural development policy applicable to more than one executive department or agency.

(2) To develop cooperative procedures between and among executive departments and agencies in matters pertaining to rural development.

(3) To devise effective rural development strategies and to bring Federal resources and services to bear toward their realization.

(4) To advise the Under Secretaries' Group on involvement of Federal Regional Councils in rural development activities.

The Secretary of Agriculture may utilize the services of the Assistant Secretaries' Working Group in performing his rural development functions for the Rural Development Committee of the Domestic Council.

(d) The Administrator, Rural Development Service, under the policy direction of the Assistant Secretary for Rural Development shall coordinate rural development activities under section 603 of the Rural Development Act as directed by the Secretary. In the fulfillment of such responsibilities, he is authorized to communicate directly with other Federal department and agency officials of corresponding levels of authority and with State and Federal Regional Council officials.

(e) The Federal Regional Councils shall have primary responsibility for interagency program coordination at the field level and will provide assistance to and liaison with States in promoting rural development. Federal attention to this type of cooperation and coordination will be emphasized. In addition, the Federal Regional Councils, operating within policy determined at the Washington level, shall be responsible for performing an oversight function to assess how well the machinery is working in carrying out the Rural Development Act authorities. Each Federal Regional Council shall create an appropriate management structure to accomplish the foregoing. This may include the creation of a Rural Development Committee. The Department of Agriculture will chair such Rural Development Committees or otherwise assume the lead in managing rural development actvities of the Federal Regional Councils.

(1) Procedures for the coordination of rural development activities will be consistent with the policies expressed herein and with any specific Federal guideline based on these regulations or on Executive Order 11647, as amended by Executive Order 11731.

(2) Councils shall exercise authority under Executive Order 11647, as amended by Executive Order 11731, to promote in rural areas integrated program and funding plans involving several Federal agencies.

§ 22.203 Major responsibilities under Title VI, Sec. 603.

(a) *Title VI, section 603(b).*—(1) Section 603(b) of the Rural Development Act charges the Secretary of Agriculture with providing leadership in the development of a nationwide rural development program. Included in this program would be pertinent Federal departments and agencies which might contribute to this rural development mission. In carrying out his responsibilities, the Secretary shall report annually, prior to September 1, to the Congress on rural development goals for employment, income, population, housing, and quality of community services and facilities. To carry out the provisions of the Act specified above, the following major responsibilities are identified:

(i) The Rural Development Committee of the Domestic Council will assume responsibility for interdepartmental policy formulation and resolution of issues pertaining to this section of the Act as determined by the Secretary of Agriculture. This committee consists of members of the Community Development Committee of the Domestic Council, to wit: the Secretary of Agriculture, Chairman of the Rural Development Committee; the Secretary of HUD, Chairman of the Urban Development Committee; the Secretary of Transportation, Chairman of the Transportation Policy Development Committee; the Secretaries of Treasury, Commerce, and Labor and the Director of OMB.

(ii) The Secretary of Agriculture shall be responsible for Washington level coordination pursuant to this section of the Act.

(iii) At the regional level, the Federal Regional Councils shall develop and implement procedures designed to identify and facilitate access to Federal resources appropriate for rural development purposes within States. Such procedures will be consistent with policies expressed or endorsed by the Under Secretaries' Group. The Councils shall also be responsible for monitoring the effectiveness with which the Rural Development Act is implemented within their respective regions.

(2) The Secretary of Agriculture is also authorized to initiate or expand research and development efforts related to solution of rural development problems including problems of rural water supply, rural sewage and solid waste management, and rural industrialization.

(3) The Rural Development Service will operate a rural development research program and may also participate in rural development research in cooperation with Federal, State and private research units.

(b) *Title VI, section 603(c) of the Rural Development Act.*—(1) Under guidance by the Under Secretaries' Group, and under the leadership of the U.S. Department of Agriculture member on each of the Federal Regional Councils, the Rural Development Committees of the Federal Regional Councils or other Federal Regional Council mechanisms assigned to work with rural development, shall be responsible for proposing to the appropriate Federal and State agencies actions in such areas as:

(i) Adjustment, where appropriate, of administrative boundaries used by field staffs of Federal and Federally supported agencies to conform with boundaries of multicounty jurisdictions. "Multicounty jurisdictions" as used means substate planning districts or other combinations of county jurisdictions as designated by States for State planning purposes.

(ii) Co-location of field units of Federal agencies and consolidation of offices in the vicinity of principal centers of local government administration (including multicounty jurisdictional administration), to encourage increased cooperation within and among different governmental levels.

(iii) Exchange of personnel between Federal and State agencies under the Intergovernmental Personnel Act (Public Law 91-648), to supplement and broaden staffs administering rural development programs, and provide specific technical expertise for certain projects.

(iv) Interchange of personnel among Federal agencies for the purposes expressed in paragraph (b)(1)(ii) of this section.

(2) In addition, the U.S. Department of Agriculture member on the Federal Regional Councils shall, by July 31 of each year, report to the Assistant Secretary for Rural Development who shall in turn report to the Under Secretaries' Group and the Congress on progress made in carrying out the programs outlined in paragraph (b)(1) (ii) through (iv) of this section and plans for programs to be implemented during the following fiscal year. The first report will be due to the Assistant Secretary by July 31, 1974.

§ 22.204 Rural development committees.

State rural development committees, consisting of USDA agency members and, in most instances, State governments and other Federal agency representatives are available to assist States in accomplishing their rural development objectives. Such assistance if requested by the State can take the form of technical assistance and cooperative services to States in carrying out their rural development priorities.

§ 22.205 Allocation of loan and grant funds.

(a) Title I grant funds and approved loan funding levels will be allocated among States by a formula designed to ensure equitable treatment. This applies to amounts made available for business and industrial loans, water, sewer and other community facilities except electrical and telephone facilities provided by or through the Rural Electrification Administration.

(b) During the second half of the fiscal year, the Secretary of Agriculture shall review State and multicounty jurisdictional rural development programs and projects so that unused allocations may be shifted from one State to another so as to enable the obligation of all available funds prior to the end of the fiscal year.

(c) The formula used for fund allocation will ensure that a minimum loan and grant level is established so that no State receives an amount too small to serve the purposes of the Act. A percentage of total loan and grant authority will be withheld from initial allocation to allow subsequent appropriate technical adjustments in amounts allocated to individual States.

(d) Title V funds shall be distributed by the Secretary under the formula specified in the Act. Title V activities will be consistent with the principle that States and multicounty jurisdictions have responsibility for the rural development planning and priority setting functions.

Subpart C—Roles and Responsibilities of State Governments

§ 22.301 Selection and designation.

Procedures for implementing the Act are designed to give the fullest possible consideration to planning and development goals and strategies at the State and multicounty jurisdictional levels. The governing bodies of multicounty organizations should include representatives of local governments contained within the respective multicounty jurisdictions. State development strategies and priorities shall be fully considered in the Federal administration of Rural Development Act authorities.

§ 22.302 Area eligibility.

Eligibility for programs under the Act will be based on the criteria of community size and location of population as specified in the Act. State designations of eligible areas will be duly considered by the Federal government in the determination of eligibility for loan and grant assistance.

§ 22.303 Cooperation with Federal Regional Councils.

States are urged to establish and maintain close and cooperative relationships with the Federal Regional Councils which will be in a position to assist the States and multicounty jurisdictions in the identification and application of available resources. States may authorize direct communications and liaison between the Regional Councils and multicounty jurisdictions within States.

§ 22.304 Multiyear planning and programming.

State and multicounty jurisdictions are encouraged to adopt multiyear planning and development programs. As administrative procedures for implementing the Act support the feasibility of such a process, these programs should consider joint State, Federal, and local budget planning factors and be refined to conform to the actual fund availability as annual budgets are finalized and allocated. Such programs, once initiated, will be extended by the annual addition of a new planning year until programs are completed or terminated.

§ 22.305 Conformance with OMB Circular No. A–95.

The State and multicounty jurisdictional rural development planning process must conform to the review requirements expressed in OMB Circular No. A–95 under parts I, III, and IV as appropriate.

§ 22.306 Financing rural development planning.

States will be required to finance rural development planning through their own resources, revenue-sharing allocations, or the Department of Housing and Urban Development planning and management assistance program or other available Federal planning programs.

§ 22.307 Program evaluation.

The Department of Agriculture is responsible for continuous program evaluation to determine if individual projects and the entire program is cost effective in terms of reaching rural development goals. As a result, USDA is responsible for conducting and reporting an annual evaluation of selected rural development projects and the overall rural development program. USDA shall include as a part of its evaluation Federal Regional Council assessment of the effectiveness of interagency coordination and delivery of services within the overall rural development program. States and multicounty districts are encouraged to participate in the joint preparation of such program evaluations. Copies of such evaluations should be supplied to the Administrator, Rural Development Service, Department of Agriculture and to the Federal Regional Councils, in sufficient time so as to arrive not later than July 1. The initial evaluation, due July 1, 1974, in addition to the requirements listed below, should include a background statement and should summarize first year program efforts and results. Annual evaluation should:

(a) Describe the process used in planning, project selection and priority setting, and the criteria and process used in evaluating program effectiveness.

(b) Describe the specific objectives of the programs.

(c) Describe and assess the cost and effectiveness of projects being pursued within individual multicounty jurisdictions.

(d) Express observations, conclusions and recommendations based on such evaluations which may contribute to the development of better management, coordination and planning procedures.

§ 22.308 Project approval.

State and multicounty jurisdictional planning is a State and local prerogative. Federal agencies will be responsive to State rural development strategies and priorities. However, determination of eligibility and feasibility and final approval of individual projects involving Federal funds must remain with the Federal government consistent with the Act and implementing regulations.

§ 22.309 Seeking Federal review.

States may, if they elect, submit multicounty development plans and proposals to the Federal Regional Councils and to the Rural Development Service, USDA, for review and comment. Such review will neither obligate the Federal government with respect to such programs nor require States to conform with suggestions supplied by the USDA or the Federal Regional Council.

Effective date.—This part becomes effective on October 18, 1973.

Dated October 10, 1973.

WALTER A. GUNTHARP,
Administrator,
Rural Development Service.

[FR Doc.73–21975 Filed 10–17–73;8:45 am]

PART 23—STATE AND REGIONAL ANNUAL PLANS OF WORK

Regulations for Programs, Title V, Rural Development Act of 1972

In the FEDERAL REGISTER of June 21, 1973, 38 FR 16234–16236, there was published a notice of proposed guidelines to carry out Title V of the Rural Development Act of 1972. Comments that were received were carefully considered. As a result of a number of comments, the reference to OMB Circular A–95 requiring the State Annual Plan of Work to be submitted to the Governor for his review has been eliminated. The provision for project approval by the State Rural Development Advisory Council, as provided by Title V, composed of a mix of elected officials, private individuals and educators, has been retained. This Council should be sufficient to coordinate with the State A–95 clearinghouse to insure

that proposals do not duplicate other activities.

Also during the notice period the proposed guidelines were revised in the Department primarily for purposes of clarity. The regulations herein adopted, thus, differ from the notice of proposed rulemaking. It does not appear, however, that further public participation would make additional information available to the Department. The Department would like to make these regulations effective as early as possible to effectuate the provisions of Title V of the Rural Development Act. Thus, it is found upon good cause that they be made effective less than 30 days after publication in the FEDERAL REGISTER. The regulations shall be effective on October 18, 1973.

As adopted, the new Part 23, reads as follows:

Subpart A—State Program

Sec.
23.1 General.
23.2 Administration.
23.3 Coordination.
23.4 State Rural Development Advisory Council.
23.5 Availability of funds.
23.6 Plan of work.

Subpart B—Regional Program

23.9 General.
23.10 Administration.
23.11 Board of Directors.
23.12 Availability of funds.
23.13 Plan of work.

AUTHORITY.—Sec. 508, 86 Stat. 674 (7 U.S.C. 2668).

Subpart A—State . rogram

§ 23.1 General.

(a) Title V of the Rural Development Act of 1972 (P.L. 92-419) hereafter referred to as "Title V" is the Research and Education component of the Rural Development Act of 1972. Title V provides the opportunity to utilize and build upon the research, extension, and community service capability of public and private institutions of higher education in each State to expand scientific inquiry and education backup for rural development. The higher educational and research institutions in each State, including the Land Grant Institutions of 1890, are authorized to assist in developing and disseminating through the most appropriate manner, scientific information, technical assistance, and feasibility studies required to improve the rural development capability of local citizens, agencies, and governments. Programs authorized under Title V shall be organized and conducted by one or more colleges or universities in each State to provide a coordinated program in each State which will have the greatest impact on accomplishing the objectives of rural development in both the short and longer term and the use of these studies to support the State's comprehensive program to be supported under Title V.

(b) Title V operations will be consonant with the purpose that all Federal rural development activities be coordinated with other federally assisted rural development activities and with the State's ongoing rural development program. To effectuate such purpose, the Assistant Secretary for Conservation, Research and Education will implement title V plans and activities in close coordination with the Assistant Secretary for Rural Development.

§ 23.2 Administration.

(a) Title V will be administered by the Administrators of the Extension Service and the Cooperative State Research Service for extension and research programs respectively, in cooperation with the chief administrative officer of the State Land Grant University who will administer the program within his respective State. To assure national and State coordination with programs under the Smith-Lever Act of 1914 and the Hatch Act (as amended), August 11, 1955, the administration of the programs shall be in association with the programs conducted under the Smith-Lever Act and the Hatch Act as required by Section 504(b) of the Act.

(b) Programs authorized under title V shall be conducted as mutually agreed upon by the Secretary and the chief administrative officer of the State Land Grant University responsible for administering said programs in a memorandum of understanding which shall provide for the coordination of the programs, coordination of these programs with other rural development programs of Federal, State, and local government, and such other matters as the Secretary shall determine.

§ 23.3 Coordination.

The chief administrative officer of the administratively responsible State Land Grant University will designate an official who will be responsible for the overall coordination of the authorized programs for the State. The designated official will be responsible for the overall coordination of planning, organizing, funding, conducting and evaluating programs in association with the person responsible for the administration of research programs, the person responsible for the administration of the extension programs, and the administrative head of agriculture of the University (chairman of the State Rural Development Advisory Council).

§ 23.4 State Rural Development Advisory Council.

(a) The chief administrative officer of the administratively responsible State Land Grant University will appoint a State Rural Development Advisory Council with membership as set forth in section 504(e) of Title V. The function of the Council shall be to review and approve annual program plans conducted under Title V. The Council will also advise the chief administrative officer on all matters pertaining to the authorized programs.

(b) The Chairman of the State Rural Development Advisory Council will insure that programs proposed under Title V including regional programs applicable within the State are not inconsistent with and are, to a maximum extent practicable, in consonance with other rural development programs and activities approved in that State.

(c) Those elements of the research and extension plan which would impact directly on rural development activities being developed or pursued by States will be considered jointly by the State Rural Development Advisory Council and appropriate State agencies to assure a constructive reinforcement of those State activities.

§ 23.5 Availability of funds.

Funds available under Title V for extension and research programs shall be allocated to, and following approval of a State Annual Plan of Work, paid to the official of the State Land Grant University designated to receive funds under the Smith-Lever and Hatch Acts respectively. Funds will be available for State programs for expenditures authorized by section 503(c) of Title V, in the fiscal year for which the funds were appropriated and the next fiscal year.

§ 23.6 Plan of Work.

(a) A State Annual Plan of Work for carrying out the programs authorized under title V shall be prepared. The Plan of Work should include:

(1) Identification of major problems and needs which can be met by each related extension and research program in the geographic or problem area,

(2) The relationship of this program to ongoing planning and development efforts,

(3) The organizational structure for planning, conducting, and evaluating each pilot program, including the names and title of the members of the Rural Development Advisory Council and the composition of major committees and work groups.

(4) A separate concise statement describing specific extension projects to be funded under each program. The statement should contain the following elements: Title, objectives, organization and operational procedures, probable duration, personnel, institutions involved, and relation to the research effort. In addition, a brief description of each regular or special extension project which is complementary and supports the Title V pilot program, but which is funded from other sources shall be included,

(5) A separate concise statement describing specific research projects to be funded under each program. The statement should contain the following elements: Title, objectives, organization, and operational procedures, probable duration, personnel, institutions involved, and relation to the extension effort. In addition, a brief description of each regular or special research project which is complementary and supports the Title V program, but which is funded from other sources, shall be included,

(6) A plan for evaluating the impact of each program on the development of the area, including the effectiveness of the extension and research program

techniques, and organizational structure for planning and conducting each program. Appraisals by community leaders in the area should be included in the evaluation.

(7) Provisions for making an annual progress report to the Assistant Secretary for Conservation, Research, and Education which will document achievements pertaining to the goals and objectives as stated in the Plan of Work.

(8) A budget statement for each program to be submitted on forms provided by the Assistant Secretary for Conservation, Research, and Education.

(b) The Plan of Work shall include plans for all programs to be conducted with funds authorized under section 503 (b) (3) and (4) of Title V. The Plan of Work shall include plans for the programs to be conducted by each cooperating and participating university or college and such other information as included in these guidelines. Each State program must include research and extension activities directed toward identification of programs which are likely to have the greatest impact upon accomplishing the objectives of rural development in both the short and longer terms and the use of these studies to support the State's comprehensive program to be supported under section 505 (b) of Title V. In addition, all other rural development extension and research efforts funded from other sources that contribute directly to the proposed programs shall be described in the Plan of Work.

(c) Since the appropriation authorization for Title V is limited to a three-year period the Plan of Work should be developed to demonstrate extension and research program techniques and organizational structures for providing essential knowledge to assist and support rural development efforts within that time.

(1) In accordance with the above criteria, the Plan of Work should:

(i) Concentrate on limited geographic or problem areas where Title V efforts would be expected to have high impact within the three-year authorization.

(ii) Give emphasis to rural areas, including towns and cities with populations of less than 50,000.

(iii) Involve the administratively responsible Land Grant University and other public or private colleges and universities, as appropriate, in meeting with high priority extension and research needs of the area(s).

(iv) Give priority to education and research assistance leading to increasing job and income opportunities, improving quality of life, improving essential community services and facilities, improving housing and home improvements, and enhancing those social processes necessary to achieve these goals.

(v) Be consistent with Statewide comprehensive planning and development efforts and objectives. Procedures set forth under section 23.4(c) are designed to achieve attainment of this requirement.

(d) Four copies of the Plan of Work approved by the State Rural Development Advisory Council shall be submitted by the person responsible for the overall coordination of the Title V programs in the State to the Assistant Secretary for Conservation, Research and Education, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after enactment of the annual Appropriation Act for the Department of Agriculture.

(e) Plans of Work not meeting the above criteria will not be approved by the Assistant Secretary for Conservation, Research and Education.

Subpart B—Regional Program

§ 23.9 General.

(a) Section 503(b)(2), Title V, of the Rural Development Act of 1972 (P.L. 92-419) hereafter referred to as "Title V" authorizes funds to finance work authorized under Title V which serve two or more States; in which universities in two or more States cooperate; or which is conducted by one University serving two or more States. The authorized funding under section 503(b)(2) is hereafter referred to as the "Regional Programs."

(b) The Regional Programs shall develop and provide knowledge essential to assist and support rural development in the region, and shall provide for technical consultation and personnel development for the research and extension staff in the several States of the region to help them to be more responsive to rural development needs and activities.

(c) The Regional Programs will concentrate on the high priority knowledge, training, and personnel needs required for the research and extension staff in the several States to conduct effective rural development research and extension to carry out the provisions of Title V. These efforts may include personnel development and consultation; synthesis of existing research knowledge and the interpretation of this knowledge for rural development program and policy purposes; the development of strategies and procedures on high priority rural development problems of regional significance; as funds permit, the conduct of research on one of two high priority problems for which information is lacking but is urgently needed for rural development, and the evaluation of rural development programs and policies.

(d) Regional Programs will be consonant with all rural development activities under the Act and other pertinent Federal development programs. To effectuate such purpose, the Assistant Secretary for Conservation, Research and Education will implement Title V plans and activities in close cooperation with the Assistant Secretary for Rural Development. In order to insure such consonance, the Director of each Regional Center will insure that regional programs having an impact within one or more States are brought to the attention of the appropriate State overall coordinator for consideration pursuant to procedures in section 23.4(c).

§ 23.10 Administration.

(a) The Regional Programs will be administered through four Regional Rural Development Centers hereafter referred to as "Regional Centers" in cooperation with the Extension Service and the Cooperative State Research Service. The Director of each Regional Center shall be responsible for compliance with all appropriate provisions of Title V and the regulations of this subpart. Regions as delineated for purposes under section 503(b)(2) will be coterminous with the regional delineation by the National Association of State Universities and Land Grant Colleges. Each Regional Center will be established by the regional association of State Agricultural Experiment Station Directors and the regional organization of Cooperative Extension Directors in the region to be served by the Regional Center. These associations and organizations will designate the location of the Regional Center.

(b) Although the Regional Center will administer the program, it is also expected that it will draw on expertise from outside the Regional Center. The Director of each Regional Center shall seek advice and assistance from regional and subregional committees, groups or persons who can contribute to the Regional Center's program.

§ 23.11 Board of Directors.

(a) For each Regional Center there shall be a Board of Directors selected by the Regional Association of Agricultural Experiment Station Directors and the Regional Organization of Cooperative State Extension Directors. Membership on the Board of Directors shall include representatives from State Cooperative Extension Services and State Agricultural Experiment Stations from the States in the region and/or other State administrators of programs carried out under Title V in the region.

(b) The Director of each Regional Center will be responsible to the Board of Directors for the Regional Program conducted at that Regional Center. The Regional Annual Plan of Work will be developed by the Director and reviewed and approved by the Board of Directors.

§ 23.12 Availability of funds.

Available funds will be allocated equally and following approval of a Regional Annual Plan of Work paid to the Directors of the four Regional Centers. Funds will be available for Regional Programs for expenditures authorized by section 503(c) of Title V, in the fiscal year for which the funds were appropriated and the next fiscal year.

§ 23.13 Plan of Work.

(a) A Regional Plan of Work for carrying out the programs authorized to be funded under section 503(b)(2) of Title V shall be prepared. The Plan of Work should include:

(1) A brief narrative statement including identification of high priority knowledge, skill, and organization needs for rural development program and

policy purposes in the region and identification of technical consultation, training, and personnel needs of research and extension workers in support of rural development programs.

(2) A statement indicating: (i) The types of personnel to be trained, technical consultation to be conducted, the estimated number of participants, the location or locations where the program will be conducted, and the staff who will conduct the work;

(ii) The types of topical areas of rural development for which the synthesis of available research knowledge for rural development purposes is planned;

(iii) The type of high priority rural development research which will be undertaken as funds permit and the staff which would do the research;

(iv) The type of evaluation studies which will be made and the staff which will do the evaluation; and

(v) The relationship of the Plan of Work to priorities activated under Subpart A of this Part, which in turn support State development strategies.

(3) A concise statement of the organization structure for planning and conducting the program funded under section 503(b)(2).

(4) A plan for evaluating the usefulness of the program and the effectiveness of the organizational structure.

(5) Provision for making an annual progress report to the Assistant Secretary for Conservation, Research and Education which will document achievements pertaining to the goals and objectives as stated in the Plan of Work.

(6) A budget statement to be submitted on forms provided by the Assistant Secretary for Conservation, Research and Education.

(b) The Plan of Work shall be coordinated with the work program of other pertinent multi-State organizations or bodies for those activities of the Regional Rural Development Centers which go beyond direct assistance to individual State programs conducted under Title V.

(c) The Director of the Center will forward four copies of the Plan of Work to the Assistant Secretary for Conservation, Research and Education, U.S. Department of Agriculture, Washington, D.C. 20250, by a time to be specified by the Assistant Secretary for Conservation, Research, and Education.

(d) Regional Annual Plans of Work not meeting the above criteria will not be approved by the Assistant Secretary for Conservation, Research and Education.

Dated October 10, 1973.

ROBERT W. LONG,
Assistant Secretary for Conservation, Research and Education.

[FR Doc.73-21976 Filed 10-17-73;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Ins. 442.1; AL-870(442)]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Water and Sewer Project Loans; Preliminary Inquiries; Deletion

Section 1823.36 of Subpart A of Part 1823, Title 7, Code of Federal Regulations (37 FR 28607), is deleted. The provisions of this section which pertains to the handling of preliminary inquiries for loan and grant assistance for water and sewer projects are no longer applicable. Since its provisions are no longer applicable notice and public procedure thereon are unnecessary.

((7 U.S.C. 1989) delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.)

Effective date.—This deletion is effective on October 18, 1973.

Dated October 1, 1973.

J. R. HANSON,
Acting Administrator, Farmers Home Administration.

[FR Doc.73-21978 Filed 10-17-73;8:45 am]

[FHA Ins. 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart A—Community Facility Loans

On pages 16364 through 16374 of the FEDERAL REGISTER, there was published a notice of proposed rulemaking to issue an amendment of Subpart A of Part 1823 of Title 7, Code of Federal Regulations, by deleting the entire part of Subpart A as it appears at 37 FR 12036; 37 FR 20108; and 37 FR 28607, and issuing regulations to facilitate the requirements of community facilities in the area of loan making, planning and developing community facilities, and information pertaining to preparation and issuance of evidences of debt by applicants. These regulations are issued in the form of a revised Subpart A as follows:

Community Facility Loans	§§ 1823.1 to 1823.15
Community Facilities—Planning, Bidding, Contracting, Constructing	§§ 1823.21 to 1823.33
Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants	§§ 1823.41 to 1823.48

Interested persons were given 21 days in which to submit comments, suggestions, or objections regarding the amendment. All comments received have been considered and incorporated where appropriate. Substantive changes are as follows:

1. The provision for approval of application by the State Governor or his designee has been deleted.

2. The provision for the State Governor to establish the priority of application approval has been deleted.

3. A revision has been made which provides that FHA shall cooperate fully with appropriate state agencies in the making of loans in a manner which will assure maximum support of the states' strategies for development of rural areas.

4. A revision has been made which provides that FHA will fully consider all OMB Circular A-95 agency comments and priority recommendations in selecting application for funding.

5. A revision has been made which allows private corporations organized under the general profit corporation laws to be eligible for FHA assistance under certain conditions.

6. A revision has been made which allows loans for social, cultural, recreational, and other like purposes to be made to other than public body type organizations when certain conditions are met.

7. A revision has been made regarding scheduled repayment dates.

8. The requirement for projects to be consistent with comprehensive area-wide plans has been deleted.

9. A revision has been made which establishes a "review of decision" procedure for rejected applications.

10. A revision has been made which requires the borrower to submit evidence that required property and liability insurance, workman's compensation, and fidelity bond premiums have been paid.

11. A revision has been made which allows FHA to require an annual audit of operation in lieu of other management reports in certain cases for public body borrowers whose loans are secured by general obligations or assessments.

12. A revision has been made which requires flood hazard insurance for facilities located in flood plains when such insurance is available at reasonable rates.

13. A revision has been made to change from $2500, to $50,000, the amount of a procurement contract which does not require formal advertising unless otherwise required by state or local law or regulations.

14. A revision has been made to provide for OGC approval of construction contracts which do not follow guide formats previously approved by FHA and that all change orders be approved by FHA.

15. A revision has been made to allow the applicant the option of not using bond counsel for issues of $50,000 or less

with prior approval of FHA, provided certain conditions are met.

16. A revision has been made which will allow payments on bonds purchases by FHA to be submitted directly to the Finance Office by the borrower.

Additional comments may be submitted on or before February 16, 1974, and will be considered for incorporation into this subpart. These additional comments may be submitted to the Deputy Administrator Comptroller, Farmers Home Administration, United States Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Deputy Administrator Comptroller during regular business hours (8:15 a.m. 4:45 p.m.). The amended Subpart A reads as follows:

Subpart A—Community Facility Loans

COMMUNITY FACILITY LOANS

Sec.
1823.1 General.
1823.2 Applicant eligibility and priority.
1823.3 Eligible loan purposes.
1823.4 Facilities for public use.
1823.5 Rates and terms.
1823.6 Security.
1823.7 Economic feasibility requirements.
1823.8 Reserve requirements.
1823.9 General requirements.
1823.10 Other Federal, State and local requirements.
1823.11 Professional services and contracts related to the facility.
1823.12 Applying for FHA loans.
1823.13 Closing loans and fund delivery.
1823.14 Borrower accounting, financial reporting, auditing and bank accounts.
1823.15 Closing development grants approval under previous regulations.

COMMUNITY FACILITIES—PLANNING, BIDDING, CONTRACTING, CONSTRUCTING

Sec.
1823.21 General.
1823.22 Technical services.
1823.23 Design policies.
1823.24 Water purchase contracts.
1823.25 Contracts to treat sewage.
1823.26 Preliminary engineering and architectural reports.
1823.27 Construction contract forms.
1823.28 Performing construction.
1823.29 Procurement, bidding, and contract awards.
1823.30 Preconstruction conference.
1823.31 Applicant/borrower monitor reports.
1823.32 Resident inspection.
1823.33 Change in development plans.

INFORMATION PERTAINING TO PREPARATION OF NOTES OR BONDS AND BOND TRANSCRIPT DOCUMENTS FOR PUBLIC BODY APPLICANTS

1823.41 Policies.
1823.42 Bond transcript documents.
1823.43 Interim financing from commercial sources during construction period for loans of $50,000 or more.
1823.44 Permanent instruments for FHA loans to repay interim commercial financing.
1823.45 Multiple advances of FHA funds using permanent instruments.
1823.46 Multiple advances of FHA funds using temporary debt instrument.
1823.47 Minimum bond specifications.
1823.48 Bidding by FHA.

AUTHORITY.—7 U.S.C. 1989; Order of Sec. of Agr. 38 FR 14944, 14948, 7 CFR 2.23; Order of Asst. Sec. Agr. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.

Subpart A—Community Facility Loans

COMMUNITY FACILITY LOANS

§ 1823.1 General.

These §§ 1823.1–1823.15 set forth Farmers Home Administration (FHA) policies and requirements pertaining to loans for community facilities. It provides applicants with guidance for use in proceeding with their application. FHA shall cooperate fully with appropriate State agencies in the making of loans in a manner which will assure maximum support of the State's strategies for development of rural areas. State and substate A–95 agencies may recommend priorities for applications. FHA will fully consider all A–95 agency review comments and priority recommendations in selecting applications for funding. Applicants will find additional requirements and guides in §§ 1823.21–1823.33 and §§ 1823.41–1823.48 of this subpart.

§ 1823.2 Applicant eligibility and priority.

Facilities financed by FHA shall primarily serve rural residents. The terms "rural" and "rural area" shall not include any area in any city or town having a population in excess of 10,000 inhabitants according to the latest decennial census of the United States.

(a) Applicants eligible for loans include but are not limited to municipalities, counties and other political subdivisions of a State, such as districts and authorities; and associations, cooperatives and corporations operated on a not-for-profit basis, Indian tribes on Federal and State reservations and other Federally recognized Indian tribes, and existing private corporations even though organized under the general profit corporation laws may come within this definition if it actually will be operated on a not-for-profit basis under such charter, bylaws, mortgage, or supplementary agreement provisions as may be required as a condition of loan approval, which are unable to finance the proposed project from its own resources or through commercial credit at reasonable rates and terms; and have or will have the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan.

(1) Preference for available loan funds will normally be given to public bodies. Where this is not practicable:

(i) Loans for facilities providing a utility type service such as water and sewer systems, fire and rescue, natural gas distribution systems, cable TV and the like may be made to other than public body type organizations.

(ii) Loans for social, cultural, recreational facilities, and the like may be made to other than public body type organizations when (A) such facilities are fully available to the public, (B) it is not practicable for the public entity they serve to finance them, and (C) the applicant has a firm source of repayment other than and in addition to the revenue generated by the facility, which is evidenced by bonafide agreements that have permanency for the life of the loan.

(2) Loans shall not be made for community electric or telephone systems; however, this does not preclude an application for such a loan from the Rural Electrification Administration to be made by it under this section when the findings required by 7 U.S.C. 1983 can be made.

(b) In selecting projects, FHA shall give due consideration to State development strategies, clearinghouse comments and priority recommendations and assign priorities in accordance with the following:

(1) Water and sewer system applications from any municipality or other public agency (including an Indian tribe on a Federal or State reservation or other Federally recognized Indian tribal group) in a rural community having a population not in excess of 5,500, having an inadequate water or sewer system.

(2) Those projects which will enlarge, extend, or otherwise modify existing facilities to provide service to additional rural residents.

(3) Those projects which involve the merging of ownership, management, and operation of smaller facilities thereby providing for more efficient management and economical service to more rural communities and residents and more orderly development of the rural area in which the facilities are located.

§ 1823.3 Eligible loan purposes.

Funds may be used:

(a) To construct, enlarge, extend, or otherwise improve community water, sanitary sewerage, solid waste disposal, and storm waste water disposal facilities.

(b) To construct, enlarge, extend, or otherwise improve community facilities providing essential service to rural residents. Such facilities include but are not limited to those providing or supporting overall community development such as fire and rescue services; transportation; traffic control; community, social, cultural, and recreational benefits; industrial and business development.

(c) For items relating to those facilities in paragraphs (a) and (b) of this section as follows:

(1) Fees, services, and costs such as legal, engineering, fiscal advisory, recording, planning, establishing, or acquiring rights through appropriation permit, agreement or condemnation. Fees for "loan finding" are not an eligible cost item.

(2) Paying interest installments in connection with loans to be repaid from facility revenue when such installments cannot be deferred until such time as the facility is generating sufficient revenue to be self supporting. Ordinarily, this will be limited to an amount sufficient to pay not more than 3 years interest after the estimated loan closing date. Funds may be included for interest installments for loans secured by general obligation bonds through the period

when taxes are available for payment, ordinarily not to exceed two years.

(3) Purchase existing facilities when it is determined that the purchase is necessary to provide efficient service through a community owned and operated facility, and a satisfactory agreement between buyer and seller is reached and receives FHA concurrence.

(4) Construct buildings and works of modest design, size, and cost, essential to the successful operation or protection of authorized community facilities and secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for, primary facilities.

(5) Construct or relocate roads, bridges, utilities, fences, and other public or private improvements.

(6) Acquire interest in land, and rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control which are necessary for development of the facility.

(7) Purchase or rent equipment necessary to install, maintain, extend, protect, operate or utilize facilities.

(8) Initial operating expenses for a period ordinarily not exceeding one year when the borrower is unable to pay such expenses.

(9) Refinancing debts incurred by or on behalf of a community prior to an application for a loan when all of the following conditions exist.

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

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

(10) Paying obligations for construction incurred before loan approval. Construction work should not be started and obligations for such work or materials should not be incurred before the loan is approved. However, if there are compelling reasons for proceeding with construction before loan approval, applicants may request FHA approval to pay such obligations. If upon receipt of such request FHA determines that:

(i) A necessity exists for incurring obligations before loan approval;

(ii) The obligations will be incurred for authorized loan purposes;

(iii) Contract documents have been approved by FHA;

(iv) The applicant has the legal authority to incur the obligations at the time proposed, and payment of the debts will remove any basis for any mechanic's, materialmen's, or other liens that may attach to the security property, FHA may authorize payment of such obligations at the time of loan closing. FHA's authorization to pay such obligations however, is on the condition that it is not committed to make the loan; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all loan approval requirements. The applicant request and FHA authorization for paying such obligations shall be written.

(11) FHA loan funds may be used in connection with funds provided by the applicant or from other sources. FHA loan funds may also be used to finance that portion of a project serving rural areas when the project is to serve both rural and urban areas. Since "matching funds" are not a requirement for FHA loans, shared revenues may be used with such loans for project construction. Applicants expecting funds from other agencies for use in completing projects being partially financed with FHA funds will present evidence that funds from such other agencies will be available at the time needed for construction of the project before closing the FHA loan.

§ 1823.4 Facilities for public use.

All facilities financed under the provisions of this subpart shall be for public use.

(a) Facilities providing a utility type service such as water and waste disposal will be installed so as to afford service to all users living within the area which logically should be served by the central system unless State or local law or ordinance precludes such service.

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

(c) This does not preclude financing or construction of:

(1) Projects in phases when it is not practical to finance or construct the entire project at one time, and

(2) Facilities where it is not economically feasible to serve the entire area provided economic feasibility is determined on the basis of the entire system, not by considering the cost of separate extensions to or parts thereof; the applicant publicly announces a plan for extending service to areas not initially receiving service from the system; and those families living in the areas not to be initially served receive written notice from the applicant that service will not be provided until such time as it is economically feasible to do so.

(3) Extensions to serve industrial areas when service is made available to users located along the extension.

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

(1) If a mandatory hookup ordinance will be adopted, the required bond ordinance or resolution advertisement will be considered adequate notification.

(2) When any portion of the income will be derived from user fees and a mandatory hookup ordinance will not be adopted, each potential user will be afforded an opportunity to request service by signing a Users Agreement. Those declining service will be afforded an opportunity to sign a statement to such effect. FHA has guides available for these purposes in all FHA offices.

§ 1823.5 Rates and terms.

(a) Loans will bear interest at the rate of 5 percent on the unpaid principal balance.

(b) Loans will ordinarily be scheduled for repayment on terms similar to those used in the State for financing such facilities but in no case shall they exceed 40 years from the date of the note(s) or bond(s) or the life of the facility whichever is less.

(1) Payment date.—Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds, they should be scheduled on a monthly basis. If legally permissible and income is available on a monthly basis, bonds calling for payments on an annual or semiannual basis shall be supplemented with an agreement providing for monthly payments so long as they are held or insured by FHA. Such agreements will be accomplished not later than the time of loan closing. Where the evidence of indebtedness requires monthly payments, such payments will be scheduled beginning with the first day of the month following loan closing or the end of any approved deferment period. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning with the first day of the sixth or twelfth month, respectively, following the day of loan closing or the end of any approved deferment period. Payments should be submitted to the FHA Finance Office by the borrower.

(2) If the borrower will be retiring other debts represented by bonds or notes, the repayment on such bonds may be considered in developing the repayment schedule for the FHA loan.

(3) Principal payments may be deferred in whole or in part for a period not to exceed the end of the third full calendar year after the estimated date of loan closing. Deferments of principal will not be used to:

(i) Postpone the levying of taxes or assessments.

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

(iii) Create reserves for normal operation and maintenance.

(iv) Make any capital improvements except those approved by FHA determined to be essential to the repayment of the loan or to the obtaining of adequate security therefor.

(v) Accelerate the payment of other debts.

§ 1823.6 Security.

Loans will be secured in a manner which will adequately protect the interest of FHA during the repayment period of the loan. Specific requirements for security for each loan will be included in a letter of conditions.

(a) *Other-than-public bodies.*—Ordinarily, security will consist of an assignment of corporation revenues or a mortgage on the corporation's real property and a security interest in its personal assets or a combination thereof.

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

(2) A lien will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, and similar property rights, including leasehold interest, used, or to be used in connection with the facility whether owned at the time the loan is approved or acquired with loan funds. In unusual circumstances where it is not feasible to obtain a lien on such land rights (such as land rights obtained from Federal or local Government agencies, and from railroads) and the FHA State Director determines that the interest of FHA otherwise is secured adequately, the lien requirement may be omitted as to such land rights. In those instances where such property rights have not been legally prefected, it will be the responsibility of the applicant to obtain and record such releases, consents, subordinations to such property rights from holders of outstanding liens, or other instruments, as it determines, with the advice of its attorney, are necessary for the construction, operation, and maintenance of the facility.

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

(ii) When easements, rights-of-way, or leases only are obtainable on sites for structures such as reservoirs and pumping stations, release, consents, or subordination may be required by FHA.

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

(4) Loans to incorporated fire departments may be secured through assignments of assured income from sources such as insurance premium rebates, or commitments from counties, townships, or municipalities.

(b) *Public bodies.*—Loans to such borrowers will be evidenced by notes, bonds, warrants, or other contractual obligations as may be authorized by relevant State statutes and by borrowers' documents, or resolutions, and ordinances.

(1) Loans to borrowers operating utility type facilities such as water and sewer systems may be secured by:

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

(ii) Pledges of taxes or assessments.

(iii) Pledges of facility revenue.

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

(2) Loans for solid waste projects may be secured by bonds pledging solid waste disposal revenue only when the revenue pledged includes those from the solid waste project plus revenue from other facilities of the applicant with tie-in enforcement rights, or by the taxing power of participating local governments.

(3) Loans for other community facilities will be secured by general obligation bonds, assessments, bonds which pledge other taxes, or bonds pledging revenues of the facility being financed if such bonds provide for the mandatory levy and collection of general obligation taxes if revenues are insufficient to properly operate and maintain the facility and retire the loan.

(4) Industrial revenue bonds: When loans are to be secured by industrial revenue bonds, and in the absence of any statutory right to use general obligation taxes in event of revenue failure, applicants are required to have leases, contracts, or other such agreements with facility tenants which assure income sufficient for debt service for the life of the loan prior to loan closing or the construction start whichever shall occur first.

(c) *Public bodies and other than public bodies.*—(1) *Title for right-of-way or easement.*—When a lien will be taken on a site for structures such as a reservoir or pumping station, and the applicant is able to obtain only a right-of-way or easement on such site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing the ownership of the land and all mortgages or other liens, defects, or encumbrances, if any. Consents, releases, or subordinations will be obtained from the holders of outstanding liens or mortgages as may be necessary to give FHA the required security. The applicant will take such title clearance steps as may be required by FHA.

(2) *Water rights.*—When an assignment will be taken on water rights owned or to be acquired by the applicant the following will be furnished as applicable:

(i) A statement by the applicant's attorney regarding the nature of the water right owned or to be acquired by the applicant (conveyance of title, appropriation and decree, application and permit, public notice and appropriation and use , and so forth).

(ii) A copy of any contract with another company or municipality to supply water or stock certificates in another company representing right to receive water.

§ 1823.7 Economic feasibility requirements.

All projects financed under the provisions of this Subpart must be based on taxes, assessments, revenues, fees, or other satisfactory sources in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment.

(a) Applicants for loans for service type utility facilities dependent on user fees for debt payment shall base their income and expense forecast on realistic user estimates in accordance with the following:

(1) In estimating the number of users and establishing rates or fees on which the loan will be based for new systems and for extensions to existing systems, consideration should be given to the following:

(i) An estimated number of maximum initial users should not be used when setting user fees and rates since it may be several years before all residents in the community will need the services provided by the system. In establishing rates a realistic number of initial users should be employed.

(ii) User agreements from vacant lot owners will not be considered when determining feasibility. Income from these sources will be considered only as extra income.

(2) In order to establish realistic user estimates, the following are required:

(i) Meaningful potential user cash contribution. Contributions shall be high enough to indicate sincere interest on the part of the potential user but not so high as to preclude service to low-income families. Contributions ordinarily shall be an amount approximating one year's minimum use fees and shall be paid in full before loan closing. User cash contributions are required except for users presently receiving service when user agreements above are not required, or in those cases where FHA determines that users cannot make a cash contribution.

(ii) Except for users presently receiving service an enforceable user agreement with a penalty clause is required unless State statutes or local ordinances require mandatory use of the system and the applicant agrees in writing to enforce such statutes or ordinances, or an exception is otherwise approved by FHA.

(3) User connection program: In those cases where all or a part of the borrower's debt payment ability revenues will come from user fees, applicants must provide a positive program to encourage connection by all users as soon as service is available for review and approval by FHA before loan closing. Such a program shall include:

(i) An aggressive information program to be carried out during the construction period. The borrower should send written notification to all signed users at least three weeks in advance of the date service will be available, stating the date users will be expected to have their connections completed, and the date user charges will begin.

(ii) Positive steps to assure that installation services will be available. These may be provided by the contractor installing the system, local plumbing companies, or local contractors.

(iii) Aggressive action to see that all signed users can finance their connections. This might require collection of sufficient user contributions to finance connections. Extreme cases might necessitate additional loan funds for this purpose; however, loan funds should be used only when absolutely necessary and when approved by FHA prior to loan closing.

(b) Facilities for new or developing communities or areas: Private developers are normally expected to provide essential community facilities in new or developing areas and such facilities shall

be installed in compliance with appropriate State statutes and regulations. FHA financing will be considered in such cases when failure to complete development would result in an adverse economic condition for the rural area (not the community being developed); the proposal is necessary to the success of an area development plan; and loan repayment can be assured by:

(1) The applicant already having sufficient assured revenues to repay the loan; or

(2) Developers providing a bonded guarantee of sufficient income to meet expenses attributable to the area in question until a sufficient number of the building sites are occupied and connected to the facility to provide enough revenue to meet operating, revenue, and debt service requirements; or

(3) Developers paying cash for the increased capital cost and any increased operating expenses until the developing area will support the increased costs.

§ 1823.8 Reserve requirements.

Provision for the accumulation of necessary reserves over a reasonable period of time will be included in the loan documents and in assessments, tax levies, or rates charged for services. In those cases where statutes providing for extinguishing assessments liens of public bodies when properties subject to such liens are sold for delinquent State or local taxes, special reserves will be established and maintained for the protection of the borrower's lien of assessment.

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

(b) *Revenue bonds.*—Each borrower will be required to establish and maintain reserves sufficient to assure that loan installments will be paid on time, to pay for emergency maintenance, and for extensions to facilities. It is expected that borrowers issuing bonds pledging facility revenues as security will ordinarily plan their reserve program to provide for a total reserve in amount equal, at least, to one average loan installment. It is also expected that ordinarily such reserve will be accumulated at the rate of at least one-tenth of the total each year until the desired level is reached.

§ 1823.9 General requirements.

(a) *Planning, bidding, contracting, constructing.*—See §§ 1823.21 to 1823.33 of this subpart.

(b) *Insurance and bonding.*—Property insurance, workmen's compensation insurance, liability insurance, and fidelity bond requirements will not normally be over and above those proposed by the borrower provided the coverage is found to be adequate, and in accordance with the following:

(1) *Property insurance.*—Fire and extended coverage may be required on all aboveground structures, including borrower-owned equipment and machinery housed therein, usually in the amount of their value. This does not apply to water reservoirs, standpipes, elevated tanks, and other noncombustible materials used in treatment plants, clearwells, clarification units, filters, and the like. Where lift stations are properly ventilated, property insurance is not required except for the value of the pumping equipment and electrical equipment therein.

(2) *Workmen's compensation.*—The borrower will carry suitable workmen's compensation insurance for all of its employees in accordance with applicable State laws.

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

(c) *Fidelity bonds.*—The borrower will provide fidelity bond coverage for the positions of officials entrusted with the receipt and disbursement of its funds and the custody of valuable property. The amount of the bond will be at least equal to the maximum amount of money that the borrower will have on hand at any one time exclusive of loan funds deposited in a supervised bank account. Unless prohibited by State law, the United States will be named as co-obligee in the bond. Corporate fidelity bonds will be obtained except that in unusual circumstances FHA may give prior approval to cash bonds. Form FHA 440–24, "Position Fidelity Schedule Bond," may be used.

(d) *Purchasing land rights, and existing facilities.*—Applicants are required to assure that prices paid for land, rights, and facilities are reasonable and fair. FHA may require an appraisal by an independent appraiser, or appraise the property itself.

(e) *Notes and bonds.*—Notes and bonds will be completed on the date of loan closing except for the entry of subsequent multiple advances where applicable. The amount of each note or bond will be in multiples of $100.

(1) Form FHA 440–22, "Promissory Note (Association or Organization)," will ordinarily be used for loans to nonpublic bodies.

(2) Sections 1823.41 to 1823.48 of this subpart, contain instructions for preparation of notes and bonds evidencing indebtedness of public bodies.

(f) *Environmental impact statements.*—The need for an environmental impact statement will be determined by FHA. The applicant will provide any information required.

§ 1823.10 Other Federal, State and local requirements.

Each application shall contain the comments, necessary certifications and recommendations of appropriate regulatory or other agency or institution having expertise in the planning, operation and management of similar facilities. Proposals for facilities financed in whole or in part with FHA loans will be coordinated with appropriate Federal, State, and local agencies in accordance with the following:

(a) *Compliance with special laws and regulations.*—Applicants will be required to comply with Federal, State, and local laws and any regulatory commission rules and regulations pertaining to:

(1) Organization of the applicant and its authority to construct, operate, and maintain the proposed facilities;

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

(3) Land use zoning;

and with the following unless an exception is granted by FHA:

(4) Health and sanitation standards;

(5) Design and installation standards.

(b) *State Pollution Control or Environmental Protection Agency standards.*—Water and waste disposal facilities will be designed, installed, and operated in such manner that they will not result in the pollution of water in the State in excess of established standards and that any effluent will conform with appropriate State and Federal Water Pollution Control Standards.

(c) *Consistency with other development plans.*—FHA financed facilities will not be inconsistent with any development plans of State, multijurisdictional area, counties, or municipalities in which the proposed project is located.

(d) *State agency regulating water rights.*—Each FHA financed facility will be in compliance with appropriate State agency regulations which have control of the appropriation, diversion, storage and use of water and disposal of excess water. All of the rights of any landowners, appropriators, or users of water from any source will be fully honored in all respects as they may be affected by facilities to be installed.

(e) *National historic preservation.*—All projects will be in compliance with the provisions of the National Historic Preservation Act of 1966 pursuant to 7 CFR 1890r.

(f) *Civil Rights Act of 1964.*—All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 pursuant to 7 CFR 1816.

§ 1823.11 Professional services and contracts related to the facility.

(a) Professional services: Applicants will be responsible for providing the services necessary to plan projects including design of facilities, preparation

of cost and income estimates, development of proposals for organization and financing, and overall operation and maintenance of the facility. Professional services of the following may be necessary: engineer, architect, attorney, bond counsel, accountant, auditor as defined in § 1823.14(e)(3)(i), and financial advisory or fiscal agent (if desired by applicant). Contracts or other forms of agreement between the applicant and its professional and technical representatives are required and are subject to FHA concurrence. Form FHA 442–19, "Agreement for Engineering Services," may be used when appropriate. Guide 14 may be used in the preparation of the legal services agreement.

(b) Contracts for other services: Contracts or other forms of agreements for other services including management, operation, and maintenance will be developed by the applicant and presented to FHA for review and approval.

(c) Fees provided for in contracts or agreements required by paragraphs (a) and (b) of this section shall be reasonable. They shall be considered to be reasonable if not in excess of those ordinarily charged by the profession for similar work when FHA financing is not involved.

§ 1823.12 Applying for FHA loans.

(a) Preapplication: Applicants desiring loans will file Form AD–621, "Preapplication for Federal Assistance," which is available at all FHA offices with the appropriate FHA County Office. They will also file written notice of intent and a request for priority recommendation with the appropriate A–95 clearinghouse agencies.

(b) Preapplication review: Upon receipt of the preapplication, FHA will tentatively determine eligibility including the likelihood of credit elsewhere at reasonable rates and terms and availability of FHA loan funds. The determination as to availability of other credit will be made after considering present rates and terms available for similar proposals (not be based upon 5 percent interest and 40-year repayment terms); the repayment potential of the applicant; long-term cost to the applicant; and average user or other charges.

(1) In those cases where FHA determines that loans at reasonable rates and terms should be available from commercial sources, FHA will notify the applicant so that it may apply for such financial assistance. Such applicants may be reconsidered for FHA loans upon their presenting satisfactory evidence of inability to obtain commercial financing at reasonable rates and terms.

(2) Applicants should not proceed with planning nor obligate themselves for expenditures until authorized by FHA.

(c) Applicants are:

(1) Responsible for completing their applications in accordance with guidance from FHA.

(2) Responsible for assembling their applications. They may utilize their professional technical representatives or other competent sources to assist in assembling their applications.

(d) Application conference: Before starting to assemble the application and after the applicant selects its professional and technical representatives, it should arrange with FHA for an application conference to provide a basis for orderly application assembly. FHA will provide applicants with a list of documents necessary to complete the application.

(e) Review of decision: If an application is rejected, the applicant may request a review of this decision from the Administrator of FHA. The address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250. The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

§ 1823.13 Closing loans and fund delivery.

(a) *Interim financing.*—In all loans, exceeding $50,000, where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be obtained so as to preclude the necessity for multiple advances of FHA funds. When interim commercial financing is used, the application will be processed, including obtaining construction bids, to the stage where the FHA loan would normally be closed, that is immediately prior to the start of construction. When the interim financing funds have been expended, the FHA loan will be closed and permanent instruments will be issued to evidence the FHA indebtedness. The FHA loan proceeds will be used to retire the interim commercial indebtedness. Before the FHA loan is closed, the applicant will be required to provide FHA with statements from the contractor, engineer, architect, and attorney that they have been paid to date in accordance with their contracts or other agreements and, in the case of the contractor, that he has paid his suppliers and subcontractors.

(b) *Multiple advances.*—In the event interim commercial financing is not legally permissible or not available, multiple advances of FHA loan funds are required. Multiple advances will be used only for loans in excess of $50,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30-day period. Advances should not exceed 24 in number nor extend longer than two years beyond loan closing. Normally, the retained percentage withheld from the contractor to assure construction completion will be included in the last advance.

(1) Sections 1823.41 to 1823.48 of this Subpart contain instructions for making advances to public bodies.

(2) Nonpublic body notes will be issued in amounts not to exceed $500,000 or that amount estimated necessary for an 8-month period, whichever is smaller.

(3) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The applicant will prepare Form FHA 440–11, "Estimate of Funds Needed," to show the amount of funds needed during the 30-day period. Form AD–627, "Report of Federal Cash Transactions," will be prepared and submitted with each Form FHA 440–11 after the initial advance of funds is made. Payment for construction will be made in accordance with the amounts approved on Form FHA 424–18, "Partial Payment Estimate," and Form AD–629, "Outlay Report and Request for Reimbursement for Construction Programs." Each payment estimate must be approved by the governing body. The review and acceptance of partial payment estimates by FHA does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the plans and specifications. A final Form AD–627 will be submitted to FHA to include the final advance not later than 90 days after the final advance has been made.

(c) *Supervised bank account.*—Loan funds and any funds furnished by the applicant may be deposited in a supervised bank account in a bank having Federal Deposit Insurance Corporation (FDIC) coverage. Funds placed in a supervised bank account are public monies under Title 12, U.S.C. 265, and therefore any amounts which exceed $20,000 will require a collateral pledge pursuant to Treasury Circular Number 176 If a supervised bank account is not used, arrangements will be agreed upon for the prior approval by FHA of the bills, or vouchers upon which warrants will be drawn, so that the necessary control of payments from loan funds can be maintained and FHA records can be kept current. Periodic audits of nonsupervised accounts shall be made by FHA at such times and in such manner as the FHA State Director prescribes in the conditions of loan approval. Mandatory State laws regulating the depositaries to be used shall be complied with.

(d) *Funds remaining after construction is completed.*—Should loan funds remain available, including obligated funds not advanced, after all costs incident to the basic project have been paid or provided for, such funds may be used for needed extensions, enlargements, and improvements of the project with the prior permission of the FHA State Director. If the additional work is to be undertaken by the contractor(s) already engaged in the construction of the project, the additional work may be authorized by a change order. Remaining advanced funds not needed for authorized extensions, enlargements, or improvements shall be returned to FHA as a repayment on the loan unless other disposition is required by the bond ordinance or resolution or by State statutes.

(e) *Obtaining insurance, and fidelity bonds.*—Required property insurance policies, liability insurance policies, and fidelity bonds will be obtained by the time of loan closing or start of construction, whichever shall occur first.

(f) *Distribution of recorded documents.*—The originals of the recorded deeds, easements, permits, certificates of water rights, leases, or other contracts and similar documents which are not to be held by FHA will be returned to the borrower. The original mortgage(s) and water stock certificates, if any, if not required by the recorder's office will be retained by FHA.

§ 1823.14 Borrower accounting, financial reporting, auditing, and bank accounts.

(a) Requirements: Each applicant shall provide and obtain FHA concurrence as to its accounting financial reporting systems including an agreement with its accountant and an agreement with its auditor, if an auditor is required prior to loan closing or commencing with construction, whichever shall occur, first.

(b) Records: Each borrower shall keep and safely preserve its books of account, and all other books, records, and memoranda which support the entries in such books of account so as to be able to furnish full information as to any items included in any account. Such supporting data shall be kept for at least three years. Each entry shall be supported by such detailed information as will permit ready identification, analysis, and verification of all facts relevant thereto.

(c) Accounting systems: Borrowers shall maintain their accounting systems on an accrual basis and close their accounting records at the end of their fiscal year unless State statutes or regulations prescribe otherwise.

(1) Accounting systems may be maintained by borrower personnel, a bookkeeping service, a computer service, or other arrangements satisfactory to the borrower and FHA.

(2) Accounting systems required by a State or regulatory agency for public entities may be acceptable provided they contain the information required by FHA.

(3) Borrowers operating water and waste disposal systems may use the appropriate Uniform System of Accounts for Water Utilities published by the National Association of Regulatory Utility Commissioners.

(4) Borrowers with small operations may use Form FHA 430–5, "Soil and Water Association Record Book."

(5) FHA will provide a "Minimum Chart of Accounts" for those applicants desiring it.

(d) Management reports: The following minimum required reports will furnish the governing body with a means of evaluating prior decisions and serve as a basis for planning the future operations and financial conditions of the borrower. In those cases where revenues from both water and sewer systems are pledged as security for an FHA loan and only one set of accounting records is maintained, one management report will suffice. In those cases where FHA loans are secured by general obligation bonds or assessments and the borrower combines revenues from all sources, a management report treating all such revenues will suffice. Management reports will consist of the following:

(1) *Form FHA 442–1, "Forecast of Cash Receipts and Disbursements (Operating Budget)."*—The forecast shall be prepared and adopted by the borrower governing body prior to the beginning of each fiscal year. Two copies of Form FHA 442–1 will be submitted to the FHA County Supervisor not later than 20 days after the beginning of the borrower's new fiscal year.

(2) *Form FHA 442–2, "Statement of Income and Expenses."*—Two copies of Form FHA 442–2 will be forwarded to the FHA County supervisor at the end of each quarter unless FHA requires more frequent submission.

(3) *Form FHA 442–3, "Balance Sheet."*—The balance sheet shall be prepared as often as needed by the governing body. Two copies of the Form FHA 442–3, prepared as of the end of the fiscal year, will be forwarded to the FHA County Supervisor not later than 20 days after the end of the fiscal year. A "Balance Sheet" prepared by a certified public accountant or a licensed public accountant containing the information included on Form FHA 442–3 may be submitted in lieu of this form.

(4) *Machine-type reports.*—Borrowers using a machine accounting system may submit print-out type reports provided they furnish the information required by FHA. Also, borrowers desiring to submit more detailed information than required by FHA forms may attach such detail to the related FHA form.

(5) *Additional reports.*—Each borrower shall provide FHA within 20 days following the end of the fiscal year:

(i) A letter showing the name, address, and term of office for each member of the governing body and for those providing a public utility-type service, the number of residential users and the number of commercial users as of the end of the fiscal year.

(ii) Evidence that required property and liability insurance, workmen's compensation, and fidelity bond premiums have been paid.

(e) *Audits and audit reports.*—(1) Borrowers are required to have their accounts audited when the annual gross income of the FHA financed facility exceeds the amount shown below:

(i) Organizations providing utility-type services $100,000;

(ii) Recreation facility borrowers 50,000;

(iii) Others as required by FHA regardless of the amount.

(2) Public body borrower audit reports prepared in accordance with State statutes or regulations are acceptable provided they contain the financial information necessary and are prepared on a frequency sufficient to furnish borrowers with management assistance guidance and FHA the information for proper loan analysis.

(3) Borrowers other than public bodies and public bodies in those cases where the State has no audit requirements, are required to have their records audited at least biennially by an independent public accountant. If such audit reports do not contain the necessary information for proper loan analysis FHA may require additional information.

(i) Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(ii) Audits will be prepared in accordance with the requirements of the handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees," available at FHA offices.

(4) The borrower shall submit a copy of the audit report to FHA as soon as it is received and in no case later than 90 days following the end of the period covered by the report.

(5) Borrowers whose annual gross income for a full year of operation is less than that shown above and which do not have an annual audit made by an independent public accountant, will within 60 days following the end of each fiscal year, furnish the FHA with an annual report, consisting of a verification of the organization's balance sheet and statement of income and expense by a committee of the members not including any officer, director or employee. Such committees will be appointed by the borrower's governing body and will certify to its examination of the accounts and records. The final "Statement of Income and Expense," Form FHA 442–2, for the year and the "Balance Sheet," Form FHA 442–3, will be used.

(f) In those cases where FHA loans are secured by the general obligation of a public body or assessments in an amount equal to 100 percent of the debt service requirements plus an amount equivalent to an average of delinquencies in tax collection for the three years prior to submission of their application, FHA may require an annual audit of operations of the facility in lieu of the other management reports mentioned in this § 1823.14.

(g) Maintenance of facilities. When facilities are to be maintained by any jurisdiction other than the borrower, it shall be performed under a written agreement with the other entity. The other entity shall furnish evidence of its capability to perform the required maintenance.

§ 1823.15 Closing development grants approved under previous regulations.

Such grants will be considered closed when Form FHA 442-31, "Development Grant Agreement," has been executed by the grantee and FHA. Both FHA County Supervisors and State Directors are authorized to execute the grant agreement on behalf of FHA.

(a) Grant funds shall be delivered in amounts not to exceed those needed in a 30-day period except that when the amount of the grant or the remaining amount undelivered does not exceed $20,000, such funds may be drawn in one advance.

(b) Grant checks, fund distribution, and grant cancellations will be processed in a manner similar to that set forth for loans in these §§ 1823.1–1823.15.

COMMUNITY FACILITIES—PLANNING, BIDDING, CONTRACTING, CONSTRUCTING

§ 1823.21 General.

These §§ 1823.21–1823.33 outline the policies for planning and developing essential community facilities.

§ 1823.22 Technical services.

Applicants are responsible for providing the engineering or architectural services necessary for planning, designing, bidding, contracting and constructing their facilities. Such services may be provided by the applicants' "in house" engineer or architect or through contract as authorized in §§ 1823.1–1823.15 of this Subpart A.

§ 1823.23 Design policies.

Facilities financed by the Farmers Home Administration (FHA) will be designed and constructed in accordance with sound engineering and architectural practices, and meet the requirements of State and local agencies having jurisdiction in such matters.

(a) *Location of facilities in flood plain area.*—Ordinarily facilities will not be located in flood plains except for supply and treatment plants in which event applicants will evaluate the proposal from the standpoint of special design and additional initial and maintenance costs, and provide FHA with the recommendations of appropriate agencies such as the U.S. Army Corps of Engineers, the Soil Conservation Service (SCS), or appropriate State official. If it is necessary to locate such facilities in a flood plain area the applicant will be required to obtain flood hazard insurance prescribed by the National Insurance Administration, Department of Housing and Urban Development, if it is available at reasonable rates in the project area.

(b) *Water systems*—(1) *Capacity.*— The systems must have sufficient capacity to provide for reasonable fire protection and growth.

(2) *Pressure.* — Maximum operating pressure should not exceed 90 psi, minimum should not be less than 20 psi, calculated at maximum use flow.

(3) *Pipe.*—All pipe used shall meet current product standards and American Society for Testing and Materials (ASTM) standards. Further, if plastic pipe is used its operating pressures shall not exceed two-thirds of its rated working pressure, and its wall thickness shall not be less than .090 inches.

(4) *System testing.* — Leakage shall not exceed 10 gallons per inch of pipe diameter per mile of pipe per 24 hours.

(5) *Service through individual installations.*—Community water systems may provide service through individual installations to individuals or small clusters of users within the central system service area but who are beyond the physical or economic limits of the central system, when it is more feasible to provide such service through individual or remote facilities. The determination shall be made taking into consideration such items as: quantity, quality of the water that may be developed; cost of the individual facility as compared with the cost per user on the central system; and health and pollution problems attributable to individual facilities.

(i) Agreements between the community and individuals for the installation and payment for individual facilities and their operation will be subject to approval by FHA.

(ii) Applicants providing service through individual facilities will obtain such security as the FHA determines is necessary to assure collection of any sum the individual is obligated to repay the applicant, if taxes or assessments are not pledged as security.

(iii) Notes representing indebtedness owed an association by a user for an individual facility will be scheduled for repayment over a period not to exceed the useful life of the individual facility or the loan, whichever is the shorter. The interest rate will be the same as the rate owed by the community on its FHA loan.

(iv) If the applicant cannot levy taxes or assessments against property being served through individual installations, arrangements are to be made for:

(A) Easements for the installation and ingress to and egress from the installation.

(B) Satisfactory method for denying service in the event of nonpayment of user fees.

(c) *Sanitary sewerage systems.*—(1) The systems must have sufficient capacity to provide for reasonable growth.

(2) Collection and treatment facilities shall be designed and installed so as to meet the requirements of the State Environmental Protection (Water Pollution Control) Agency.

(d) *Combined sanitary and storm sewerage systems.* — Combined systems will not be financed except that improvements to existing combined systems may be financed, provided it would be impractical to provide separate systems and the proposal is approved by the State Environmental Protection (Water Pollution Control) Agency.

(e) *Solid waste disposal systems.*—(1) Preliminary and final plans and designs shall address both site selection, planning, landfill design, drainage control, roadways, utilities, and other problems such as those which may arise due to water leaching into or from landfills and allow for proper handling of landfill gases.

(2) The SCS and State Health Departments may provide advisory assistance on sanitary landfills.

§ 1823.24 Water purchase contracts.

Applicants proposing to purchase water from private or public sources shall have written contracts for such supply, and all such contracts will be reviewed and approved by FHA prior to their execution by the applicant. Form FHA 442-30, "Water Purchase Contract," may be used. Water purchase contracts will:

(a) Include a definite commitment by the supplier to furnish at a specified point a specified minimum quantity of water and provide that in case of shortages, all of the supplier's users will share the shortages proportionately. If it is impossible to obtain a firm commitment for a minimum supply of water at all times, a contract may be executed and approved, if adequate evidence is provided to enable FHA to make a positive determination that the supplier has adequate supply and treatment facilities to furnish its other users and the applicant for the foreseeable future, and that a suitable alternative supply could be arranged within the repayment ability of the borrower if it should ever become necessary.

(b) Set out the ownership and maintenance responsibilities of the respective parties including the master meter if a water meter is installed at the point of delivery.

(c) Specify the initial rates and provide some kind of escalator clause which will permit rates for the association to be raised or lowered proportionately as certain specified rates for the supplier's regular customers are raised or lowered. Provision may be made for altering rates in accordance with the decisions of the appropriate State agency which may have regulatory authority.

(d) Run for a period of time which is at least equal to the repayment period of the loan.

(e) Set out in detail the amount of connection or demand charges, if any, to be made by the supplier as a condition to making the service available to the association. However, the payment of such charges from loan funds shall not be approved unless FHA determines that it is more feasible and economical for the borrower to pay such a connection charge than it is for the borrower to provide the necessary water supply by other means.

(f) Provide for a pledge of the contract to FHA as part of the security for the loan.

(g) Not contain provisions for:

(1) Construction of facilities which will be owned by the supplier.

(2) Options for the future sale or transfer. This does not preclude an agreement recognizing that the supplier and borrower may at some future date agree to a sale of all or a portion of the facility.

§ 1823.25 Contracts to treat sewage.

Applicants preparing to enter into a contract with private or public sources to treat raw sewage shall have written contracts for such service and all such contracts are subject to FHA concurrence. The items of § 1823.24 may be used as a guide to preparation of contracts for sewage treatment.

§ 1823.26 Preliminary engineering and architectural reports.

Reports shall be prepared in accordance with customary professional standards. FHA has guides for preliminary engineering reports, for water, sewer, solid waste, and storm sewer projects and for preliminary architectural reports.

§ 1823.27 Construction contract forms.

A guide contract which meets the requirement of §§ 1823.21–1823.33 may be obtained from the local FHA office.

§ 1823.28 Performing construction.

Borrowers may accomplish construction through contracts with others or by using their own personnel and equipment, provided a licensed engineer or architect, as appropriate, inspects the construction and furnishes inspection reports as required by § 1823.32. In either case the requirements of § 1823.29 apply. Payments for construction will be handled in accordance with § 1823.13(b)(3).

§ 1823.29 Procurement, bidding, and contract awards.

(a) These standards do not relieve the borrower of the contractual responsibilities arising under it's contracts. The borrower is the responsible authority, without recourse to the FHA regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a loan. This includes but is not limited to: disputes, claims, protests of awards, source evalution or other matters of a contractual nature. Matters concerning violation of laws are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(b) Borrowers may use their own procurement regulations which reflect applicable State and local laws, rules and regulations, provided that procurements made with FHA loan funds adhere to the standards set forth as follows:

(1) The borrower shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending loan funds. Borrower 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 borrower officers, employees, or agents, or by contractors or their agents.

(2) All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The borrower should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(3) The borrower shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(i) Proposed procurement actions shall be reviewed by borrower 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. Where substantial amounts of funds are necessary for purchase of machinery and equipment, applicants ordinarily will be required to call for bids in a manner specified by the loan approval official to assure the best obtainable price.

(ii) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material or product to be procured. Such description shall not 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.

(iii) Positive efforts shall be made by the borrower to utilize small business and minority-owned business sources. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing loan funds. Applicants shall, when submitting contract documents as required in § 1823.29(e), provide FHA with a written statement or other evidence of the steps taken to comply with this requirement.

(iv) The "cost-plus-a-percentage-of-the-cost" method of contracting shall not be used.

(v) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (b)(3)(vi) of this section is necessary to accomplish sound procurement. However, procurements of $50,000 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 borrower, price and other factors considered. Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the borrower. Any or all bids may be rejected when it is in the borrower's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(vi) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the borrower if:

(A) The public exigency will not permit the delay incident to advertising; or

(B) The material or service to be procured is available from only one person or firm; (All contemplated sole source procurements where the aggregate expenditure is expected to exceed $50,000 shall be referred to the FHA for prior approval) or

(C) The aggregate amount involved does not exceed $50,000; or

(D) No acceptable bids have been received after formal advertising.

(vii) 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, and accessibility to other necessary resources.

(viii) Procurement records or files for purchase in amounts in excess of $50,000 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.

(c) The borrower shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts:

(1) Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. A realistic liquidated damage provision also should be included.

(2) All contracts, amounts for which are in excess of $2,500 shall contain suitable provisions for termination by the borrower 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.

(3) In all contracts for construction or facility improvement awarded in excess of $100,000, the borrower shall require bonds assuring performance and payment of 100 percent of the contract cost. For contracts of lesser amounts the borrower may require such bonds.

(4) All contracts in excess of $10,000 shall include provisions for compliance with Executive Order No. 11246, entitled "Equal Employment Opportunity" (7 CFR Part 1890p). In addition and without reference to the number of employees,

each contractor shall be required to have an affirmative action plan which declares that it does not discriminate on the basis of race, color, religion, national origin, and sex, which specifies goals and target dates to assure the implementation of that plan. The borrower shall establish procedures to assure compliance with this requirement by contractors and to assure that suspected or reported violations are promptly investigated.

(5) All contracts for construction shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The borrower shall report all suspected or reported violations to the FHA.

(6) All negotiated contracts (except those of $2,500 or less) awarded by borrowers shall include a provision to the effect that the borrower, FHA, the Comptroller General of the United States, or any of their duty authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions.

(7) Each contract of an amount in excess of $2,500 shall provide that the contractor will comply with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. Information concerning those regulations and standards can be obtained from the local office of the Internal Revenue Service. The provisions of the contract 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 borrower 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 FHA and the local Internal Revenue Service field office.

(8) Contracts of amounts in excess of $100,000 shall contain a provision which requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to FHA and the Regional Office of the Environmental Protection Agency.

(d) No engineer or architect (individual or firm) who has prepared plans and specifications or who will be responsible for supervising the construction will be considered acceptable as a bidder. Any firm or corporation in which such architect or engineer is an officer, employee, or holds or controls a substantial interest will not be considered an acceptable bidder. Contracts or purchases by the construction contractor may not be awarded or made to a supplier or manufacturer if the engineer or architect (firm or individual) who prepared the plans and specifications has a corporate or financial affiliation with the supplier or manufacturer. Bids will not be awarded to firms or corporations which are owned or controlled wholly, or in part by a member of the governing body of the applicant or to an individual who is such a member. Arrangements which split responsibility of contractors (separate contracts for labor and material, extensive subcontracting, and multiplicity of small contracts on the same job) should be avoided whenever it is practical to do so. Contracts may be awarded to suppliers or manufacturers for furnishing and installing certain items which have been designed by the manufacturer and delivered to the job site in a finished or semifinished state such as prefabricated buildings and lift stations. Contracts may also be awarded for materials delivered to the job site and installed by a patented process or method.

(e) The applicant's attorney will review the executed contract documents including performance and payment bonds and provide FHA with his certification that they have been properly executed and that the persons executing these documents have been properly authorized to do so. The contract documents, including bid bonds and bid tabulation sheets will be forwarded to FHA for approval. All contracts will contain a provision that they are not in full force and effect until they have been approved by FHA. The FHA State Director is responsible for approval of all construction contracts utilizing the legal advice and guidance of the Office of the General Counsel (OGC) where necessary. If the construction contract utilized the format of a guide form which has been approved by FHA, it will not be necessary to submit individual contract documents to the OGC for prior approval. If the construction contract does not utilize the format of guide forms previously approved by FHA, OGC approval of the contract will be obtained prior to its use.

(f) The construction contract will require that all change orders be approved by FHA.

§ 1823.30 Preconstruction conference.

Prior to beginning construction, FHA will review the planned development with the applicant, its engineer, attorney, the contractor, and other interested parties. The conference will thoroughly cover the items included in Form FHA 424-16, "Record of Preconstruction Conference," and the discussions and agreements will be documented on that form.

§ 1823.31 Applicant/borrower monitor reports.

Each applicant or borrower will be required to monitor, and provide a report to FHA on actual performance during the construction for each project financed, or to be financed, in whole or in part with FHA funds to include:

(a A comparison of actual accomplishments to the construction schedule established for the period. Form AD-629, "Outlay Report and Request for Construction Programs," and Form FHA 424-18, "Partial Payment Estimate," will be used for this purpose.

(b) A narrative statement will be attached to Form AD-629 giving full explanation of the following:

(1) Reasons established goals were not met.

(2) Analysis and explanation of cost overruns or high unit costs and how payment is to be made for the same.

(3) If events occur between reports which have a significant impact upon the project, the applicant/borrower will notify FHA as soon as any of the following conditions are known:

(i) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(ii) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

§ 1823.32 Resident inspection.

Full-time resident inspection is required for all construction projects, unless an exception is made by FHA. This inspection may be provided by the consulting engineer or the applicant may engage a qualified inspector who will work under the general supervision of the engineer. A guide format for preparing daily inspection reports and partial payment estimate forms are available on request from FHA.

(a) *Inspectors daily diary.*—The inspector will maintain a daily diary in accordance with the following:

(1) The diary shall be maintained in a hard-bound book.

(2) The diary book shall have all pages numbered and all entries in ink.

(3) All entries shall be entered on a daily basis beginning with the date and weather conditions.

(4) Daily entries shall include daily work performed, number of men and equipment used in the performance of work and all significant happenings during that day.

(b) *Final inspection.*—A final inspection will be made by FHA before final payment is made. Final payment will not be made until FHA and the borrower concur in writing that the construction has been completed as planned.

§ 1823.33 Changes in development plans.

Changes in development plans may be approved by FHA when requested by borrowers, provided funds are available to cover any additional costs, the change is for an authorized loan purpose, and it

will not adversely affect the soundness of facility operation or FHA's security. Changes will be recorded on Form FHA 424-7, "Contract Change Order." FHA County Supervisors are authorized to approve change orders provided it is not a change in facility technical design and the total contract cost is not increased Otherwise, change orders must be approved by the FHA State Director or his designated representative.

INFORMATION PERTAINING TO PREPARATION OF NOTES OR BONDS AND BOND TRANSCRIPT DOCUMENTS FOR PUBLIC BODY APPLICANTS

§ 1823.41 Policies.

(a) These §§ 1823.41–1823.48 outline the policies of the Farmers Home Administration (FHA) with respect to preparation and issuance of evidences of debt (hereinafter sometimes referred to as "bonds" or "debt instruments") by applicants whose obligations bear interest that is not subject to Federal income tax.

(b) Preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. Tax exempt public body applicants will obtain the services and opinion of recognized Bond Counsel with respect to the validity of a bond issue. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized bond counsel firm which has had experience in municipal financing with such investors as investment dealers, banks, and insurance companies.

(1) At the option of the applicant issues of $250,000 or less, Bond Counsel may be used for the issuance of a final opinion only and not the preparation of the other documents of the bond docket when the applicant, FHA, and Bond Counsel have agreed in advance as to the method of preparation of the bond transcript documents. Under such circumstances the applicant will be responsible for the preparation of the bond transcript documents.

(2) At the option of the applicant and with the prior approval of FHA, for issues of $50,000 or less, the applicant need not use bond counsel if:

(i) The amount of the issue does not exceed $50,000 and the applicant recognizes and accepts the fact that processing the application may require additional legal and administrative time.

(ii) There is a significant cost saving to the applicant particularly with reference to total legal fees after determining what bond counsel would charge as compared with what the local attorney will charge without bond counsel:

(iii) The local attorney is able and experienced in handling this type of legal work.

(iv) The applicant understands that, if it is required by FHA to refinance its loan pursuant to the statutory refinancing requirements, it will probably have to obtain at its expense a bond counsel's opinion at that time.

(c) All bonds will be prepared in accordance with these §§ 1823.41–1823.48 and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area.

(d) Many matters necessary to comply with FHA requirements such as land rights, easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of bond counsel will be issued by the Office of General Counsel of the U.S. Department of Agriculture (OGC) for the guidance of FHA.

§ 1823.42 Bond transcript documents.

Any questions with respect to FHA requirements should be discussed with local FHA representatives. Bond Counsel is required to furnish at least two complete sets of the following to the applicant, which will furnish one complete set to FHA:

(a) Copies of all organizational documents.

(b) Copies of general incumbency certificate.

(c) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(d) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to the calling and holding of a favorable bond election, if such an election is necessary in connection with bond issuance.

(e) Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(f) Copies of official Notice of Sale and affidavit of publication of Notice of Sale where a public sale is required by State statute.

(g) Specimen bond, with any attached coupons.

(h) Attorney's no-litigation certificate.

(i) Certified copies of resolutions or other documents pertaining to the bond award.

(j) Any additional or supporting documents required by Bond Counsel.

(k) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. It is permissible for such opinions to contain language referring to the last sentence of section 306(a)(1) or to section 309A(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) or 1929 a(h)), and providing that if the bonds evidencing the indebtedness in question are acquired by the Federal Government and sold on an insured basis from the Agricultural Credit Insurance Fund, or the Rural Development Insurance Fund, the interest on such bonds will be included in gross income for the purposes of the Federal income tax statutes.

§ 1823.43 Interim financing from commercial sources during construction period for loans of $50,000 or more.

In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources, such interim financing will be obtained so as to preclude the necessity for multiple advances of FHA funds.

§ 1823.44 Permanent instruments for FHA loans to repay interim commercial financing.

Such loans will be evidenced by one of the types of instruments in the order of preference shown in § 1823.45.

§ 1823.45 Multiple advances of FHA funds using permanent instruments.

Where interim financing from commercial sources is not available, FHA loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods. FHA loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(a) *First preference—Form FHA 440-22.*—If legally permissible, use Form FHA 440-22, "Promissory Note (Association or Organization)." For insured loans, notes will be issued in amounts not to exceed $500,000 or the amount estimated necessary for an 8-month construction period, whichever is smaller. For example, when it appears that construction will require from 8 to 16 months, two notes will be used. If it appears that construction will require more than 16 months, three notes will be used. The first note will be for the amount estimated to be needed during the first 8 months. The second note will be for the balance of the loan if it is estimated that construction will be completed in 16 months, or for the amount estimated to be needed during the second 8 months if it appears that construction will require more than 16 months. In any event, no note may exceed $500,000. This may require more than three notes, resulting in more than one note during any of the three 8 month periods.

(b) *Second preference—single instrument with amortized installments.*—If Form FHA 440-22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provision for entering the date and amount of each FHA advance on the reverse of or on an attachment to the instrument. Form FHA 440-22 should be followed to the extent possible.

(1) In case the construction period exceeds 8 months, the requirements for more than one instrument but not exceeding a principal amount of $500,000 as detailed in "First Preference" apply.

(2) Where interest-only payments are scheduled for the first installment due dates, no attempt should be made to compute in dollar terms the amount of interest due on such dates. Rather the

instrument should provide that "interest only" is due on these dates. Thereafter, regular amortized installments of a specified dollar amount will be due on each installment date.

(c) *Third preference—single instrument with installments of principal plus interest.*—If a single amortized installment instrument is not legally permissible, use a single instrument providing for specified installments of principal plus accrued interest. The principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal installments of combined interest and principal as required by the first two preferences.

(1) The repayment terms described in the last paragraph of the "Second Preference" apply. In case the construction period exceeds 8 months, the requirements for more than one instrument but not exceeding a principal amount of $500,000 as detailed in "First Preference" apply.

(2) The instruments shall contain in substance the following provisions:

(i) A statement of principal maturities and due dates.

(ii) Payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal except that payments made from security depleting sources shall, after payment of interest to the payment date, be applied to the principal last to become due under the instrument and shall not affect the obligation of the Borrower to pay the remaining installments as scheduled.

(d) *Fourth preference.*—If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of § 1823.47. Rules for application of payments on serial bonds will be the same as those for principal installment single bonds as set out in the preceding paragraph.

§ 1823.46 Multiple advances of FHA funds using temporary debt instrument.

When none of the instruments described in § 1823.45 are legally permissible for multiple advances, each advance will be evidenced by an instrument approved by the State Director, OGC and Bond Counsel and, if feasible, issued as an FHA State form. The approved form or instrument will show at least the following:

(a) The date from which each advance will bear interest.

(b) The interest rate.

(c) A payment schedule providing for interest on outstanding principal.

(d) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

§ 1823.47 Minimum bond specifications.

The provisions of this § 1823.47 are minimum specifications only and must be followed to the extent legally permissible.

(a) *Type and denominations.*—Bond resolutions or ordinances will provide that the instrument(s) be either Serial bonds in denominations not to exceed $10,000 (ordinarily in multiples of $1,000) or bond(s) not to exceed $500,000 each. Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FHA. Coupon bonds will not be used unless required by statute.

(b) *Bond registration.*—Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FHA for registration purposes will be that of the FHA Finance Office to which the borrower is to forward its payments.

(c) *Size and quality.*—Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(d) *Date of bonds.*—Bonds will be dated as of the day of delivery.

(e) *Payment date.*—Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds, they should be scheduled on a monthly basis. If legally permissible and income is available on a monthly basis, bonds calling for payments on an annual or semiannual basis shall be supplemented with an agreement providing for monthly payments so long as they are held or insured by FHA. Such agreements will be accomplished not later than the time of loan closing. Where the evidence of indebtedness requires monthly payments, such payments will be scheduled beginning with the first day of the month following loan closing or the end of any approved deferment period. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning with the first day of the sixth or twelfth month, respectively, following the day of loan closing or the end of any approved deferment period.

(f) *Place of payment.*—Payments on bonds purchased by FHA should be submitted to the FHA Finance Office by the borrower.

(g) *Redemptions.*—Bonds should contain customary redemption provisions; subject, however, to unlimited right of redemption without premium of any bonds held by FHA except to the extent limited by the provisions under the "Third Preference" and "Fourth Preference" in § 1823.45.

(h) *Additional revenue bonds.*—Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued, were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal indebtedness. Junior and subordinate bonds may be issued without restriction.

(j) *Precautions.*—The following types of provisions in debt instruments should be avoided:

(1) Provisions for the holder to manually post each payment to the instrument.

(2) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FHA, may post the date and amount of each advance or repayment on the instrument.

§ 1823.48 Bidding by FHA.

Where a public bond sale is required by State statutes, FHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FHA is required to bid, the bid will be made at the applicable FHA interest rate.

Dated October 3, 1973.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.73-21977 Filed 10-17-73;8:45 am]

[FHA Instruction 442.12]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, CONSERVATION, UTILIZATION

Subpart O—Grants for Facilitating Development of Private Business Enterprises

On pages 16375 and 16376 of the FEDERAL REGISTER dated June 22, 1973, there was published a notice of proposed rulemaking to issue a new Subpart O of Part 1823, Title 7, Code of Federal Regulations. Subpart O outlines the policies of the Farmers Home Administration for administering grants for projects to facilitate the development of private business enterprises in rural areas. This regulation is issued in the form of a new Subpart O consisting of §§ 1823.450 through 1823.460.

Interested persons were given 21 days in which to submit written comments, suggestions, or objections regarding the

proposed regulations. All comments received have been considered and incorporated where appropriate. Substantive changes are as follows:

1. The provision for approval of applications by the State Governor or his designee has been deleted.

2. The provision for the State Governor to establish the priority of application approval has been deleted.

3. A revision has been made which provides that FHA shall cooperate fully with appropriate state agencies in the making of grants in a manner which will assure maximum support of the states' strategies for development of rural areas.

4. A revision has been made which provides that FHA will fully consider all OMB A–95 agency comments and priority recommendations in selecting applications for funding.

5. Indian tribes on Federal and State reservations and other Federally recognized Indian Tribes have been specifically named as applicants who may be eligible for grant assistance.

6. Conversion, enlargement, repair, or modernization of buildings; transportation serving the site; and pollution control and abatement incidental to site development have been added as eligible uses for grant funds.

7. A revision has been made to require all construction contracts of $10,000 or more be in compliance with the requirements of 7 CFR Part 1890p.

8. Requirements regarding the following have been deleted and will be made part of the grant agreement:

a. Standards for grantee financial management systems.

b. Retention and custodial requirements for records.

c. Interest earned on grant deposits.

d. Property management standards.

9. A revision has been made which establishes a "review of decision" procedure for rejected applications. Additional comments may be submitted for a period of 120 days and will be considered for incorporation into this Subpart. These additional comments may be submitted to the Deputy Administrator Comptroller, Farmers Home Administration, United States Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Deputy Administrator Comptroller having regular business hours. (8:15 a.m.–4:45 p.m.)

The new Subpart O reads as follows:

Sec.
1823.450 General.
1823.451 Eligibility.
1823.452 Use of grant funds.
1823.453 Grant limitations.
1823.454 Department of Labor determination.
1823.455 Civil rights compliance requirements.
1823.456 Environmental impact statement.
1823.457 Professional services, design policies, preliminary engineering and architectural reports and construction bid, contract award, and construction inspection.
1823.458 Audit reports.
1823.459 Processing applications.
1823.460 Grant closing and delivery of funds.

AUTHORITY.—7 U.S.C. 1989; Order of Sec. of Agr.; 38 FR 14944, 14948, 7 CFR 2.23; Order of Asst. Sec. of Agr. for Rural Development; 38 FR 14944, 14952, 7 CFR 2.70.

§ 1823.450 General.

This Subpart O outlines the policies of the Farmers Home Administration (FHA) pertaining to grants for projects to facilitate development of private business enterprises in rural areas pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)). FHA shall cooperate fully with appropriate State Agencies in the making of grants in a manner which will assure maximum support of the State's strategies for development of its rural areas. State and substate A–95 agencies may recommend priorities for applications. FHA will fully consider all A–95 review comments and A–95 agency priority recommendations in selecting applications for processing.

§ 1823.451 Eligibility.

Applicants eligible for grants are public bodies serving rural areas such as states, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts and Indian tribes on Federal and State reservations and other Federally recognized Indian tribes.

§ 1823.452 Use of grant funds.

(a) Grant funds may be used to finance industrial sites in rural areas including the acquisition and development of land and the construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, transportation serving the site, utility extensions, necessary water supply and waste disposal facilities, pollution control and abatement incidental to site development, fees, and refinancing for debts incurred by or on behalf of an association prior to an application for a grant when all of the following conditions exist: (1) The debts were incurred for the facility or part thereof or service to be installed or improved with the grant, and (2) arrangements cannot be made with the creditors to extend or modify the terms of the existing debt. Such grants may be made only when there is a reasonable prospect that they will result in development of private business enterprises. When land is to be purchased the purchase price will not exceed its "fair market value." When required by FHA the applicant will submit an appraisal report prepared by an independent qualified appraiser. FHA grant funds may be used jointly with funds furnished by the grantee including FHA loan funds. As used herein "rural" and "rural area" may include all territory of a State, the Commonwealth of Puerto Rico or the Virgin Islands, that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States. Priority for such grants shall be given to areas other than cities having a population of more than twenty-five thousand.

§ 1823.453 Grant limitations.

Grant funds will not be used:

(a) To pay salaries for office or clerical assistance, administrative, transportation or publication costs and expenses.

(b) To finance comprehensive area-wide type planning. This does not preclude the use of grant funds for planning for a given project.

(c) For any proposal that is calculated to or likely to result in the transfer of any employment or business activity from one area to another. This limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations, unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(d) For any proposal which is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

§ 1823.454 Department of Labor determination.

Grants shall not be made if the Secretary of Labor certifies within 60 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of § 1823.453 (c) and (d) have not been complied with. Information for obtaining this certification will be submitted in writing to FHA. The information will be submitted to the Department of Labor by FHA. Grant approval will not be given until the Department of Labor certification is received.

§ 1823.455 Civil rights compliance requirements.

All grants made under this subpart are subject to Title VI of the Civil Rights Act of 1964 Pursuant to 7 CFR Part 1816. All Construction Contracts of $10,000 or more will be in compliance with the requirements of 7 CFR Part 1890p.

§ 1823.456 Environmental impact statement.

The need for an environmental impact statement will be determined by FHA in accordance with Part 1824 of this Chapter. Applicants will furnish any information required by FHA to comply with environmental requirements.

§ 1823.457 Professional services, design policies, preliminary engineering and architectural reports and construction bid, contract award, and construction inspection.

These items will be accomplished in accordance with § 1823.21 through § 1823.33.

§ 1823.458 Audit reports.

Grantees will be required to submit an audit report prepared in sufficient detail to allow FHA to determine that grant funds have been used in compliance with the proposal, any applicable laws and regulations, and the grant agreement. Such audit reports should ordinarily be available for review prior to grant closing. However, FHA may upon receipt of the grantee's request accompanied by supporting factual data permit the grantee a period of time up to 90 days to submit the audit report. Audit reports shall be prepared preferably by the State auditor or at his direction. If this is not practical, audit reports will be prepared by an independent public accountant. An independent public accountant is an independent certified public accountant or an independent licensed public accountant, licensed on or before December 31, 1970, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

§ 1823.459 Processing applications.

(a) Preapplications. Applicants desiring grants will file Form AD-621, "Preapplication for Federal Assistance," which is available in all FHA offices, with the appropriate FHA County Office. They will also file written notice of intent and a request for priority recommendations with the appropriate A-95 clearinghouse.

(b) Preapplication review. In selecting projects and assigning priorities, FHA shall give due consideration to State development strategies, clearinghouse comments and priority recommendations. If funds appear to be available for the grant, FHA will notify the applicant to proceed to assemble and submit its application which will include:

(1) Form AD-624, "Application for Federal Assistance (Construction Programs)." This form is completed in accordance with the instructions thereon.

(2) Form FHA 440-1, "Payment Authorization."

(3) Form FHA 400-4, "Nondiscrimination Agreement."

(4) Form FHA 400-1, "Equal Opportunity Agreement," if required. (Submit not later than beginning of Construction if not available when application is assembled).

(5) Form FHA 400-6, "Compliance Statement." (Submit not later than beginning of construction if not available when application is assembled).

(6) Form FHA 400-3, "Notice to Contractors and Applicants." (Submit not later than beginning of Construction if not available when application is assembled).

(7) Form FHA 440-34, "Option to Purchase Real Property," if required.

(8) Preliminary engineering or architectural plans and specifications.

(9) Evidence of the proceedings, documents or authority by which the applicant is organized.

(10) Copies of executed or proposed leases, contracts or other agreements with site tenants.

(11) Form FHA 442-50, "Grant Agreement (Public Bodies) for Facilitating Private Business Enterprises in Rural Areas."[1]

(12) Proposal for obtaining required Audit Report.

(c) If funds are not available for the grant FHA will inform the applicant of the fact.

(d) Review of decision. If an application is rejected the applicant may request a review of this decision from the Administrator of FHA. The address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250. The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

§ 1823.460 Grant closing and delivery of funds.

Closing is the process by which FHA determines that applicable administrative actions and required work of the grantee have been completed and delivers the grant funds. If all or a portion of the grant is for construction, the grant will not be closed and funds will not be delivered before construction is completed.

(a) Grantees shall provide FHA through the use of Forms AD-627, "Report of Federal Cash Transaction," and AD-629, "Outlay Report and Request for Reimbursement for Construction Programs," a complete factual report regarding financial transactions pertaining to the project to be financed with grant funds.

(b) Final costs shall be determined and should there remain a cash balance after paying the allowable items as shown on Forms AD-627 and AD-629, the grantee shall immediately refund such balance to FHA. In the event the required audit has not been performed prior to grant closing, FHA retains the right to recover an appropriate amount after considering the recommendations on disallowed costs resulting from the audit. FHA, of course, may also recover amounts which by subsequent investigation are found to have been improperly spent by Grantee.

(c) Grant funds will be delivered by Treasury check.

Effective date.—This Subpart O shall become effective on October 18, 1973.

Dated October 3, 1973.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.73-21979 Filed 10-17-73;8:45 am]

[1] Filed as part of the original document.

[FHA Instructions 449.1, 449.2, 449.3]

SUBCHAPTER D—GUARANTEED LOANS

BUSINESS, INDUSTRIAL, AND FARMER LOANS

On pages 16376 through 16390 of the FEDERAL REGISTER issued on June 22, 1973, there was published a notice of proposed rulemaking to add a new Part 1825, Business and Industrial Loans, in Subchapter B of this chapter. Also, on pages 21417 through 21434 of the FEDERAL REGISTER issued on August 8, 1973, there was published a notice of proposed rulemaking to add a new Part 1826, Farmer Loans, in Subchapter B of this chapter. These new parts were to implement the guaranteed Business and Industrial and Farmer Loan programs authorized in Subtitles A, B, and C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.). The purpose was to prescribe the policies and procedures for (a) making and servicing such loans by private lenders, and (b) guaranteeing a percentage of any loss sustained thereon by the private lenders.

Interested persons were given through July 12, 1973, and August 31, 1973, respectively, in which to submit comments, suggestions, or objections. Numerous comments, suggestions, and objections have been received and considered. They have resulted in editorial changes for clarification and in the substantive changes hereinafter mentioned.

The proposed new parts have been moved from Subchapter B to Subchapter D of this Chapter and reorganized into three parts, as follows:

Part 1841—General Provisions.
Part 1842—Business and Industrial Loans.
Part 1843—Farmer Loans.

The substantive changes are as follows:

1. The requirement for supervised lenders and holders to obtain FHA approval has been deleted.

2. A revision has been made to permit the lender to charge the borrower the lender's customary loan fee not exceeding one percent of the loan.

3. A revision has been made to provide for a graduated loss payment guarantee.

4. A revision has been made to permit periodic, rather than semiannual guarantee fee payments.

5. A revision has been made to provide for variable interest subsidy rates payable semi-annually in Farmer Loan

cases, also to provide that interest subsidies will not be paid in Farmer Loan cases after the Contract of Guarantee is terminated or becomes void or unenforceable.

6. A revision has been made to permit Farmer Loan borrowers to use loan funds to purchase stock in a cooperative lending agency if necessary to obtain the loan.

7. Revisions for Farmer real estate loans have been made to prescribe new statutory loan limitations, to specify new security requirements, to prohibit the borrower from giving junior liens in connection with loan making, and to limit such loans to farm owners. A revision has also been made to prescribe more specific security requirements for Operating and Emergency loans.

8. The provision for approval of applications by the State Governor or his designee in Business and Industrial loan cases has been deleted, and some changes have been made in the purposes for which such loans may be made and in the security requirements.

9. The credit elsewhere provision and the requirement for prior submission to SBA have been deleted from the Business and Industrial loan guarantee program.

10. The requirements for applicant equity, change orders, and annual audits have been modified for Business and Industrial loan guarantees.

11. Provision has been made that Contracts of Guarantee in Business and Industrial Loan cases may be terminated under certain circumstances.

Effective date.—These new Parts 1841, 1842, and 1843 will become effective on October 18, 1973.

PART 1841—GENERAL PROVISIONS

Sec.
1841.1 Introductory information.
1841.2 Full faith and credit of U.S.A.
1841.3 Definitions.
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1841.5 Sale of interests or participations in loans.
1841.6–1841.9 [Reserved]
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1841.21 Guarantee of loans.
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1841.23 Request for Conditional Commitment to Guarantee loan.
1841.24 Conditional Commitment to Guarantee loan.
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1841.36 Void or voidable contract.
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Sec.
1841.38–1841.40 [Reserved]
1841.41 Termination of Contract of Guarantee.
1841.42–1841.45 [Reserved]
1841.46 Loan servicing.
1841.47–1841.55 [Reserved]
1841.56 Equal opportunity and nondiscrimination.
1841.57–1841.59 [Reserved]
1841.60 Transfer and assumption—general.
1841.61 Eligible transferee—full assumption.
1841.62 Ineligible transferee—full assumption.
1841.63–1841.65 [Reserved]
1841.66 Liquidation—general provisions.
1841.67 Loss settlement options.
1841.68–1841.74 [Reserved]
1841.75 Access to records of lenders and holders.
1841.76 Review of decisions.

AUTHORITY.—7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agri. (7 CFR 2.23); delegation of authority by the Asst. Sec. for Rural Development (7 CFR 2.70).

§ 1841.1 Introductory information.

This Part 1841 and Parts 1842 and 1843 of this chapter (which are hereinafter called a Handbook) contain regulations and prescribe forms applicable to loans guaranteed by the Farmers Home Administration (FHA). The general regulations applicable to all such loans are set forth in this Part 1841. Some material to round out subject matter is also contained in this Part 1841, even though it applies to loans of a particular type or types. Part 1842 of this chapter contains additional material with respect to Business and Industrial Loans. Part 1843 of this chapter contains additional material with respect to Farmer Loans. Such regulations and related FHA forms apply to lenders, holders, borrowers, FHA, and other parties involved in making, guaranteeing, servicing, and liquidating FHA guaranteed loans. Copies of this Handbook and related FHA forms and any amendments or revisions thereof may be obtained from any FHA office.

(a) *Responsibilities of borrowers, lenders, holders, and FHA.*—The loan and guarantee transactions impose responsibilities on all parties concerned, but they also confer benefits on such parties and their communities.

(1) Borrowers become obligated to repay their loans and to perform other duties specified in the promissory notes, security instruments, and related documents.

(2) Approved lenders become accountable for making and servicing (and approved subsequent holders for servicing) loans in a manner that will properly protect the interests of borrowers and those of FHA as guarantor, as well as the interests of the approved lenders or holders.

(3) FHA is responsible for seeing that its loan guarantee authority is used to achieve the purposes of the law as implemented by this Handbook and related forms.

(b) *Insured loans.*—Any applicant who is eligible for an FHA guaranteed loan, but cannot find an approved lender who is willing to make the loan with an FHA guarantee, may apply to FHA for an insured loan if FHA agrees that such a lender is not available.

§ 1841.2 Full faith and credit of U.S.A.

Contracts of Guarantee executed by FHA shall, subject to and in accordance with the contract provisions, constitute obligations supported by the full faith and credit of the United States and incontestible except for fraud or misrepresentations of which the approved lender or approved holder had actual knowledge at the time it became such lender or holder.

§ 1841.3 Definitions.

The following general definitions are applicable to the terms used in this Handbook and related forms. Additional definitions will be found in the Part relating to the particular type of loan involved.

(a) *Act.*—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.) with respect to all loans except Housing Loans; Title V of the Housing Act of 1949 (42 U.S.C. 1472, et seq.), and section 310C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1933), with respect to Housing Loans.

(b) *Borrower.*—All parties liable for the loan or any part thereof.

(c) *FHA.*—The United States of America acting through the Farmers Home Administration, an Agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, District Supervisor, County Supervisor, or other FHA office or official should be read as prefaced by "FHA."

(d) *Finance Office.*—The office which maintains the FHA financial records. It is located at 1520 Market Street, St. Louis, MO 63103. (Phone 314–622–4400)

(e) *Forms.*—Forms and distribution thereof are prescribed in the Part of this Handbook applicable to the type of loan involved.

(f) *Guaranteed loan.*—A loan originated by an approved lender and held and serviced by a registered holder under an FHA stated percentage loss Contract of Guarantee. References to "FHA guarantees," "loan guarantees," and similar terminology apply to such guaranteed loans. The term "loan" or "note" includes the related security instruments. The term "note" also includes "assumption agreement" and related security instruments, where appropriate.

(g) *Handbook.*—This handbook.

(h) *Hazard insurance.*—Includes fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood, workmen's compensation, or any similar insurance that is available and needed to protect the security or that is required by law.

(i) *Holder.*—See Lender.

(j) *Lender, holder, or registered holder.*—The term lender refers to the party who makes the loan. The lender

becomes the holder if it retains the loan. The term holder[4] also refers to a party who acquires the loan from the original lender or a subsequent holder.

(1) The terms lender and holder refer only to parties approved by FHA to make and service or to subsequently acquire and service loans guaranteed by FHA.

(2) The lender will become the registered holder of a particular loan when the Contract of Guarantee is executed. A subsequent holder will become the registered holder of a particular loan when it has acquired the loan and the Finance Office receives a copy of the notice of sale executed by the seller-holder on Form FHA 471-7, "Notice and Acknowledgment of Sale of Insured or Guaranteed Loan," and when the Finance Office executes the Acknowledgment of Notice of Sale on the bottom of that form. The registered holder will hereinafter be referred to as the holder, unless the term "registered holder" is used.

(k) *Servicing loans.*—See "Loan Servicing" in the Part of this Handbook applicable to each type of loan.

(l) *State.*—Any of the fifty States, Puerto Rico, or the Virgin Islands.

(m) *Transfer and assumption terms.*—In relation to transfer and assumption cases, where appropriate, "liquidation" and "loan" shall be construed to mean "transfer and assumption," "promissory note" shall be construed to mean "assumption agreement," and "borrower" shall be construed to mean "assuming party" or "transferee."

§ 1841.4 Lender or holder.

(a) *Eligible lender or holder.*—A lender or holder may be any Federal or State chartered bank, Federal land bank, production credit association, savings and loan association, building and loan association, insurance company, credit union, mortgage loan company, or other lender or holder approved by FHA to make and service or to subsequently acquire and service FHA guaranteed loans. However, any holder of the guaranteed portion of a loan will not have to be approved by FHA so long as the lender or holder of the nonguaranteed portion maintains the responsibility for servicing. See also § 1841.5 on sale of interests or participations in loans.

(b) *Supervised lenders and holders.*—Any eligible lender or holder that is subject to examination and supervision by an agency of the United States or of the State in which the loan will be made and the security property is or is to be located, is an approved lender or holder for that State.

(c) *Nonsupervised lenders and holders.*—Any party desiring approval that does not meet the requirements of paragraph (b) of this section, will be required to submit the following to FHA:

(1) Form FHA 449-18, "Lenders or Holders Request for Approval."

(2) Copy of any license or other evidence of authority required by the State as a prerequisite to engaging in the proposed lending activity.

(3) Information on lending operations, including period of time, if any, in lending business, range and volume of lending activities, current financial statement, and such documentation as requested by FHA to substantiate the representations made in the request for approval.

(4) FHA will make such investigation as it deems necessary and will notify the lender or holder in writing whether its request is approved or rejected.

(i) If the request is approved, FHA will place the lender on the list of Approved Lenders and Holders for the type or types of loans and the area or areas involved.

(ii) If the request is rejected, the reasons for rejection will be given. If the lender or holder can meet FHA's objections, it may resubmit the request.

(d) *Loan making and servicing office—all lenders and holders.*—The lender or holder will advise FHA in writing whether it plans initially to make and/or service the loan through its main office or through a branch office or agent.

(1) If at a subsequent date the holder plans to service the loan through a branch office or agent, or a different branch office or agent, it will advise FHA in writing to that effect, giving the name and address of the branch office or agent.

(2) Any such branch office or agency arrangement is subject to approval or rejection by FHA. The lender or holder will furnish any information requested by FHA about the branch office or agent to assist FHA in determining whether to approve the arrangement.

(e) *Termination of approval of any lender or holder.*—If a lender or holder fails or refuses to comply with any requirements in this Handbook, such lender or holder may be dropped from the approved list. The lender or holder will be notified in writing if such action is taken. Any lender or holder may be dropped from the approved list for future business if it so requests.

(f) *List of all approved lenders and holders.*—Any person who requests a list of approved lenders from FHA will be advised that all "supervised lenders and holders" as defined in paragraph (b) of this section serving the area are approved unless they have been terminated or dropped, and will be given the names of all "non-supervised lenders and holders" as defined in paragraph (c) of this section serving the area that are on the approved list.

§ 1841.5 Sale of interests or participations in loans.

(a) In addition to the right of the holder to sell the entire loan to another approved holder, the holder may sell interests or participations in its guaranteed loan or loans, provided that if the holder issues any security representing beneficial ownership in a block of guaranteed notes, the issuer must (1) place such notes in the custody of an institution chartered by a Federal or State agency approved by FHA to act as trustee, and (2) provide such periodic reports of sales as FHA requires from time to time by documents published in the FEDERAL REGISTER. The sale of such interests or participations will not alter the responsibilities of the holder set forth in this Handbook.

§§ 1841.6—1841.9 [Reserved]

§ 1841.10 Application and loan processing.

(a) *Applicant may contact FHA or lender.*—If any applicant contacts FHA and it thinks that the applicant may qualify for a guaranteed loan, it will furnish the applicant a list of all approved lenders for the county or counties involved and suggest that the applicant contact the approved lender of his choice. Regardless of whether the applicant first contacts FHA or goes directly to an approved lender, if the lender is interested in making a guaranteed loan to the applicant and believes that the applicant will qualify for such a loan, the lender will assist the applicant in preparing the application required for the type of loan involved.

(b) *Preparation of loan docket.*—If after reviewing the completed application, the lender is still interested in making a guaranteed loan to the applicant and still believes that the applicant can qualify for such a loan, the lender, with the assistance of the applicant, may prepare a loan docket and proceed with loan processing.

(c) *Loan making.*—The responsibility for making (including closing) guaranteed loans rests with the lender. The loan should not be closed until all or part of the loan funds are needed for use by the borrower. The loan will be considered closed when all loan and security instruments have been executed and the mortgage or financing statement, or both, is/are filed for record.

§ 1841.11 Other available financing (except for Business and Industrial Loans).

FHA will not guarantee loans unless it determines that guaranteeing loans, rather than making insured loans, would be to its financial advantage. Loans will not be guaranteed if FHA determines that the needed financing is available without the guarantee. Loans that would be made by the lender under its normal loan policies (without a Contract of Guarantee) will not be guaranteed. Loans made, guaranteed, or insured by any Federal or State agency will not be guaranteed, except for loans made by agencies of the Farm Credit Administration or by State agencies with rural rehabilitation funds. A lender should consult FHA before an application for loan guarantee is prepared if the lender desires to use a guaranteed loan to refinance debts owed to it. Subject to the foregoing provisions of this section, loans will not be participated in or insured by FHA if they can be guaranteed.

§ 1841.12 Points, discounts, charges, penalties, closing costs, loan fee.

FHA will not guarantee a loan if the borrower is required to pay any points, finder's fee, loan origination fee, loan discount fee, advance interest, add on interest, unearned interest, compound interest, interest on earned interest, service charges, bonus, commission, expense, prepayment penalty, or similar fees or charges, or anything of value for the purpose of obtaining the loan, or if an interest discount is involved; except that the borrower may pay the items in paragraphs (a), (b), and (c) of this section from funds included in the loan for that purpose if he cannot make the payment out of other funds.

(a) *Loan fee.*—The lender may charge the borrower a loan fee at the time of loan closing, provided:

(1) The lender has had an established practice of charging all borrowers a loan application, loan servicing or similar fee.

(2) The aggregate amount of the loan fee does not exceed one-half of one percent (½ of 1%) of the principal amount of the guaranteed loan promissory note in loan cases where the final maturity date of the loan note is less than three years, or one percent (1%) of such principal amount in other loan cases, and

(3) The loan fee is a one-time charge and no fee can be charged in connection with loan extensions, renewals, or at any other time while the Contract of Guarantee is in effect. This, however, will not preclude another loan fee charge on the same basis to the same borrower if the borrower enters into a new loan arrangement evidenced by a new promissory note and covered by a new Contract of Guarantee.

(b) *Closing costs.*—The borrower may pay expenses which are his or its responsibility and are incident to consummation of the loan (as distinguished from payments to obtain or service the loan), such as fees or charges for legal, architectural, appraisal, and other technical services, hazard insurance premiums, and recordation costs.

(c) *Social Security taxes.*—The borrower may pay his or its share of such taxes for any labor hired by the borrower in connection with making planned improvements.

(d) *Late payment charges.*—Such charges can only be made in monthly installment cases. They must be agreed to in writing by the borrower, must be collected from the borrower, cannot be included in a guaranteed loan or deducted from payments thereon, and are not covered by the Contract of Guarantee. Late charges cannot be made on any amount paid within 15 days after its due date. The term "Paid" means delivered to the holder or its main office, branch office, or agent, or placed in the mail properly addressed to any such party with postage prepaid.

§ 1841.13 Interest rates to borrowers.

(a) *Business and industrial loans.*—The interest rate on these loans will be negotiated between the lender and the borrower.

(b) *Other loans.*—The interest rate which the lender may charge borrowers obtaining loans (other than those covered by paragraph (a) of this section) are limited by statute or are fixed pursuant to statutory formulae. The rates on these loans made during one period of time may differ from the rates on loans of the same type made during another period of time. Also, there may be a variance between interest rates on loans of different types covered by this paragraph.

(c) *Rates and ceilings established periodically.*—FHA will determine the interest rate for each type of loan covered by paragraph (b) of this section when this loan guarantee program becomes effective with respect to it, and subsequent changes therein. The lender may ascertain the interest rate for each type of such loan by telephoning any FHA office or by consulting the Federal Register. Interest will be charged only on the actual amount of loan funds borrowed and for the actual time the money is outstanding. The interest rate initially established for each loan will remain constant during the existence of the FHA guarantee thereon, unless otherwise provided in the Part containing additional provisions with respect to the type of loan involved. Interest on protective advances made by the holder to protect the security may be charged at the rate specified in the security instruments. See also § 1841.12.

§ 1841.14 Security requirements.

The lender and holder are responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interests of the lender and holder and FHA. For more specific requirements, see the Part applicable to each type of loan.

(a) *Third party liens (laborers, mechanics, etc.).*—Among other things in obtaining the required security, the lender is responsible for ascertaining that there are no claims of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other lienholders or lien claimants against the security property or the borrower.

(b) *All collateral must secure entire loan.*—All collateral of any nature securing a loan guaranteed by FHA must secure the entire loan unless that is legally impossible as in some Texas homestead cases. The lender cannot take separate collateral to secure only that portion of the loan or loss not covered by the FHA guarantee.

§ 1841.15 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.*—The lender may use its forms of promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided:

(1) Such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this Handbook or, if they do contain any such conflicting or inconsistent provisions, such provisions will not be relied on or enforced by the lender or holder in any way or to any extent while the Contract of Guarantee is in effect.

(2) Such forms are amended by inserting the following provisions as applicable (except in Business and Industrial loans guaranteed under section 310B(a) and Housing loans meeting the requirements of section 310C(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932, 1933)):

(i) In real estate and chattel mortgages:

Guarantee by Government.—Mortgagor understands that the loan evidenced by the Note secured hereby is being made or allowed to remain extant by Lender only on the condition that repayment thereof or any loss thereon will be guaranteed in whole or in part to Lender by the United States of America or an agency thereof (herein "Government"). Therefore, in consideration of such guarantee, Mortgagor agrees that if at any time it shall appear to the Government that Mortgagor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Mortgagor will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(ii) In security agreements:

Guarantee by Government. Debtor understands that the loan secured hereby is being made or allowed to remain extant only on the condition that repayment thereof or any loss thereon will be guaranteed in whole or in part to Secured Party by the United States of America or an agency thereof (herein called the "Government"). Therefore, in consideration of such guarantee, Debtor agrees that if at any time it shall appear to the Government that Debtor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Debtor will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(b) *Financing statements.*—Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) That "disposition of the collateral is not authorized hereby."

§ 1841.16 Appraisal of property.

Property that will serve as security for the loan must be appraised by a qualified appraiser who is experienced in appraising the kind of property involved.

(a) *Qualifications of appraisers.*—The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make the appraisals. If the lender has any questions in this regard, it should check with FHA before having an appraisal made.

(b) *Appraisal fees or charges.*—The lender must determine that the fees or charges are reasonable.

(c) *Appraisal reports.*—Appraisal reports will be made on forms approved by the lender.

§ 1841.17—1841.20 [Reserved]

§ 1841.21 Guarantee of loans.

FHA may guarantee loans made by approved lenders to eligible applicants for authorized purposes in accordance with the provisions of this Handbook.

§ 1841.22 Guarantee limits.

The maximum loss covered by the Contract of Guarantee can never exceed ninety percent (90%) of the principal amount advanced to the borrower under the guaranteed loan promissory note or assumed under an assumption agreement. Subject to this overall limitation, the rate of the loss will be the guaranteed percentage rate proposed by the lender not to exceed ninety percent (90%) of the loss sustained by the holder on the borrower's obligations covered by the Contract of Guarantee.

§ 1841.23 Request for conditional commitment to guarantee loan.

When FHA receives a request for conditional commitment to guarantee a loan, it will evaluate the material submitted and any other information it deems necessary to determine whether the applicant appears to be eligible; loan funds are to be used for authorized purposes only; the amount of the loan, interest rate, repayment period and schedule, insurance requirements, plan of operations, and any late payment charges on monthly installments appear to be satisfactory; the proposed security appears to be adequate; the proposed loan appears to be sound; the lender plans to service the loan properly; and all other pertinent requirements likely can and will be met. If FHA cannot make a favorable determination, it will promptly inform the lender in writing of the reasons. If the lender can satisfy FHA's objections, the lender may resubmit the matter to FHA for reconsideration.

§ 1841.24 Conditional commitment to guarantee loan.

The conditional commitment to guarantee the loan will be made on Form FHA 449–14, "Conditional Commitment for Guarantee." The purpose of this form is to advise the lender that the material submitted by the lender to FHA is approved subject to the conditions and requirements set forth in the form, and that FHA will issue a Contract of Guarantee if all such conditions and requirements and others set forth in this Handbook prerequisite to issuance of the Contract of Guarantee, are met within the period of time specified in the conditional commitment or any written extension thereof made by FHA.

§ 1841.25 Review of conditional commitment requirements.

On receipt of the Conditional Commitment for Guarantee, the lender should review the matter (and discuss it with the applicant if necessary) to determine whether the conditions and requirements are acceptable. If the conditions and requirements are not acceptable to the applicant or lender, the lender should inform FHA of recommended revisions and the reasons therefor for further consideration.

§ 1841.26 Conditions precedent to issuance of Contract of Guarantee.

The Contract of Guarantee will not be issued until:

(a) *Lender's and borrower's advice.*—The lender and borrower in Business and Industrial loan cases (the lender only in other cases unless otherwise provided in the additional provisions in the Part applicable to the particular type of loan involved) advise(s) FHA that:

(1) No major changes have been made in the loan conditions and requirements since the request was made for issuance of a conditional commitment to guarantee the loan except those, if any, that have been approved in the interim period by FHA in writing. Other changes within the approved loan purposes that do not increase the cost, require additional time, or adversely affect the objectives or soundness of the loan may be approved by the borrower and lender.

(2) In Business and Industrial and Housing loan cases, all planned property acquisition has been completed, and all construction, repair, and development has been properly completed in accordance with plans and specifications and the cost thereof has not exceeded the amount approved by FHA.

(3) In Farmer Loan cases, all property acquisition, construction, repairs, and land development have been completed or will be completed after issuance of the Contract of Guarantee. In the absence of unusual circumstances in Farmer Loan cases, it is anticipated that the Contract of Guarantee will be executed before such actions have taken place. In either event, the lender will be responsible for seeing that property listed in the Request for Conditional Commitment to Guarantee Loan is acquired and that construction, repairs, and land development are completed promptly and in accordance with plans and specifications approved by FHA.

(4) The loan has been properly closed, and the required security instruments have been (or will be) obtained.

(5) The borrower has title marketable in fact to the security property then owned by him or it, subject only to the instruments securing the loan to be guaranteed and any other exceptions approved in writing by FHA.

(6) Security property then owned by the borrower (and/or that which will be acquired, repaired, constructed, or developed with loan funds after issuance of the Contract of Guarantee in Farmer Loan cases), is considered adequate security for the loan to be guaranteed, and the security instruments covering such property are all properly filed or recorded, as appropriate and legally permissible.

(7) Proper hazard and any other required insurance is in effect.

(8) Truth in Lending requirements have been met.

(9) All Equal Opportunity and Nondiscrimination requirements have been met or will be met at the appropriate time.

(b) *FHA investigation.*—FHA makes or causes to be made any independent investigation it considers necessary. Such investigation may be made at the borrower's expense. However, the making of any such investigation will not relieve the borrower or lender of any responsibility.

(c) *FHA findings.*—FHA finds (on the basis of advice required by paragraphs (a) and (b) of this section and such independent investigation as it may make) that the requirements have been met.

§ 1841.27 Issuance of Contract of Guarantee.

(a) *Execution of Contract.*—If FHA finds that all requirements have been met, it will execute the Contract of Guarantee which will set forth (specifically or by reference) the terms and conditions of the guarantee. The original Contract of Guarantee will be forwarded to the lender.

(b) *Refusal to execute contract.*—If FHA determines that it cannot execute the Contract of Guarantee, it will promptly inform the lender in writing of the reasons. If the lender satisfies FHA's objections, the lender may resubmit the matter to FHA for further consideration.

§ 1841.28 Inspection of improvements by FHA.

The lender will see that FHA is notified so that it can make inspections at various stages of construction, repair or development if FHA has advised the lender that it desires to do so in the particular case.

§ 1841.29 [Reserved]

§ 1841.30 Guarantee fee payable by holder.

(a) *Fixed rate on principal balance.*—A loan guarantee fee will be paid to FHA by the holder. The guarantee fee will not be charged to, collected from, or otherwise passed on to the borrower. The fee will be a fixed percentage rate on the principal balance outstanding on the guaranteed loan promissory note or assumption agreement at the time each fee payment falls due.

(b) *Percentage rate of fee—times of payments.*—The percentage rate of the fee and the times of periodic payments thereof will be established and announced by FHA. The applicable percentage rate and times of periodic payments of the fee for each loan will be

stipulated in the Contract of Guarantee and will not be changed during the existence of that Contract of Guarantee. Lenders or holders can ascertain the guarantee fee rate and times of payments in effect at any particular time by contacting FHA or by consulting the FEDERAL REGISTER.

§ 1841.31 Holders Guarantee Fee Report and Interest Subsidy Claim.

Form FHA 449-19, "Holders Guarantee Fee Report and Interest Subsidy Claim," must be sent by the holder to the Finance Office so that it will be received by that office not later than ten days after each guarantee fee payment (or interest subsidy payment, where applicable) is required to be made.

§ 1841.32 Payment of guarantee fee.

On the basis of information contained in Form FHA 449-19, the holder will calculate the amount of each loan guarantee fee on the basis prescribed in § 1841.30(b) and FHA issuances pursuant thereto, and will remit the required amount to the Finance Office along with the report. The check will be made payable to the Farmers Home Administration. See § 1841.41 on termination of Contract of Guarantee for failure to make timely payment of guarantee fees.

§§ 1841.33—1841.35 [Reserved]

§ 1841.36 Void or voidable contract.

(a) *All cases.*—The Contract of Guarantee will be void if it or the guaranteed loan was obtained by fraud or material misrepresentation of which the original lender or registered holder had actual knowledge at the time it became such lender or holder.

(b) *Other than business and industrial loan cases.*—If any interest subsidy payments have been made to the holder by FHA under a void contract, the holder is required to repay the amount thereof to FHA. If any interest subsidy payments have been made to the holder by FHA under a voidable contract after it became void, the holder is required to repay the amount thereof to FHA.

(c) *Cross references.*—See § 1841.37 on unenforceable Contract of Guarantee and § 1841.41 on termination of Contract of Guarantee.

§ 1841.37 Unenforceable contract.

(a) *Contract unenforceable.*—The Contract of Guarantee will be unenforceable:

(1) By or on behalf of any party who is not the original lender or a subsequent registered holder.

(2) As to any loss occurring or caused by events occurring while the loan was not held by the original lender or a subsequent registered holder.

(3) If loan funds are used for purposes other than those on the basis of which FHA issued the Contract of Guarantee, without FHA's written approval.

(4) If the borrower does not have or obtain title marketable in fact to the security property.

(5) If any note, assumption agreement, financing statement, or security instrument is invalid or unenforceable or does not contain any provisions required by this Handbook.

(6) If the security instruments do not secure the entire loan or advances, unless that is legally impossible under State constitutional or statutory provisions.

(7) If the lender does not obtain liens with the priorities specified by the lender and agreed to by FHA, or fails to properly record or file lien or notice instruments to obtain or maintain such lien priorities of record during the existence of the FHA guarantee.

(8) If at any time the holder fails to maintain an office (either its main or branch office or that of an agent) near enough to the security property location so that, in the judgment of FHA, the servicing functions can be properly and efficiently discharged.

(9) If the holder does not comply with the loan making, construction or other development, servicing, and liquidation requirements in this Handbook. This relates to the provisions of this Handbook at the time of execution of the Contract of Guarantee and to any future provisions of this Handbook not inconsistent with the provisions of said contract or the provisions of this Handbook at that time.

(b) *FHA may pay partial loss under unenforceable contract.*—In any case in which the Contract of Guarantee is unenforceable, if FHA determines that only part of any loss was caused by failure of the holder to comply with paragraph (a) (3) through (9) of this section, FHA will honor the Contract of Guarantee as to the part of such loss which FHA determines to be in excess of that portion of the loss caused by such noncompliance.

§§ 1841.38—1841.40 [Reserved]

§ 1841.41 Termination of Contract of Guarantee.

The Contract of Guarantee will terminate automatically for failure to remit guarantee fee payments within the time allowed under § 1841.30(b) and FHA issuances pursuant thereto, unless the holder satifies FHA that the payment is late for justifiable reasons. The Contract of Guarantee may also be terminated by full repayment of the loan, or by written notice from the holder to the Finance Office that the contract will terminate 30 days after the date of the notice; provided that:

(a) *Notice and enclosures.*—The notice is mailed promptly and is accompanied by the Contract of Guarantee for cancellation.

(b) *Fees are current.*—All guarantee fees that are owed have been paid.

§§ 1841.42—1841.45 [Reserved]

§ 1841.46 Loan servicing.

The holder is responsible for loan servicing. The term "servicing" as used in this Handbook includes all actions that are necessary after loan closing to collect the indebtedness and to protect the security and security rights. This involves, but is not limited to, obtaining and maintaining compliance with the provisions of the loan and security instruments, any supplementary agreements, and this Handbook. The term "servicing" also includes transfer and assumption and liquidation, except in those instances in which more specific terminology is used with respect to those matters. The specific servicing functions involved in transfers and assumptions and liquidations are set forth under those headings in this Handbook. Among the holder's more significant general servicing functions are those involved in seeing that:

(a) *Collections of indebtedness.*—Indebtedness is collected as it falls due (from the borrower, third party converters, or other parties liable), and transfer and assumption or liquidation action, if approved, is taken as provided for under those respective headings in this Handbook.

(b) *Hazard insurance.*—Adequate hazard insurance (as available and needed for the type of property and operation involved) is obtained and kept effective on the insurable security property, with loss payable clause in favor of the holder as mortgagee or secured party.

(c) *Taxes.*—Taxes and any assessments or ground rents against or affecting the security property are paid.

(d) *Litigation.*—The loan and security are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigative or third party actions.

(e) *Loss payments and compensation awards.*—Any insurance loss payments, condemnation awards, or similar proceeds are applied on the guaranteed loan in accordance with lien priorities on which the guarantee was based; or to a rebuilding or otherwise acquiring needed replacement security property of at least equal security value with the written approval of FHA and any other interested parties.

(f) *Sale of Security property and disposition of proceeds.*—The sale or other disposition of security property is not approved unless the guaranteed loan is paid in full or all proceeds are applied in accordance with the lien priorities on which the guarantee was based, except that:

(1) Proceeds from the disposition of basic security may be used to acquire property of similar nature, equal value, and equal lien priority when the holder and FHA determine that such use is necessary for the success of the enterprise. Basic security means all real property, fixtures, foundation herds, machinery, and equipment serving as security for the guaranteed loan.

(2) Proceeds from the disposition of any non-basic security property planned to be marketed in the regular course of business in going concern cases may be used for purposes which the holder determines are necessary and proper in connection with the type of operation

involved (and also for family living expenses in Farmer Loan cases).

(g) *Protective advances.*—No advances for purposes other than protection or preservation of the security or security property are made without FHA's written approval. Such advances (often called "future" advances) for such protection or preservation include, but are not limited to, advances for taxes, annual assessments, any ground rents, and hazard insurance premiums affecting the security property.

(h) *Personal liability.*—The borrower (any party liable) is not released from personal liability for all or any part of the guaranteed loan (except in transfer and assumption cases in which the full amount of the indebtedness is assumed).

(i) *Alteration of instruments.*—No provisions of the loan or security instruments are altered without FHA's written approval.

(j) *Compliance with Laws and ordinances.*—Compliance is made with all laws and ordinances applicable to the security property or to the lender or holder.

§§ 1841.47—1841.55 [Reserved]

§ 1841.56 Equal opportunity and nondiscrimination.

The following equal opportunity and nondiscrimination forms and requirements are applicable to certain cases involving construction as indicated. In Business and Industrial loan cases, the borrower is responsible for seeing that the requirements of paragraphs (b) through (f) of this section are met. In other cases the lender has that responsibility unless otherwise provided in the Part containing the additional provisions applicable to the particular type of loan involved. (For more detailed information see 7 CFR Part 15, and 41 CFR Part 60.)

(a) *Compliance reports.*—No prospective contractor or subcontractor will be eligible for a contract or subcontract financed with a guaranteed loan until he has filed all of the compliance reports required of him under any previous contracts.

(b) *Equal Opportunity Agreement.*—Before loan closing, each applicant whose loan involves a construction contract of more than $10,000 must execute Form FHA 400–1, "Equal Opportunity Agreement."

(c) *Contract or subcontract in excess of $10,000.*—If the contract or a subcontract exceeds $10,000:

(1) The contractor or subcontractor must submit Form FHA 400–6, "Compliance Statement," before or as a part of the bid or negotiation.

(2) An Equal Opportunity Clause must be part of each contract and subcontract. This clause is incorporated in Form FHA 424–6, "Construction Contract," which may serve as a guide.

(3) With notification of the contract award, the contractor must receive:

(i) Form FHA 400–3, "Notice to Contractors and Applicants" signed by the lender, with an attached Equal Employment Opportunity Poster. Posters in Spanish must be provided and displayed where a significant portion of the population is Spanish speaking.

(ii) Form AD–425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375, "if the contractor or subcontractor is subject to the requirements of paragraph (e) of this section.

(d) *100 or more employees and contract or subcontract exceeds $10,000.*—If the contractor or subcontractor has 100 or more employees and the contract or subcontract is for $10,000 or more:

(1) In addition to meeting the requirements of paragraph (c) of this section, each such contractor or subcontractor must file Standard Form 100, "Employer Information Report EEO–1" with the Joint Reporting Committee within 30 days of the contract or subcontract award unless this report has already been submitted within the last 12 months.

(2) An annual report must be filed on or before March 31 as long as the contractor or subcontractor holds a contract equal to $10,000 or more which is financed with a guaranteed loan. Failure to file timely, complete, and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this form should be addressed by the contractor or subcontractor to the Joint Reporting Committee, 1800 G Street NW., Washington, D.C. 20006.

(e) *50 or more employees or contract or subcontract exceeds $50,000.*—If the contract or subcontract is $50,000 or more or the contractor or subcontractor has 50 or more employees, in addition to the requirements of paragraph (c) of this section, each such contractor or subcontractor must be informed that he must develop a writen affirmative action compliance program for each of his establishments and put it on file in each of his personnel offices within 120 days of the commencement of the contract or subcontract. Form AD–425 provides guidelines for the contractor or subcontractor in developing such a program.

(f) *Compliance reviews.*—Compliance reviews must be made during construction inspections to determine whether the required posters are displayed, the facilities are not segregated, and there is no evidence of discrimination in employment. Findings of the borrower or lender, whichever has the responsibility in the particular type of loan case, will be shown on Form FHA 424–12, "Inspection Report," which will be signed by the lender. If there is any evidence of noncompliance, such borrower or lender will try to achieve voluntary compliance. If the effort fails, such borrower or lender will report all the facts to FHA.

(g) *Employee complaints.*—Any employee of or applicant for employment with such contractors or subcontractors may file a written complaint of discrimination with FHA.

(1) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(i) The name and address (including telephone number, if any) of the complainant.

(ii) The name and address of the person committing the alleged discrimination.

(iii) A description of the acts considered to be discriminatory.

(iv) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(2) Such complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by FHA for good cause shown.

§§ 1841.57—1841.59 [Reserved]

§ 1841.60 Transfer and assumption—general.

The transfer of security property by the borrower and assumption of guaranteed loan indebtedness by the transferee will be handled as provided for herein. In transfer and assumption cases, preference will be given to applicants who, after the transfer and assumption are made, will meet the eligibility requirements for the type of loan involved. If the transferee will make any cash down payment in connection with the transfer and assumption, or if any security property is to be sold before the transfer and assumption, the amount of such cash down payment or sale proceeds should be credited on the transferor's guaranteed loan debt before the transfer and assumption are closed. A County Committee certification will not be required. The original borrower may be released from personal liability since the entire indebtedness is being assumed. As stated in § 1841.3, where appropriate in this Handbook, "liquidation" and "loan" shall be construed to mean "transfer and assumption," "promissory note" shall be construed to mean "assumption agreement," and "borrower" shall be construed to mean "transferee."

§ 1841.61 Eligible transferee—full assumption.

An "eligible transferee" is a person who meets the eligibility requirements for the type of loan involved.

(a) *Assumption agreement.*—The assumption will be made on Form FHA 449–8, "Assumption Agreement for Guaranteed Loans (Same terms)," if there is no change in any of the loan terms. If any change is made, Form FHA 449–7, "Assumption Agreement for Guaranteed Loans (New terms)," will be used.

(b) *Payment schedule.*—The promissory note repayment schedule cannot be changed by the Assumption Agreement unless the change is approved in writing by FHA, and also by the present debtors if they are not released from personal liability. Therefore, if a change in the repayment schedule is contemplated, the holder will request FHA's approval of

the proposed repayment schedule before any other action is taken to consummate the transfer and assumption. Any new repayment schedule cannot be longer than the payment schedule in the promissory note. The holder's request will be accompanied by:

(1) An explanation of the reasons for the proposed change in the repayment schedule.

(2) A statement that the holder's determinations required by paragraph (c) of this section can be made.

(3) Advice as to whether the present debtors will sign the assumption agreement to indicate their continued liability or will be released from personal liability.

If FHA concurs in the proposed repayment schedule, it will so advise the holder in writing and the holder may proceed with the transfer and assumption.

(c) *Determinations by holder.*—Before the transfer and assumption are consummated, the holder must determine that all of the following conditions and requirements can be met:

(1) The transferee is eligible for the type of loan involved.

(2) The transferee will acquire all of the property securing the guaranteed loan balance.

(3) The transferee cannot acquire the security property without the guaranteed loan credit.

(4) The market value of the security property is equal to or more than the amount assumed plus the amount owed on any prior liens.

(5) The existing liens and lien priorities will be maintained or improved.

(6) The transferee appears to have the ability and desire to pay the amount to be assumed.

(7) Proper hazard insurance will be continued in effect.

(8) Any applicable Truth in Lending requirements will be met.

(9) The transaction can be properly closed and the conveyance instruments will be recorded, if recordable.

(d) *Closing transfer and assumption.*—As soon as the holder finds that it will be able to make the determinations required in paragraph (c) of this section and has received FHA's approval of any change in the interest rate or repayment schedule, the holder may proceed with closing the transfer and assumption transaction. The closing will include, but will not be limited to, obtaining execution and delivery of the conveyance instruments and the assumption agreement, compliance with any Truth in Lending requirements, and recordation of said conveyance instruments, if recordable.

(e) *Contract of Guarantee.*—The existing Contract of Guarantee will continue in effect, so a new Contract of Guarantee will not be issued. However, as soon as the transfer and assumption have been completed, the holder will so indicate on the original Contract of Guarantee by inserting a check in the Assumption Agreement box and inserting the name of the assuming party and the date of the Assumption Agreement in the spaces provided for those purposes on the contract. When FHA and the Finance Office receive their copies of the Assumption Agreement, they will make the same insertions in their copies of the Contract of Guarantee.

(f) *Material furnished by holder to FHA after closing.*—Immediately after the transfer and assumption have been closed, the holder will furnish to FHA:

(1) Two conformed copies of the executed assumption agreement.

(2) A statement showing:

(i) What changes, if any, have been made in the promissory note repayment schedule.

(ii) That all of the conditions and requirements of paragraph (c) of this section have been met.

(iii) That insertions have been made in the original Contract of Guarantee as required by paragraph (e) of this section.

(iv) Whether the present debtors have been released from personal liability or have signed the agreement of continued personal liability on the bottom of the assumption agreement.

(g) *Conformed copies—sent to and checked by FHA and Finance Office.*—When FHA receives the two conformed copies of the executed assumption agreement and the original statement from the holder as required in paragraph (f) of this section, it will examine them to see whether they are proper in all respects.

(1) If FHA finds any errors or omissions in the conformed copies, it will return the defective material to the holder so that it may be corrected. If the original assumption agreement contains the same defects, it will first have to be corrected and the corrections initialed by the assuming parties and the holder, and also by the present debtors if they will remain personally liable.

(2) If FHA finds the material to be in proper order, either before or after correction, it will send one copy of the assumption agreement to the Finance Office for loan identification and future accounting purposes. If the Finance Office finds any errors in amounts or calculations in its copy, it will return the copy to FHA so the matter may be handled with the holder in the same manner as set forth in paragraph (g)(1) of this section.

§ 1841.62 Ineligible transferee—full assumption.

An "ineligible transferee" is a person who does not meet the eligibility requirements for the type of loan involved.

(a) *Assumption agreement.*—The assumption will be made on Form FHA 449-7, "Assumption Agreement for Guaranteed Loans (New Terms)."

(b) *Interest rate and payment schedule.*—Since the promissory note repayment schedule (and probably the interest rate) will be changed in the Assumption Agreement, the present debtors will have to sign the agreement of continued liability on the bottom of the assumption agreement if they are not to be released from personal liability.

(c) *Term and interest rate.*—The term of the assumption cannot exceed 5 years for operating type loans or 10 years for real estate type loans, except that in real estate type loan cases the term may be up to 15 years if FHA makes a written determination that a period longer than 10 years is necessary to protect the financial interest of FHA as guarantor. The interest rate may be any legal rate agreed to by the holder and the assuming parties.

(d) *Determinations by holder.*—Before the transfer and assumption are consummated, the holder must obtain FHA's approval of the transaction. As a basis for obtaining that approval, the holder must furnish FHA a statement showing:

(1) That the transferee is not eligible for the type of loan involved.

(2) That the proposed transfer and assumption appear to be the best method for most adequately protecting the financial interests of the holder and FHA.

(3) That the market value of the security property to be transferred is equal to or more than the unpaid balance on the guaranteed loan plus any prior liens, or that the financial situation of the transferee is such that any difference could be readily collected.

(4) That the conditions and requirements of § 1841.61(c) (2), (5), (6), (7), (8), and (9) can be met.

(5) The proposed interest rate to the transferee; and that the proposed term of the assumption is necessary and meets the requirements of paragraph (c) of this section.

(6) Whether the present debtors will sign an agreement of continued liability or will be released from personal liability.

(e) *Approval by FHA.*—If FHA concurs in the holder's determinations and agrees that the transfer and assumption should be made as proposed, it will send a letter of approval to the holder. If the assumption term exceeds the 10 year limitation in paragraph (c) of this section for real estate type loans, the letter will contain FHA's express determination that the longer term is necessary to protect the FHA's financial interests as guarantor. If FHA determines that it cannot approve the proposed transaction, it will inform the holder in writing of the reasons. If the holder satisfies FHA's objections, it may resubmit the matter to FHA for reconsideration.

(f) *Contract of Guarantee.*—The existing Contract of Guarantee will continue in effect, so a new Contract of Guarantee will not be issued. The same insertions will be made in the original and copies of the Contract of Guarantee as provided in paragraph (e) of § 1841.61.

(g) *Closing transfer and assumption.*—Upon receipt of FHA's approval letter, the holder may proceed with closing the transfer and assumption transaction. The closing will include, but will not be limited to, obtaining execution and delivery of the conveyance instruments and the assumption agreement,

compliance with any Truth in Lending requirements, and recordation of said conveyance instruments, if recordable.

(h) *Material furnished by holder to FHA after closing.*—Immediately after the transfer and assumption have been closed, the holder will furnish to FHA:

(1) Two conformed copies of the executed assumption agreement.

(2) A statement showing:

(i) That all of the conditions and requirements of paragraph (d) of this section have been met in accordance with the approval letter issued by FHA under paragraph (e) of this section.

(ii) That the insertions have been made in the original Contract of Guarantee as required in paragraph (f) of this section.

(iii) Whether the present debtors have been released from personal liability or have signed the agreement of continued liability on the bottom of the assumption agreement.

(i) *Conformed copies—sent to and checked by FHA and Finance Office.*—The procedure set forth in paragraph (f) of § 1841.61 will be followed.

(j) *Interest subsidy.* — FHA will not pay any interest subsidy to the holder in these cases in which the debt is assumed by an ineligible transferee.

§§ 1841.63—1841.65 [Reserved]

§ 1841.66 Liquidation—general provisions.

If either the holder or FHA concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the borrower cannot or will not cure or eliminate within a reasonable period of time, it will notify the other party and the matter will be handled as follows:

(a) *Holder's proposed method of liquidation.*—Along with the holder's notification to FHA or within 10 days after the holder receives a notification from FHA, the holder will advise FHA or its proposed method of liquidation and will provide FHA with all available information concerning:

(1) The borrower's assets, including claims, contracts, accounts receivable and other existing and contingent assets not serving as security for the loan.

(2) Its estimated value of all of the borrower's assets, including security and nonsecurity property and other assets.

(3) The holder's proposed method of making the maximum collection possible on the entire indebtedness, including that covered by the FHA guarantee and that not so covered.

(b) *FHA's response to liquidation proposal.*—Within 30 days after receipt of such notification from the holder FHA will inform the holder:

(1) Whether FHA concurs in the holder's proposed method of liquidation.

(2) Which loss settlement option provided in § 1841.67 FHA has selected. To assist FHA in selecting the loss settlement option, the original lender and present holder will, upon request, provide FHA such information, and such legal and other instruments and documents (or copies thereof or access thereto), as the lender and holder have with respect to the guaranteed loan transaction.

(c) *Acceleration.*—If FHA does not select less settlement option (a) in § 1841.67, "Pay loss before liquidation," or loss settlement option (b) in § 1841.67, "Accept assignment of loan," the holder will proceed as expeditiously as possible with acceleration of the indebtedness, including giving any notices and taking any other actions required by the security instruments or law. A copy of the acceleration notice or other acceleration document will be sent to FHA. If FHA selects said option (a), the holder may accelerate the indebtedness if it desires to do so. If FHA selects said option (b), the indebtedness will not be accelerated.

(d) *Determination of values.*—If FHA selects loss settlement option (A) "Pay loss before liquidation," or loss settlement option (b) "Accept assignment of loan," then within 15 days after FHA has advised the holder of such selection (unless a longer period is agreed to by the holder and FHA in an individual case), or preferably while the acceleration proceedings are in process, the holder and FHA will appraise and endeavor to agree on the market value of the security property and any additional amounts that can be readily collected from the borrower (additional debt payment ability). The term "market value" as used in this Handbook means the amount for which the property would sell for its highest and best use at voluntary sale. If FHA selects loss settlement option (c) in § 1841.67 "Accept title to property from registered holder," or loss settlement option (d) in § 1841.67 "Pay loss after liquidation," the determination of values will be made at the time specified in the applicable paragraph.

(1) If the holder and FHA cannot agree on the value of the security property and any additional debt payment ability of the borrower within 15 days after their appraisals are required to be made, they shall within the next 15 day period or earlier if possible, select a disinterested appraiser who will determine such values. The appraiser will make the appraisal report to the holder and FHA.

(2) The appraiser's valuations will be used in calculating the loss if FHA agrees that they are correct. Within 10 days after FHA receives a copy of the appraiser's report, it will notify the holder in writing whether it agrees with the appraiser's valuations.

(3) The disinterested appraiser's fee will be shared equally by FHA and the holder.

(e) *Determination of loss.*—The amount of the loss to be paid by FHA will be initially calculated by the holder on Form FHA 449-20, "Report of Loss."

(1) Within 15 days after the determination of values as provided for in paragraph (d) of this section, the holder will execute the original Report of Loss and present it and one conformed copy to FHA for approval.

(2) If FHA has any question regarding the amounts set forth in the Report of Loss, it will investigate the matter. The holder will make its records available to, and otherwise assist FHA in making this investigation. If FHA finds any discrepancies, it will contact the holder and get the necessary corrections made as soon as possible. When FHA finds the Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

(3) After the Report of Loss has been tentatively approved, FHA will send the original Report of Loss to the Finance Office for issuance of a Treasury check in payment of the amount owed by FHA to the holder. The Finance Office will analyze these reports to see whether the amount claimed is correct. If the Finance Office finds the amount claimed by the holder to be incorrect, the Treasury check will be for the amount the Finance Office finds to be correct. The Finance Office will send an explanation of any changes in amounts along with the Treasury check.

(f) *Maximum amount of loss payment to holder.*—Notwithstanding any other provisions of this Handbook, the amount payable by FHA to the holder for loss sustained on the loan and future advances cannot exceed 90 percent of the loan principal advanced by the lender to the borrower under the guaranteed loan promissory note or assumed by the assuming parties under an assumption agreement in a transfer and assumption case.

(g) *Application of FHA loss payment.*—The amount of the loss payment by FHA will be applied by the holder on the guaranteed loan debt.

§ 1841.67 Loss settlement options (Payment of loss before or after liquidation, acceptance of assignment of loan, acceptance of title to property.)

FHA will have the option to settle its obligation under the Contract of Guarantee in any of the following ways. The provisions of § 1841.66 will apply regardless of which option is selected.

(a) *Pay loss before liquidation.*—If FHA elects to pay the loss covered by the Contract of Guarantee before the liquidation action is taken by the holder or a third party, upon receipt of the Report of Loss from the holder, the Finance Office will promptly have a U.S. Treasury loss payment check issued and mailed to the holder. If the liquidation is being conducted by the holder and it subsequently decides:

(1) Not to liquidate, it will refund to FHA any amount paid to it by FHA for liquidation costs.

(2) To employ a different method of liquidation for which the cost is less than the amount paid to it by FHA for liquidation costs, it will refund the difference to FHA.

(b) *Accept assignment of loan.*—Since the lender's forms of promissory notes and security instruments will be used and

they will vary considerably, FHA will select this option only in unusual cases. If FHA elects to take an assignment of the loan:

(1) Upon receipt of the Report of Loss, the Finance Office will send the Treasury check to FHA for delivery to the holder when the holder furnishes the following items in the form required by FHA:

(i) Promissory Note endorsed payable to the order of the United States of America.

(ii) Security instruments with any required assignments thereof (filed or recorded, if required).

(iii) Assignment of any escrow agreement and any funds in the escrow account, and any claims for protective advances already made.

(iv) Evidence of title and ownership of the note, security instruments and security property.

(v) Any other instruments required by FHA to determine or perfect its ownership of the guaranteed loan and related rights.

(2) Any net rental or other income that has been received by the holder from the security property (section VII A 3 of Report of Loss) should be applied on the guaranteed loan debt before FHA accepts an assignment of the loan. The holder's right to funds in the escrow account, if any, and the account itself will be assigned to FHA.

(c) *Accept title to property from registered holder.*—If FHA elects to wait and accept a conveyance of the former security property from the holder after the holder has acquired title to it by voluntary conveyance in lieu of foreclosure or by purchase at foreclosure or other forced sale:

(1) A determination of value of the former security property will be made within 30 days (unless the holder and FHA agree on a longer period) after title (record title, if conveyance can be filed or recorded) is vested in the holder, except that if a period of redemption exists, this action, at FHA's option, may be delayed until the applicable period of redemption has expired. The Report of Loss will be prepared on the same basis as if the borrower still owned the property.

(2) In section IV C of the Report of Loss, the total market value of the security property will be the appraised value as detemined under paragraph (d) of § 1841.66.

(3) The Finance Office will send the Treasury check to the FHA for delivery to the holder when the holder furnishes the following items in the form required by FHA:

(i) General Warranty Deed covering the acquired real property (FHA may also require a policy of owner's title insurance if it is unwilling to rely on the grantor's general warranty, the cost to be shared equally by FHA and the holder).

(ii) Bill of Sale or other required conveyance containing a general warranty of title to any acquired personal property (and any fixtures not covered by a warranty deed).

(iii) All other title evidence the holder has with respect to the real or personal property being conveyed, such as abstracts of title, title opinions or certificates, tax receipts, etc.

(iv) Possession of all conveyed property.

(v) Any other instruments required by FHA to perfect its ownership and possession of the conveyed property.

(d) *Pay loss after liquidation.*—FHA may decide to wait and pay the loss covered by the Contract of Guarantee after liquidation by the holder or a third party, regardless of who acquires the security property in the liquidation proceedings. If FHA chooses this loss settlement option, it may elect to pay the loss before or after any applicable redemption period. In any event, under this option, FHA will not take title to said property.

(1) The provisions of paragraph (c) (1) of this section with respect to determination of values and preparation of the Report of Loss are applicable here.

(2) The market value of the security property will be appraised value as determined under paragraph (d) of § 1841.66 or the acquisition price at a forced sale, whichever amount is more.

(3) The Finance Office will send the loss payment check direct to the holder.

§§ 1841.68—1841.74 [Reserved]

§ 1841.75 Access to records of lenders and holders.

The lender and holder will permit representatives of FHA (or of other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of the records of the lender or holder pertaining to FHA guaranteed loans. Such inspection and copying may be made during regular office hours of the lender or holder.

§ 1841.76 Review of decisions.

(a) *Decisions of State Directors.*—If a State Director rejects any party's request for approval as a lender or holder or for approval to serve any area or terminates the previously approved status of any lender or holder, or rejects a request from an approved lender for issuance of a Conditional Commitment for Guarantee or a Contract of Guarantee, or determines that a previously issued Contract of Guarantee is void or voidable or unenforceable, in a particular case, such lender or holder may request the Administrator of FHA to review the State Director's decision. His address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

(1) The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(2) Upon receipt of the copy of this material, the State Director will furnish a full report on the matter to the Administrator.

(3) The Administrator will act on the request as expeditiously as possible under all the circumstances, and will notify the requestor and the State Director in writing of his decision and the reason therefor.

(b) *Decisions of County Supervisors.*—If a County Supervisor rejects a request from an approved lender for issuance of a Conditional Commitment for Guarantee or a Contract of Guarantee, or determines that a previously issued Contract of Guarantee is void or voidable or unenforceable, in a particular case, such lender (or holder) may request the State Director to review the County's Supervisor's decision.

(1) The matter will be handled in the same manner as in paragraph (a) of this section, except that the County Supervisor and State Director, rather than the State Director and Administrator, will be involved.

(2) If the requesting party is not satisfied with the State Director's decision, such party may follow the procedure in paragraph (a) of this section in obtaining the Administrator's review of the State Director's decision.

PART 1842—BUSINESS AND INDUSTRIAL LOANS

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AUTHORITY.—7 U.S.C. 1989; Order of Secretary of Agriculture, 38 FR 14944, 14948, 7 CFR 2.23; Order of Assistant Secretary of Agriculture for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.

§ 1842.1 Introductory information.

This Part 1842 supplements the provisions of Part 1841 of this chapter with respect to Business and Industrial (B&I) loans guaranteed by the Farmers Home Administration (FHA) and with the attached application are applicable to lenders, borrowers, and other parties involved in making, guaranteeing, insuring, servicing, and liquidating B&I loans as defined herein. FHA shall cooperate fully with appropriate State agencies in the guaranteeing and insuring of loans in a manner which will assure maximum support of the State's strategies for development of its rural areas. State and substate A–95 agencies may recommend priorities for applications (except that applications for small business enterprise loans shall not ordinarily be subject to the A–95 review process). FHA will fully consider all A–95 review comments and A–95 agency priority recommendations in selecting applications for processing. For information concerning FHA insured loans, see § 1842.61.

§ 1842.2 Definitions.

The following definitions, in addition to those in § 1841.3, are applicable to the terms used in this Handbook and related forms used for B&I loan guarantees:

(a) *Applicant (for loan).*—An applicant may be a cooperative, corporation, partnership, trust, or other legal entity organized and operated on a profit or nonprofit basis, an Indian Tribe on a Federal or State reservation or other Federally recognized tribal group, a municipality, county, or other political subdivision of a State, or an individual engaged or proposing to engage in improving, developing, or financing business, industry, and employment and improving the economic environmental climate, including pollution abatement and control in rural areas.

(b) *Development cost.*—These costs include, but are not limited to, those for acquisition, construction, repair, or enlargement of the proposed facility, purchase of building, machinery, equipment, land, easements, rights-of-ways; payments of appraisal, engineering, and legal fees; and administrative costs; payment of start-up operating costs, and interest during the period before the first principal payment becomes due, including interest on interim financing.

(c) *Insured loan.*—A loan made and serviced by FHA with funds from the Rural Development Insurance Fund.

(d) *Joint financing.*—Occurs when two or more public or private lenders (or any combination of such lenders) make separate loans to supply the funds required by one applicant. FHA may guarantee such loans, except loans made, insured, or guaranteed by other Federal or State agencies.

(e) *Pollution abatement.*—Reduction of pollution of air, noise, land, or water.

(f) *Pollution control.*—Keeping pollution of air, noise, land, or water under established limits.

(g) *Public body.*—A municipality, political subdivision, public authority, district or similar organization issuing obligations on which the interest income is exempt from Federal income taxes.

(h) *Rural area.*—May include all territory of a State, the Commonwealth of Puerto Rico or the Virgin Islands, that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

(i) *Working capital.*—The excess of current assets over current liabilities. It identifies the relatively liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of business.

§§ 1842.3—1842.10 [Reserved]

§ 1842.11 General.

(a) FHA may guarantee B&I loans made by lenders to eligible applicants in rural areas. The lender processes the loan application and presides over the loan closing. The holder services the loan until final settlement. Loan collection and liquidation are two of the servicing functions.

(b) FHA will not guarantee a loan made by other Federal agencies nor will it ordinarily guarantee loans made to refinance debts owed to the lender that are repayable on terms the borrower can reasonably be expected to meet. Therefore, a lender should consult FHA before an application for loan guarantee is prepared if the lender desires to use a guaranteed loan to refinance debts owed to it, or to have a previously existing loan guaranteed.

(c) Inability to obtain credit elsewhere is not a requirement for guarantee assistance under this regulation.

§ 1842.12 Eligibility.

B&I loans may be guaranteed if they are made by approved lenders to eligible applicants for purposes of improving, developing, or financing business, industry, agribusiness, and employment, and improving the economic and environmental climate in rural areas.

§ 1842.13 Loan purposes.

Such purposes include, but are not limited to:

(a) Financing business and industrial acquisition, construction, conversion, enlargement, repair, or modernization.

(b) Financing the purchase and development of land, easements, rights-of-way, buildings, equipment, facilities, long term leases, leasehold improvements, machinery, supplies, or materials.

(c) Financing the purchase of housing development sites located in open country or towns or villages of not over 10,000 population.

(d) Financing pollution control and abatement incident to industrial development.

(e) Financing transportation services incident to industrial development.

(f) Payment of start-up costs and supplying working capital.

(g) Payment of interest during the period before the first principal becomes due, including interest on interim financing.

(h) Payment of appraisal, engineering, legal, and other fees and costs as provided in § 1842.26.

§ 1842.14 Ineligible loan purposes.

Loans may not be guaranteed if the funds are used:

(a) To pay off a creditor in excess of the value of the security.

(b) For distribution or payment to the owner, partners, members, shareholders, or beneficiaries of the applicant or lender or members of their families.

(c) For any project that is calculated to or likely to result in the transfer of any employment or business activity from one area to another. This limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations, unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(d) For any project which is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

§ 1842.15 Rural area determination.

FHA shall make the determination as to whether the area is rural as described in § 1842.2(h).

§ 1842.16 Environmental impact statements.

The need for an environmental impact statement will be determined by FHA in accordance with Part 1824 of Subchapter B of this Chapter. If a statement is required, the applicant will furnish any information needed for its preparation, on Form FHA 449–10, "Applicants Environmental Impact Evalution," to the lender for transmittal to FHA.

§ 1842.17 Department of Labor (DOL) determination.

A Contract of Guarantee shall not be issued if the Secretary of Labor certifies within 60 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of § 1842.14 (c) and (d) have not been complied with. Information for obtaining this certification will be submitted in writing to FHA. The information will be submitted to the Department of Labor by FHA. A Conditional Commitment for Loan Guarantee will not be issued until the Department of Labor certification is received.

§ 1842.18 Flood hazards.

If the project is located in a flood plain, a Conditional Commitment for Loan Guarantee will not be issued without a prior determination by FHA that the likelihood of flood is of little significance to the loan.

(a) The applicant and lender will evaluate flood hazards in connection with the project facilities. In order to minimize the exposure of such facilities to potential flood damage and the need for future Federal expenditures for flood protection and flood disaster relief, they will, as far as possible, preclude the uneconomic, hazardous, or unnecessary use of flood plains for such projects. Their evaluation report will be made to FHA.

(b) If the loan is to be guaranteed or insured, the applicant will be required to obtain flood hazard insurance prescribed by the National Insurance Administration, Department of Housing and Urban Development, if it is available at reasonable rates in the project area.

§§ 1842.19—1842.20 [Reserved]

§ 1842.21 Applicant equity.

The applicant will be required to contribute sufficient tangible assets to provide reasonable assurance of a successful project. Normally, a minimum of 10 percent may provide reasonable assurance of success, however, FHA may require more equity depending on the particular project. The total financing program, including equity and debt, will include real estate, machinery and equipment, and working capital in sufficient amounts to assure the success of the project.

§ 1842.22 Collateral.

(a) Collateral must be of such a nature that, when considered with the integrity and ability of the project management, the soundness of the project, and the applicant's prospective earnings, repayment of the loan will reasonably be assured.

(b) Full personal guarantees of principals of applicant and/or related corporate guarantees by closely held corporate applicants or by the parent corporation of subsidiary corporate applicants, secured by collateral where deemed necessary, will be ordinarily required.

(1) Such guarantees should be understood to provide not only additional collateral benefits, but also provide the necessary personal involvement of the principals required to provide assurance of continuity of job opportunities provided by the project.

(2) Applicants will provide, in the case of personal guarantors, current (not over 90 days old at the time of filing) personal financial statements signed by both husband and wife and disclosing community and individual assets and indebtedness.

§ 1842.23 Interest rate to borrower.

The interest rate on B&I garanteed loans, subject to the approval of FHA, will be negotiated between the lender and the applicant at a rate that shall be legal and reasonable. See also § 1841.13 of this chapter.

§ 1842.24 Maturity.

The maximum final maturity of an FHA guaranteed loan will be limited to thirty years for land, buildings and permanent fixtures; the usable life of the machinery and equipment purchased with loan funds, but not to exceed fifteen (15) years; and seven years for the working capital portion of the loan.

§ 1842.25 Repayments.

Principal and interest on the loan will be due and payable as provided in the promissory note. Ordinarily, such installments shall be scheduled for payment as agreed upon by the lender and applicant but on terms no more liberal than the projected cash flow indicates. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment will be due and payable within three years from the date of the promissory note. Interest will be due at least annually after the loan is closed. All of the loan may be repaid without penalty at any time before it is due. Additional payments may be made at times and in amounts as specified in the promissory note.

§ 1842.26 Compensation for loan services.

If the loan is guaranteed by FHA, the applicant may pay from funds included in the loan for that purpose, the reasonable costs incurred for services rendered by accountants, appraisers, architects, attorneys, engineers, and other parties for services in connection with preparation of the loan application, making the loan, developing the project, and verification of proper project completion. However, the applicant may not pay from loan funds nor from its equity contribution, nor include such fees in calculating its equity contribution, any costs for such services in excess of the reasonable value thereof as approved by FHA.

§ 1842.27 Qualifications of specialists.

The applicant and lender will be responsible for determining that accountants, appraisers, architects, attorneys, engineers, and other parties furnishing services in connection with preparation of the loan application, making the loan, developing the project, and verifying proper project completion have the necessary qualifications and experience to properly perform the s ervices involved.

§ 1842.28 Change orders.

All construction contract changes will be authorized by written change orders. Changes within the scope of work which do not result in an increase in the total contract cost or in additional time which might adversely affect the project may be approved by applicant or lender. All other changes must be approved by FHA.

§§ 1842.29—1842.30 [Reserved]

§ 1842.31 Application and loan processing.

(a) *Applications from cooperatives.*—Initial applications from cooperatives for loans will be submitted to the Bank for Cooperatives (Bank) for a determination of availability of credit from the Bank.

(b) *Filing preapplications.*—Applicants will file a preapplication in the form of a letter which may be prepared either by the applicant or the prospective guaranteed lender. The letter shall include the name of the applicant, loan amount requested, name of the proposed guaranteed lender, a brief description of the proposed project which should include an estimate of the type and number of employment opportunities to be generated, and the amount of the applicant's equity. Applicants should also attach copies of available feasibility studies, financial statements and other pertinent information.

(c) *Preliminary determination by FHA.*—FHA will review the preapplication and if it appears that the loan would be for an eligible project located in a rural area, FHA will:

(1) Unless it is for a small rural business enterprise loan for a business having no significant impact without the community in which the business is to be located, submit it for A–95 agency review requesting comments and priority recommendations.

(2) In selecting projects, give due consideration to state development strategies, clearinghouse comments, and priority recommendations and assign priorities.

(3) Cooperate with all Federal, State, substate, regional, and local planning and development agencies and officials involved in project selection and implementation.

(4) Give priority to projects in areas other than cities having a population of more than 25,000.

(d) *Application conference.*—If the guarantee or insurance authority is available and the preapplication is to be further processed, FHA will so inform the lender and will arrange an application conference with the prospective applicant, the lender, and other appropriate parties.

(1) If it appears at the conference that the applicant is eligible as to area location, credit, type of project, loan

purpose, loan amount, and project priority, the applicant will be informed that it may prepare and submit to the lender a Form FHA 449–1, with attachments; Form FHA 449–2, "Statement of Collateral;" and Form FHA 400–1, "Equal Opportunity Agreement," if construction costing more than $10,000 is involved.

(2) If it appears at the conference that the applicant is not eligible for guaranteed loan assistance, the lender and the applicant will be so informed by FHA.

§ 1842.32 Lender evaluation.

When the material required by § 1842.31(d)(1) is received by the lender, it will conduct the necessary investigations to determine the soundness of the proposed loan. If the lender believes that the proposed loan would be sound and is still interested in making it if an FHA Contract of Guarantee can be obtained, the lender will request a Contract of Guarantee. The basic purpose of this request is to obtain the issuance of a Conditional Commitment for Guarantee.

§ 1842.33 Request for Contract of Guarantee.

This request will be made by an approved lender on Form FHA 449–1. Among other things, the request will advise FHA that the lender considers the proposed loan to be sound and believes that all FHA requirements will be met. Along with the request the lender will submit to FHA:

(a) Form FHA 449–1 with attachments, and Forms FHA 449–2, FHA 449–4, "Statement of Personal History," FHA 449–10, (and FHA 400–1 if construction costing more than $10,000 is involved), the engineering plan (and drawings), appraisal reports, and any other material developed concerning the loan up to that date. Detailed preliminary plans and specifications required by item 10(e) of Form FHA 449–1 must contain the comments, necessary certifications and recommendations of appropriate regulatory or other agency or institution having expertise in the planning, operation and management of similar projects.

(b) An economic and technical feasibility project study acceptable to FHA covering engineering aspects especially for new or innovative machinery and equipment, processes, and procedures; sources, adequacy and required training of management personnel and labor supply; adequacy and sources of raw materials and supplies; adequacy of buildings, land development, and transportation; market study; and statements from public utility officials that there is reasonable assurance that the project site will be adequately supplied with power, water and waste disposal services.

(c) Credit analysis, report, conclusion, and recommendations.

(d) Statement from lender and applicant that all things necessary for success of the enterprise will be available at the beginning of operations.

(e) Advice as to whether all or any part of the project is or will be located in a flood plain and whether flood insurance is available and being required.

(f) Any additional information required by the Department of Labor as a basis for its determinations with respect to transfer of employment or business activity from one area to another and the effect of the project on existing competitive enterprises in the area.

(g) Any additional information needed to enable FHA to pass on the request for issuance of a Conditional Commitment for Guarantee.

§ 1842.34 FHA evaluation.

FHA may evaluate the lender's credit findings and conclusions. The evaluation may include:

(a) An analysis of the documentation submitted in accordance with § 1842.33 to acquire a working knowledge of the proposal, and to identify questionable features requiring clarification.

(b) A visit to the applicant's project location and possibly to the applicant's place of business, if it is at a different location, for on-site evaluation and consultation.

(c) A determination as to whether the amount of the loan, together with the other available resources, appears adequate to accomplish the loan purpose.

(d) A determination as to whether there is reasonable assurance that the loan can be repaid.

§ 1842.35 Conditional guarantee commitment.

If FHA decides to guarantee the loan subject to the conditions set forth in Form FHA 449–14, "Conditional Commitment for Guarantee," that form will be executed and forwarded to the lender. If FHA determines it is unable to guarantee the loan, the lender will be informed.

§ 1842.36 Review of requirements.

On receipt of Form FHA 449–14, "Conditional Commitment for Guarantee," including any additional loan guarantee conditions and requirements, and related forms, the lender should review and discuss the matter with the applicant to determine whether the conditions and requirements are acceptable. If the terms and conditions are not acceptable to the applicant or lender, they should inform FHA of their recommendations and reasons for needed revisions.

§ 1842.37 Loan closing.

The responsibility for closing guaranteed loans will rest with the lender. Ordinarily an FHA representative will attend pre-closing and loan closing meetings of applicant and lender.

§ 1842.38 FHA investigation.

The FHA investigation required by § 1841.26(b) of this chapter may be made by a licensed architect or registered engineer, as appropriate. These will be individuals who are not associated in any capacity with those who assisted in the construction. The fees of such architects and engineers will be paid by the borrowers. The amount of such fees may be included in the loan.

§ 1842.39 Issuance of Contract of Guarantee.

The Contract of Guarantee will be executed as detailed in § 1841.27.

§§ 1842.40—1842.60 [Reserved]

§ 1842.61 Insured loans.

Applications from private parties for whom FHA and such applicants agree that a guaranteed lender is not available, and from public bodies, shall be processed as insured loans in accordance with the applicable provisions of this Handbook and Subpart A of Part 1823 of this Chapter, including the credit elsewhere requirement.

(a) *Public bodies.*—Loans to public bodies may be used only to finance community facilities for the purpose of developing private business enterprises and only when the requested loan is not available under Part 1823 of this Chapter.

(b) *Interest rate.*—Loans made under this section shall bear interest at a rate prescribed by the Secretary of Agriculture, not less than a rate determined by the Secretary of the Treasury, taking into consideration current average market yield on outstanding marketable obligations of the United States comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the private market for similar loans and considering the Secretary's insurance of the loans plus an additional charge to cover losses and cost of administration. The prescribed rate shall be adjusted to the nearest one-eighth of one percentum and shall be announced periodically.

§§ 1842.62—1842.70 [Reserved]

§ 1842.71 Financial reports and audits.

(a) The holder will require FHA guaranteed loan borrowers:

(1) To maintain proper books of account in a manner satisfactory to the holder.

(2) Whose loans are for $100,000 or more, to submit on an annual basis audited financial statements prepared by an independent certified public accountant or by an independent licensed public accountant licensed on or before December 31, 1970, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States, and containing his unqualified opinion.

(3) To submit at a minimum, a six-month interim financial statement (balance sheet and complete income and expense statement) signed by a responsible officer of the borrower attesting that the financial statements are true and correct to the best of his knowledge.

(b) The holder will furnish a copy of each audit report and other financial reports to FHA.

(c) FHA, the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination of any books, documents, papers,

and records of the lender, holder or borrower that are pertinent to the guaranteed loan.

§§ 1842.72—1842.80 [Reserved]

§ 1842.81 FHA forms.

The following forms are applicable to the FHA guaranteed business and industrial loan program and may be obtained from FHA:

FHA 449-1	Application for Loan and Guarantee.[1]
FHA 449-2	Statement of Collateral.
FHA 449-4	Statement of Personal History.
FHA 449-5	Personal Financial Statement.
FHA 449-10	Applicant's Environmental Impact Evaluation.
FHA 449-14	Conditional Commitment for Guarantee.
FHA 449-17	Contract of Guarantee.
FHA 449-18	Lenders or Holders Request for Approval.
FHA 499-19	Holders Guarantee Fee Report and Interest Subsidy Claim.
FHA 449-20	Report of Loss.

Any needed forms not provided by FHA will be provided by the lender, holder, or applicant.

PART 1843—FARMER LOANS

Sec.

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AUTHORITY.—7 U.S.C. 1989; delegation of authority by the Sec. of Agri. (7 CFR 2.23); delegation of authority by the Asst. Sec. for Rural Development (7 CFR 2.70).

NOTE.—This part 1843 supplements the provisions of Part 1841 of this Handbook with respect to Farmers Loans guaranteed by the Farmers Home Administration (FHA).

§ 1843.1 Definitions.

The following definitions, in addition to those in § 1841.3, are applicable to Farmer Loans.

(a) *Family farm.*—A family farm is a tract(s) (1) that is recognized as a farm rather than a rural residence, (2) that will provide substantial income which, together with any other income, will adequately support the family, pay operating expenses and debts, and (3) for which the operator and his immediate family provided the management and major portion of the labor, except during seasonal peakload periods.

(b) *Farmer loans.*—Farm Ownership (FO), Soil and Water (SW), and recreation (RL) loans authorized in Subtitle A of the Act; Operating (OL) loans authorized in Subtitle B of the Act; and Emergency (EM) loans authorized in Subtitle C of the Act.

(c) *FHA.*—The term "FHA", unless otherwise specifically provided in this Part 1843, refers to the County Supervisor or Acting County Supervisor serving the county involved.

(d) *Rural youth.*—A person who has not reached the age of full legal competency as an adult under applicable State law, and who does not reside in a city or town which has a population in excess of 10,000 inhabitants.

§ 1843.2 County Committee certification.

After the case has been presented to the County Committee, FHA will notify the lender as to the action taken by the County Committee. If the County Committee rejects the application, FHA will inform the lender of the reasons for the rejection. If the lender then furnishes FHA satisfactory evidence to show that the County Committee's objections have been met, FHA will resubmit the case to the County Committee. If the County Committee's original certification or recertification is favorable, FHA will issue a conditional commitment to guarantee the loan.

§ 1843.3 Interest subsidy payments.

Interest subsidy rates, if any, on guaranteed loans will be established by FHA for the remainder of fiscal year 1974 and periodically thereafter. Thus the subsidy rate for the same loan may vary from year to year.

(a) *Method of determining annual rate.*—The subsidy rate fixed for each fiscal year for each type of loan will be a rate equal to the difference, if any, between the interest rate charged to the borrower and a rate determined by FHA taking into consideration the current average market yield on outstanding marketable obligations of the United States comparable to the average maturities of the type of loan involved, adjusted in the judgment of FHA to provide a rate comparable to the average rate prevailing in the private market for similar loans. For example, if the interest rate to the borrower is 6 percent per annum and FHA by said method determines that the average private market rate for similar loans is 8 percent per annum, the interest subsidy rate would be 2 percent per annum.

(b) *Information on rates.*—Lenders or holders can ascertain the subsidy rate in effect at any particular time by calling any FHA office or by consulting the FEDERAL REGISTER. Interest subsidy payments will be made by U.S. Treasury checks.

(c) *Semiannual payments.*—The subsidy payments will be made semiannually for periods ending May 31 and November 30. Therefore, payments for the first and last guarantee periods usually will cover part of a 6 month period. The holder's account will be credited as of the ending date of the 6 month period immediately preceding the subsidy payment. The interest subsidy payments will be based on the outstanding principal balance on the guaranteed loan promissory note. Within 10 days after receipt of a proper Holders Guarantee Fee Report and Interest Subsidy Claim, the Finance Office will send to the holder a Treasury check for the amount of the interest subsidy payment owed for the preceding 6 month period.

(d) *When payments cease.*—Interest subsidy payments will not be made after a transfer to and assumption by an "ineligible transferee" or after the Contract of Guarantee is terminated or becomes void or unenforceable.

§ 1843.4 Request for conditional commitment to guarantee loan.

This request will be made on Form FHA 449-9, "Request for Conditional Commitment to Guarantee Loan".

§§ 1843.5—1843.9 [Reserved]

§ 1843.10 Loan servicing.

The following provisions with respect to loan servicing, in addition to those in § 1843.46, are applicable to Farmer Loans.

(a) *Acquisition of property.*—The lender is responsible for seeing that any property to be acquired with loan funds is acquired as planned and liens are obtained thereon with priorities which the lender advised FHA in Form FHA 449-9 that the lender's security instruments would have. Each time a substantial

[1] A copy of FHA Form 449-1 is filed as part of the original document.

amount of property is aquired with loan funds after loan closing, the lender will furnish a certificate to FHA describing the property acquired and stating that it is property that was planned to be acquired with loan funds as shown in the Request for Conditional Commitment to Guarantee Loan. The certificate will be provided on Form FHA 449-11, Certificate of Acquisition or Construction.

(b) *Construction or development.*—The lender is responsible for seeing that any buildings or other improvements or major land development to be provided with loan funds are properly completed within a reasonable time, free of any mechanics, materialmen's or other liens that would affect the lien priority which the lender advised FHA that the lender's security instruments would have. All major construction, major repairs, and major land development must be performed under contract, unless the lender determines that performance can be satisfactorily accomplished under the borrower method. As soon as such construction, repair, or land development involving use of loan funds has been completed, the lender will furnish to FHA a certificate stating that it has been completed in accordance with the plans and specifications submitted to FHA in connection with the Request for Conditional Commitment to Guarantee Loan. The certificate will be provided on Form FHA 449-11, Certificate of Acquisition or Construction.

§§ 1843.11—1843.19 [Reserved]

§ 1843.20 Transfer and assumption.

The following provisions with respect to transfer and assumption, in addition to those in §§ 1841.61 and 1841.62, are applicable to Farmer Loan cases.

(a) *Not substitute for graduation.*—This procedure for transfer to and assumption by an ineligible transferee will not be used as a substitute for requiring the transferor to graduate to credit not backed by a Contract of Guarantee if he is able to do so in accordance with the provisions of the security instruments. When a transferor will receive a substantial down payment in connection with the transfer of the security property to the transferee, careful consideration should be given to the ability of the transferor to graduate to other sources of credit without the guarantee. Likewise, in such a situation, careful consideration should be given to the ability of the transferee to handle the transaction with his own resources or to obtain any needed credit at reasonable rates and terms without the guarantee.

§§ 1843.21—1843.29 [Reserved]

§ 1843.30 Liquidation.

The following provisions with respect to liquidation, in addition to those in §§ 1825.66 and 1825.67, are applicable to Farmer Loans.

(a) *Graduation of borrowers.*—One of the defaults that may occur involves failure or refusal of a Farmer Loan borrower to graduate to credit not backed by a Contract of Guarantee, after FHA determines that he is in a position to graduate under the provisions of the security instruments. Every 5 years after issuance of the Contract of Guarantee, the holder will furnish to FHA a report on each Farmer Loan borrower's financial situation. FHA will use the report in determining whether the borrower is able to graduate to credit without a Contract of Guarantee. If FHA so determines on the basis of the holder's report and any other information, or if such a determination is made by FHA at any other time, it will notify the holder in writing to that effect, explaining the basis of the determination. If the lender disagrees, it will notify FHA in writing of the reasons for its disagreement, and FHA will reconsider the matter. If the holder does not disagree with FHA's initial determination, or if FHA does not change its mind on reconsideration, FHA will request the borrower to obtain the credit without the FHA guarantee. If the borrower fails or refuses to do so, FHA will notify the holder and it will proceed with liquidation as in the case of any other substantial default, otherwise the Contract of Guarantee will be unenforceable. See § 1826.63 to the effect that transfer and assumption is not a substitute for graduation of borrowers to credit without an FHA guarantee.

§§ 1843.31—1843.39 [Reserved]

§ 1843.40 FO eligibility requirements.

To be eligible for an FO (Farm Ownership) loan each applicant must:

(a) *Citizen.*—Be a citizen of the United States.

(b) *Legal capacity.*—Possess legal capacity to incur the obligations of the loan.

(c) *Experience or training.*—Be an individual who has:

(1) Farming experience or farm training sufficient to assure reasonable prospects of success in the proposed farming operation, and

(2) Other training or experience when nonfarm enterprises are involved to assure success with such proposed operation. A nonfarm enterprise is any business conducted by an eligible farmer to supplement his farm income.

(d) *Character, ability, industry.*—Possess the character, ability, and industry necessary to carry out the proposed operation and be a person who will honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(e) *Other available financing.*—Be unable with his own resources, or be unable to obtain sufficient credit elsewhere without a guaranteed loan, to finance his actual needs at rates and terms he could reasonably expect to fulfill, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(f) *Owner-operator, production.*—After the loan is made, be the owner-operator of a family farm which will produce a substantial portion or all of his total income.

§ 1843.41 Preference between FO applicants.

Preference will be given:

(a) *Veterans.*—First, to applications on hand from veterans over applications of nonveterans on file with the lender at the same time. A veteran is a person who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable, and served on active duty in any such forces:

(1) During the period of April 6, 1917, through March 31, 1921;

(2) During the period December 7, 1941, through January 31, 1955; or

(3) For a period of 180 days or more, any part of which occurred after January 31, 1955.

(b) *Other applicants.*—Second, to applications from persons who are:

(1) Married or have dependent families.

(2) Owners of livestock and farm machinery and equipment necessary to successfully carry on farming operations.

(3) Able to make downpayments.

§ 1843.42 FO loan purposes.

Subject to the prohibitions in § 1843.43 and the loan limitations and special provisions in § 1843.44, FO loans that are consistent with environmental requirements for the area may be made to:

(a) *Purchase or enlargement.*—Purchase or enlarge a farm, including any land for recreation or other nonfarm enterprise which is not, or as enlarged will not be larger than a family farm.

(b) *Improvements.*—Construct or improve buildings and facilities on the applicant's farm, including:

(1) Construction of essential but modest farm dwelling and service buildings, including fish farming facilities, structures and hatcheries, and facilities and structures for nonfarm enterprise uses, such as docks, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites, and modest rental housing.

(2) Improvement, alteration, repair, replacement, relocation, or purchase and moving of such essential dwellings and service buildings, facilities and structures.

(3) Purchase and/or installation of domestic water and sewage disposal systems and other equipment or facilities necessary to the effective operation of a farm (including any nonfarm enterprises), provided the items upon installation become part of the real estate or customarily pass with the farm when it is sold.

(c) *Land and water development.*—Provide land and water development, acquisition of water supplies, rights, use and conservation essential to the operation of the farm, and any nonfarm enterprise facilities. This includes fencing, land clearing, forestry purposes, establishment and improvement of permanent hay or pasture, drainage and irrigation

facilities, basic application of lime and fertilizer, fish ponds, and trails and lakes. Also, loan funds may be used to pay that part of the cost of facilities, improvements and practices which is to be earned by participation in agricultural cost sharing or Great Plains programs, but only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors.

(d) *Refinancing of debts.*—Refinance debts under the following circumstances:

(1) When an applicant's request includes the use of guaranteed loan funds for the refinancing of debts, the lender must determine before a guaranteed loan can be made that the applicant's present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet without an FHA guarantee, and that he cannot provide the needed funds from his own resources.

(2) The conditions and limitations in § 1841.11 must be met with respect to the use of a guaranteed loan to refinance debts owed to the lender or owed to, or insured or guaranteed by, parties other than FHA.

(e) *Expenses, fees, and Social Security taxes.*—Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, appraisal and other technical services, hazard insurance premiums, closing costs, and loan fee as authorized in § 1826.12 which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building improvements.

(f) *Nonfarm enterprises.*—Finance a nonfarm enterprise as hereinbefore provided for in this section, but only when it will provide an additional source of necessary supplemental income.

(g) *Stock in cooperative lender.*—Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

§ 1843.43 Prohibited FO loan purposes.

An FO loan will not be guaranteed to:

(a) *Personal property.*—Purchase items not considered to be a part of the farm, such as farm machinery and equipment, appliances, livestock, construction and maintenance tools, automobiles, trucks, boats, and nonfarm enterprise equipment that would not be considered real estate.

(b) *Land retirement area.*—Acquire land or develop a farm which is in an area designated for retirement from agriculture by Federal, State, or local agencies.

(c) *Refinancing.*—Refinance any debts owed to or insured or guaranteed by the lender without prior written consent of FHA. Also see § 1841.11.

(d) *Pay debts not approved.*—Pay debts incurred for purposes other than those upon which the Conditional Commitment for Guarantee was based.

§ 1843.44 FO loan limitations and special provisions.

For an FO loan to be guaranteed:

(a) *Security.*—The entire loan must be secured by real estate only, including a first lien on the borrower's entire farm unless it is legally impossible to obtain a valid lien for the entire loan on the entire farm as in some Texas homestead cases.

(b) *Loan limitations.*—The first mortgage FO loan being guaranteed cannot exceed $100,000, the market value of the farm and any other security, or the amount certified by the County Committee.

(c) *Noncontiguous tracts.*—If the farm contains two or more noncontiguous tracts, they must be so located that the farming operation and any nonfarm enterprise can be efficiently conducted, considering the distance and adequacy of rights-of-way or public roads between the tracts.

(d) *Dwellings and other essential buildings.*—Buildings adequate for the planned operation of the farm, including any nonfarm enterprise, must be available. In nearly all cases the necessary buildings will be located on the applicant's farm. However, if the applicant owns suitable buildings which are not considered a part of his farm and ordinarily would not pass with the farm in a change of ownership, duplicate buildings on the farm need not be required if adequate security can be obtained. Likewise, duplicate buildings on the farm need not be required if the applicant has a long-term lease on adequate buildings near enough to properly operate the farm and if adequate security can be obtained. The same rule may be applied if the applicant has assurance of long-term occupancy of such buildings he expects to inherit. Mobile homes will not be considered adequate dwellings for FO farms.

(e) *Land, buildings, and facilities.*—Adequate development to place the farm and any nonfarm enterprise in condition for successful operation will be provided at the outset in connection with each loan. In planning farm development, consideration should be given to obtaining recommendations from the Forest Service, Soil Conservation Service, Extension Service and State or substate planning agencies or local planning groups. In planning such development with the applicant, the lender will encourage him to use any cost-sharing assistance that may be available.

(f) *Performing development.*—The lender and borrower will be responsible for proper construction and land development with the amount of funds loaned for that purpose. In this connection, see § 1841.14(a) and § 1843.10(b). This includes but is not limited to:

(1) Compliance with applicable laws, ordinances, codes, and regulations.

(2) Adequacy of plans, specifications, and estimates.

(3) Sufficiency, quality, and rights to adequate water supply.

(4) Method of construction or development.

(5) Awarding, execution, and provisions of construction or development contracts, and bonding of contractors where necessary.

(6) Seeing that all equal opportunity and nondiscrimination requirements are met. See § 1841.26(a)(8) and § 1841.56.

(7) Seeing that construction or development is performed expeditiously and properly, including inspection of sites and construction or development in various stages of completion to determine that the work and material conform with the plans and specifications and any other requirements.

(8) Limiting periodic or partial payments for construction or development to a reasonable percentage of the actual value of work and material in place.

(9) Making final payment only after final inspection has been made and the construction or development has been found proper in all respects.

(10) Ascertaining that there are no claims or liens of laborers, materialmen, contractors, subcontractors, or other parties against the borrower or the security property.

(g) *Liens junior to the lender's FO lien.*—A loan will not be approved if a lien junior to the guaranteed loan lien likely will be taken simultaneously with or immediately subsequent to the closing of the loan to secure any debt the borrower may have at the time of loan closing or any indebtedness he may incur in connection with the guaranteed loan.

§ 1843.45 FO rates and terms.

(a) *Interest rate to borrower.*—See § 1841.13.

(b) *Loan term.*—Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(c) *Reamortization.*—If the borrower pays 25% or more of the loan balance before it is due, from the sale of part of the security with the approval of the holder or with funds derived from other sources, the holder may agree to a reamortization of the balance owed, provided the repayment period does not exceed the remaining portion of the original loan term and the remaining security is adequate for the balance owed.

§§ 1843.46—1843.49 [Reserved]

§ 1843.50 SW eligibility requirements.

To be eligible for an SW (Soil and Water) loan the applicant must:

(a) *Individual.*—If the applicant is an individual, he must be a farm owner and be unable with his own resources, or be unable to obtain sufficient credit elsewhere without a guaranteed loan, to finance his actual needs at rates and terms he could reasonably expect to fulfill, taking into consideration prevailing

private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(b) *Corporation or partnership.* — If the applicant is a corporation or partnership, it must be the owner-operator of a farm and the corporation or partnership and the principal stockholders or partners as defined in § 1843.81(f) must be unable to provide necessary improvements with its and their own resources or obtain the necessary credit elsewhere without an FHA guarantee. If the applicant is a corporation, it must be organized as a private domestic corporation under appropriate State laws.

(c) *Undivided interest.*—If the applicant has an undivided interest in the land to be improved, the applicant and his or its co-owners, individually or jointly, must be unable to provide the necessary improvements with their own resources or obtain the necessary credit elsewhere without an FHA guarantee.

(d) *Farm.*—The term "farm" includes the total acreage of one or more tracts of land which is owned or operated by the applicant as a single unit.

(1) The farm must be of such size and productive capacity to produce agricultural commodities for sale in sufficient quantities that the farm will be recognized in the community as a farm rather than a rural residence.

(2) The farm must be one that will provide farm income which together with any income from other sources will pay operating expenses, including maintenance of land, buildings, and other structures, pay debts, have a reasonable reserve for unforseen emergencies, and, if an individual or partnership, enables the family to have a reasonable standard of living.

(e) *Character, industry, and ability.*—Possess the character, industry, and ability to carry out the proposed operations and will honestly endeavor to carry out the undertakings and obligations required in connection with the SW loan.

(f) *Training and experience.*—Have training or farm experience necessary to give reasonable assurance of success in farming whenever the soundness of the loan depends on the farming operation.

(g) *Legal capacity.*—Possess legal capacity to incur the obligations of the loan.

§ 1843.51 Preference between SW applicants.

The veterans preference provisions of § 1843.41(a) are applicable to SW loans to individuals.

§ 1843.52 SW loan purposes.

SW loans may be made for the following purposes, and must be consistent with environmental requirements for the area.

(a) *Material, supplies, equipment, services.*—Paying the cash costs for materials, supplies, equipment, and services related to land and water development, use, and conservation, such as:

(1) Terraces, dikes, reservoirs, ponds, tanks, cisterns, wells, pipelines, pumping and irrigation equipment, ditches and canals for irrigation and drainage, waterways, and erosion control structures.

(2) Drainage of land which is part of an operating farm unit.

(3) Land clearing.

(4) Sodding, subsoiling, land leveling, liming, and fencing.

(5) Fertilizer and seed used in connection with a soil conservation practice, or the establishment or improvement of permanent pasture.

(6) Forestation for sustained yield and tree planting for erosion control or shelter-belt purposes.

(7) Gasoline, oil, and equipment rental or hire.

(8) Expense incident to obtaining plans and making the loan, such as fees for legal, engineering, appraisal, and other technical services, hazard insurance premiums, closing costs, and loan fee as authorized in § 1841.12 which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(9) Purchase or repair of special-purpose equipment such as terracing, land leveling, and ditching equipment, provided:

(i) Such equipment is needed for, and will facilitate the completion or maintenance of, the planned improvement, and

(ii) The cost of the equipment plus the other cost related to the improvement will not be more than if performed by contract or other methods.

(b) *Water source.*—Acquiring a source of water to be used on land the applicant owns or is acquiring, including:

(1) Purchase of water stock or membership in an incorporated water users association.

(2) Acquisition of a water right through appropriation, agreement, permit, or decree.

(3) Acquisition of a water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(i) The value of the land without the water supply or right is only an incidental part of the total price, and

(ii) The water supply and right will be transferred to, and used more effectively on, other land owned by the applicant.

(c) *Site for water or drainage facilities.*—Purchasing land or an interest therein for sites or rights-of-way upon which a water or drainage facility will be located.

(d) *Stock membership, assessments.*—Purchasing stock or membership in, or payment of assessments to, an incorporated association or organized group service which will help such association or group service to finance facilities and improvements for which loan funds may be used; and purchasing any stock in a cooperative lending agency that is necessary to obtain the loan.

(e) *Cost sharing programs.*—Paying that part of the cost of facilities, improvements, and practices which is to be earned by participation in agricultural cost sharing or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced likely will exceed $500, the applicant will assign the payment to the lender.

(f) *Water supply and distribution.*—Providing water supply for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

§ 1843.53 Prohibited SW loan purposes.

An SW loan will not be guaranteed:

(a) *Items not directly related to main purpose.*—For items that are not directly related to land and water development, use, and conservation, such as annual operating expenses, power plants, or power transmission lines other than service drops or lines, or buildings other than those to protect pumping installations.

(b) *Recreation.*—For recreational purposes.

(c) *Preexisting debts.*—To pay debts incurred prior to the closing of the SW loan except fees for legal, engineering, and other technical services.

(d) *Refinancing.*—To refinance any indebtedness.

§ 1843.54 SW Loan limitations and special provisions.

(a) *Security.*—The security requirements in § 1843.44(a) are applicable to SW loans.

(b) *Loan limitation.*—The provisions of § 1843.44(b) are applicable to SW loans.

(c) *Junior liens.*—The prohibition against junior liens in SW cases is the same as that against junior liens in FO cases under § 1843.44(g).

(d) *Land and facility development.*—The provisions of § 1843.44(e) are applicable to land and facility development in SW cases.

(e) *Performing development.*—The provisions of § 1843.44(f) are applicable to performing development in SW loan cases.

§ 1843.55 SW rates and terms.

The rates and terms for SW loans are the same as for FO loans set forth in § 1843.45.

§§ 1843.56—1843.59 [Reserved]

§ 1843.60 RL eligibility requirements.

To be eligible for an RL (Recreation) loan, the applicant must:

(a) *Farmer.*—Be an individual who is a farm owner regularly engaged in farming at the time he applies for the initial loan.

(b) *Recreation manager or operator.*—Be the manager and owner-operator of

the recreation enterprise after the loan is made.

(c) *Other available financing.*—Be unable with his own resources, or be unable to obtain sufficient credit elsewhere without a guaranteed loan, to finance his actual needs at reasonable rates and terms he could reasonably expect to fulfill, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(d) *Citizen.*—Be a citizen of the United States of America.

(e) *Legal capacity.*—Possess legal capacity to incur the obligations of the loan.

(f) *Character, ability, industry.*—Possess the character, ability, and industry to carry out the proposed operation and honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(g) *Training or experience.*—Have the training or experience necessary to give reasonable assurance of success in the proposed operation.

§ 1843.61 Preference between RL applicants.

The veterans preference provisions of § 1843.41(a) are applicable RL loans.

§ 1843.62 RL loan purposes.

Subject to the prohibitions in § 1843.63 and the loan limitations and special provisions in § 1843.64, RL loans that are consistent with environmental requirements for that area may be made to:

(a) *Personal property and services.*—Purchase materials, supplies, animals, fish, and birds, and pay for services required in the establishment of outdoor recreation facilities.

(b) *Real property.*—Acquire necessary land, easements, and right-of-way for outdoor recreation uses.

(c) *Land and water development.*—Develop land and water resources for outdoor recreation uses.

(d) *Buildings and facilities.*—Construct or improve modest and essential buildings and facilities for outdoor recreation uses.

(e) *Refinance debts.*—Refinance secured and unsecured debts, except debts on loans made or insured by FHA.

(f) *Equipment, fixtures, facilities.*—Purchase and install equipment, fixtures, and other facilities necessary to the efficient operation of the recreation enterprise.

(g) *Operating expenses.*—Pay operating expenses neecssary to efficient operation of the recreation enterprise, such as labor, fuel, electricity, water, sewer charge, advertising, feed, seed, fertilizer, and hazard insurance premiums, which the borrower cannot pay from his own funds or obtain from other sources at reasonable rates and terms within his ability to pay.

(h) *Expenses, fees, and Social Security taxes.*—Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, appraisal, and other technical services, hazard insurance premiums, closing costs, and loan fee as authorized in § 1841.12, which the borrower cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making planned building improvements or installation of equipment and facilities for the recreation enterprise.

(i) *Stock in cooperative.*—Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

§ 1843.63 Prohibited RL Loan purposes.

A Recreation loan will not be guaranteed if:

(a) *Dwelling and farm service buildings.*—The funds will be used to construct farm service buildings or a dwelling for personal occupancy.

(b) *Refinancing.*—The provisions of § 1843.43(c) are applicable to RL loans.

§ 1843.64 RL loan limitations and special provisions.

(a) *Security.*—The security requirements in § 1843.44(a) are applicable to RL loans.

(b) *Indebtedness limitation.*—The provisions of § 1843.44(b) are applicable to RL loans.

(c) *Junior liens.*—The prohibition against junior liens in RL cases is the same as that against junior liens in FO cases under § 1843.44(g).

(d) *Operating expenses.*—When a Recreation Loan includes funds for the payment of operating expenses, the borrower will be required to pay the operating expenses as expeditiously as feasible, usually within the first year or two but in no case in more than 5 years.

(e) *Land, buildings, and facilities.*—Adequate land, buildings, and facilities will be developed to place the recreation enterprise in condition for successful operation at the outset for each loan. To the extent feasible, recommendations from the Forest Service, Extension Service, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and State Planning and Development agencies should be obtained. In planning such development with the applicant, the lender will encourage him to use any cost-sharing assistance that is available.

(f) *Performing development.* See § 1843.44(f).

§ 1843.65 RL rates and terms.

(a) *Interest rate to borrower.*—See § 1841.13.

(b) *Loan term.*—Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account probable depreciation of the security. However, a loan not secured by real estate will be scheduled for payment over a period not to exceed 20 years from the date of the note.

(c) *Reamortization.*—See § 1843.45(c).

§§ 1843.66—1843.69 [Reserved]

§ 1843.70 OL eligibility requirements.

To be eligible for an OL (Operating) loan each applicant must meet the requirements of § 1843.40 except that:

(a) *Farm Operator.*—After the loan is made, the applicant may either be the "operator," or the "owner-operator" of the farm, and

(b) *Rural youth.*—Loans may be made to rural youths as defined in § 1843.1 (d) even though they have not reached their majority under State law, provided:

(1) At least one of their parents or guardian and their project advisor recommends the loan.

(2) They are participating in activities of 4-H, Future Farmers of America, Future Homemakers of America, or similar organizations.

§ 1843.71 Preference between OL applicants.

The veterans preference provisions of § 1843.41(a) are applicable to OL loans.

§ 1843.72 OL loan purposes.

Subject to the prohibitions set forth in § 1843.73, the loan limitations and special provisions in § 1843.74 and the limitation on youth loans in paragraph (n) of this section, OL loans may be made for:

(a) *Farm personal property.*—Purchase of livestock, poultry, other farm animals, fish, bees, and farm machinery and equipment including forestry enterprise equipment.

(b) *Nonfarm or recreation personal property.*—Purchase of nonfarm or recreational enterprise animals, birds, fish, machinery and equipment, facilities, furnishings, inventories, and supplies; and purchase of any essential franchises, contracts, or privilges.

(c) *Undivided interests.*—Purchase of undivided interests in the items included in paragraphs (a) and (b) of this section which would be operated under a joint arrangement.

(d) *Supplies, repairs, rental, operating expenses.*—Purchase of feed, seed, fertilizer, insecticides, and other supplies, including inventory; the repair or rental of machinery and equipment; and payment of other operating expenses.

(e) *Cash rent and grazing fees.*—Payment of customary and equitable cash rent or cash charges for use of essential buildings, pasture, hay, crop or other land, and cost of grazing permits for the crop year being financed, provided:

(1) The applicant is obligated under a written lease or other formal agreement to pay such rent or charges before income will be available from the operation.

(2) Not more than one year's cash rent or cash charges will be paid with loan funds in any one lease year.

(3) The terms of the rental agreement provide the applicant with reasonably satisfactory tenure.

(f) *Property taxes or assessments.*—Payment of current year's personal and real property taxes and water or drainage charges or assessments.

(g) *Membership or stock.*—Acquisition of membership and/or stock in farm or nonfarm purchasing, marketing, and service-type cooperative organizations, exclusive of membership in organizations which will acquire, lease, or improve property not otherwise under the control of the members; and purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(h) *Home equipment and furnishings.*—Purchase of essential home equipment and furnishings.

(i) *Refinancing.*—Refinancing secured and unsecured debts, provided the amount loaned for such purposes does not exceed the market value of the property involved that will be security for the loan and will meet the conditions shown in § 1843.42(d). If a debt owed to the lender is being considered for refinancing, see § 1841.11.

(j) *Milk base.*—Purchase of milk base or quota with or without cows.

(k) *Grazing license or permit.*—Purchase of grazing license or permit rights of private parties which can be validly sold and transferred or waived separate from any land lease or other interest in land with or without livestock.

(l) *Real estate improvements.*—Real estate improvements or repairs not exceeding $2,500.

(m) *Pollution abatement and control.*—Acquisition of equipment and materials for, and development of measures for, pollution abatement and control.

(n) *Rural youths.*—Loans to rural youths may be made only for the purpose of initiating, developing and carrying on a farm or nonfarm project in connection with the rural youth's participation in activities of 4-H, Future Farmers of America, Future Homemakers of America, and similar organizations.

(o) *Living expenses.*—Meeting essential family living expenses.

(p) *Expenses, fees, and Social Security taxes.*—Payment of expenses, fees, charges, and taxes as authorized in § 1841.12.

§ 1843.73 Prohibited OL loan purposes.

FHA will not guarantee loans for:

(a) *Automobiles.*—Purchase of passenger automobiles or the refinancing of debts incurred for such purchase.

(b) *Land purchase, lease payments, refinancing.*—Purchase of land or other real estate, or entering into or making payments required under any lease-purchase agreement, or the making of payments on or refinancing of any indebtedness secured by a lien on real estate other than the payment of taxes and water or drainage charges or assessments as authorized in § 1843.72(f). However, this requirement does not prohibit the refinancing of a debt secured by a lien on both real estate and personal property in connection with the purchase of items described in § 1843.72 (a) and (b) to the extent of the applicant's equity in such personal property.

(c) *Income and Social Security taxes.*—Payment of Federal or State income taxes or Social Security taxes on the borrower's family income.

(d) *Stock or membership.*—Purchase of membership or stock in production cooperatives.

(e) *Debts not previously approved.*—Payment of debts incurred for purposes other than those upon which the Conditional Commitment for Guarantee was based.

§ 1843.74 OL loan limitations and special provisions.

(a) *Security.*—The entire loan must be secured by a first lien on all property or products acquired or produced, or on which debts are refinanced, with guaranteed loan funds, and by any additional security needed to adequately secure the loan. Such additional security may consist of the best lien obtainable on any available real estate or other property.

(b) *Maximum amount of loan.*—FHA cannot guarantee an OL loan if the principal of the loan plus the principal balance on existing guaranteed, direct, and insured OL loans would exceed $50,000 or the amount certified by the County Committee.

(c) *Joint farming, recreation, and nonfarm operations.*—(1) A joint loan may be made to two eligible applicants living together or living separately and operating jointly not larger than the equivalent of one family farming, recreation, or nonfarm operation.

(2) Separate loans may be made to eligible applicants who are jointly engaged in such an operation, provided not more than three individuals are interested in the operation, and the operation provides the equivalent of not larger than one family operation for each individual.

§ 1843.75 OL rates and terms.

(a) *Interest rate to borrower.*—See § 1841.13.

(b) *Loan term.*—The final maturity of the loan cannot exceed 7 years from the date of the promissory note.

(c) *Renewal.*—The loan may be renewed if the holder determines that the renewal will assist in the orderly collection of the loan. However, no renewal shall be for a period longer than the original loan term or 5 years, whichever is less. Moreover, no initial renewal nor any combination of such initial and subsequent renewals shall extend the repayment period beyond 5 years from the initial renewal date or the original final maturity date, whichever is earlier.

(d) *Reamortization.*—See § 1843.45(c).

§§ 1843.76—1843.79 [Reserved]

§ 1843.80 EM (Emergency) area designations and authorizations.

The County Supervisor will give written notice to approved lenders in his service area as to when the disaster occurred, and when and for what period of time:

(a) *Designated area.*—A county or area has been designated for taking applications for particular types of EM loans.

(b) *Isolated poduction losses-nondesignated area.*—Applications may be taken in a county which has not been designated for EM loans, but in which EM loans have been authorized by the State Director because severe production losses have been suffered by not more than 25 farmers who will need EM loans. In a county in which the State Director has determined that such isolated production losses have occurred, lenders will check with FHA to ascertain that each application comes within the 25 limit.

§ 1843.81 EM eligibility requirements.

To be eligible for an EM (Emergency) loan, an applicant must:

(a) *Citizen.*—Be a citizen of the United States, if an individual. If a partnership, the individual partners must be citizens of the United States. If a corporation, the corporation must be incorporated under the laws of the United States or of a State, and must be authorized to carry on farming operations in the State in which the EM operation is to be conducted.

(b) *Established farmer or rancher.*—Be an established farmer or rancher with a reasonably good past record of operations, whether owner-operator or tenant, who manages his farming or ranching operations. An applicant who does not devote full time to his farming or ranching operations may be considered as the manager of his farming or ranching operations if he visits his farm or ranch at frequent intervals often enough to exercise control and see that the operations are being carried on properly.

(c) *Production losses or property damages.*—Have suffered production losses or property damages directly related to the unusual and adverse weather conditions which resulted in the major disaster(s) designation by the President, or the natural disaster(s) designation by the Secretary, or the authorization of the State Director because of an isolated production loss. Also, it must be established that all losses or damages upon which eligibility for the loan is based were caused during the time period established for the occurrence of the disaster.

(1) *Production losses.*—The production losses must have been of a severe nature. This means that they must have been substantially greater than would be expected from normal fluctuations in yields. In making this required determination about production losses, consideration will be given to the applicant's total farming operations. He will be required to furnish information on Form FHA 441-22, "Statement of Production Losses and Certification," showing the production in each of his crop and livestock enterprises during the year of the disaster and the 2 preceding crop years, and an explanation about how and when the natural disaster caused his production losses. If the production was not normal for any of the 3 years, then the applicant must also furnish such information for his most recent normal year. An applicant meets this eligibility requirement only if his

production losses which are not compensated for by insurance or otherwise, are the equivalent of 10 percent or more of the dollar value of normal production for his total farming or ranching enterprises. Eligibility established under this subparagraph would only entitle an applicant to an EM loan sufficient to produce a new crop.

(i) To establish eligibility, the lender must convert the applicant's total production after the disaster to gross income adding thereto any insurance or other compensation which may be claimed for these losses, and also calculate his gross income from total production for his most recent normal year. The disaster year figure must be subtracted from the normal year figure to calculate the "loss value" in dollars. The "loss value" will then be calculated as a percentage of the total normal production gross income. This percentage must equal or exceed 10 percent for eligibility. The calculations will be recorded in the lender's loan docket. The gross income will be calculated by using the prevailing market prices for crops in effect at the time of the disaster for each particular commodity as evidenced by the State Crop Reporting Service reports. Lists of prices will be prepared by the State Director and distributed to affected County Offices. Approved lenders can obtain such lists from FHA.

(ii) When the applicant has a livestock operation and his losses are to feed-crops, pasture, or grazing, his eligibility will be established by the cost of feed necessarily purchased or grazing rented to replace that which was lost due to the disaster. The cost of the additional feed purchased or grazing rented must be 10 percent or more of his normal production year gross income from his total operation.

(iii) Where an applicant was unable to plant a substantial portion of his normal crops because of a "qualifying disaster," his production for that portion of his unplanted crops will be shown as zero on Form FHA 441–22 if a substitute or different crop could not be planted. If a substitute or different crop is planted, the acreage and production of that crop will be shown.

(2) Damages or losses not compensated for by insurance or otherwise to farm or ranch dwellings and service buildings, land and water resources, farming or ranching supplies or equipment, or livestock essential to normal farm or ranch operations would qualify an applicant for a loan sufficient only to repair, replace or restore such property. These damages or losses would not qualify the applicant for an EM loan to be used for crop production.

(3) Where an applicant has had disaster damage to feed crops and elects to sell his livestock rather than purchase feed to replace that which he would have produced except for the natural disaster, he cannot claim as loss the difference between the sale price and an estimate of what the sale price would have been if the livestock had been fed for the normal period. This is because the earlier sale was based on a judgment decision and differs from an applicant who could not plant crops because of the natural disaster. The latter had no opportunity for a judgment decision about planting.

(4) Production losses which have occurred to crops or grazing before actual production for the year can be determined will be estimated and shown on Form FHA 441–22 as follows:

(i) For grazing, the number of acres and the estimated percentage of loss will be shown in the appropriate spaces.

(ii) Estimates of damage to other feed crops and cash crops will be shown in units of production.

(5) The lender will make such efforts as are reasonably necessary to check the accuracy of such estimates.

(d) *Legal capacity.*—Possess legal capacity to contract for the loan.

(e) *Character, ability, industry.*—Be of good character and possess the ability, industry, and experience necessary to carry out the proposed farming or ranching operations and to assure a reasonable prospect for success with the assistance of the loan, and will honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(f) *Other available financing.*—Be unable with his own resources, or be unable to obtain sufficient credit elsewhere without a guaranteed loan, to finance his actual needs at rates and terms he could reasonably expect to fulfill, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels, and other assets should be considered in determining his ability to obtain credit from private and cooperative sources. This must be documented in the lender's loan docket.

(1) For partnerships or corporations, the principal partners or principal stockholders, either individually or collectively must be unable to finance the farming or ranching operations either with their own resources or with credit obtained by them from other sources without an FHA guarantee. Any partner or stockholder owning as much as 20 percent interest in a partnership or a corporation's stock, or a smaller percentage if owned in equal amounts, will be considered as a principal partner or stockholder.

(2) EM loans will not be made to applicants having large net worths or large equities in real estate, chattels, or other property, in relation to the amounts they need to borrow, regardless of their ability to obtain credit from other sources. Such applicants are considered to have options in the use of their resources that would enable them to operate without FHA guarantee assistance.

(g) *Unsound loan.*—An applicant who meets all of the above criteria should still be denied a guaranteed EM loan if, in the judgment of the lender, he cannot be expected to recover from his losses as a result of the disaster and return to his normal sources of credit within a reasonable period.

§ 1843.82 EM loan purposes.

Purposes for which EM loans may be made to fish farmers and oyster planters are set forth in § 1843.84(d)(2) and § 1843.84(e)(3), respectively. Subject to the prohibitions in § 1843.83 and the loan limitations and special provisions in § 1843.84, other EM loans may be guaranteed if made to eligible farmers or ranchers for such of the following purposes as are essential to their farming or ranching operations:

(a) *Supplies, repairs, operating, and processing expenses.*—Purchase of feed, seed, fertilizer, insecticides, and farm supplies; any payment of equipment repair costs, other essential farm operating expenses, and expenses for processing by the applicant of agricultural products produced by him.

(b) *Farm machinery.*—Purchase of farm machinery when necessary to replace that destroyed, damaged, or lost through foreclosure or repossession by a prior creditor as the result of the qualifying disaster. Replacement items purchased with loan funds must be reasonably comparable in size and service, but not necessarily identical, to that being replaced.

(c) *Livestock.*—Purchase of livestock as follows:

(1) Breeding livestock to replace those lost, destroyed, or disposed of as a result of the qualifying disaster. In such cases, the circumstances surrounding the loss or dispositions of the livestock to be replaced will be documented carefully.

(2) Feeder or stocker livestock, provided it has been the applicant's normal practice to have a feeder or stocker enterprise, and the applicant produces more than half of the feed or more than half of the livestock required for the enterprise.

(3) To establish small feeder or stocker livestock enterprises, or to provide for small increases in the size of such enterprises already established, provided the applicant has the ability to care for livestock properly, it is determined that the establishment or increase in the size of the livestock enterprise is the most feasible method of marketing the feed or crops produced on the farm, the applicant will produce a majority of the feed required for the enterprise, and the enterprise is necessary to develop sound farming operations. It is not the intent of this authorization to assist applicants in making major conversions to livestock operations. Justification for the new enterprise will be documented fully in the lender's loan docket.

(d) *Cash rent.*—Payment of customary and equitable cash rent or grazing feed subject to the following:

(1) When the cash rent, including cash charges as privilege rent, is for the use of farm buildings, pasture, hayland, cropland for the production of feed crops or grazing land, and all of the following conditions are met:

(i) The applicant is obligated under a written lease, or other formal agreement,

to pay such rent or charges in advance of the time income will be available from the farming operations to make such payment. For grazing fees an invoice showing the number of livestock to be grazed, the grazing period, the cost per head, and the total cost may be used in lieu of a written lease. However, when relatively small amounts are involved, an invoice will not be required if the applicant's explanation of a satisfactory grazing agreement is recorded in the lender's loan docket.

(ii) Arrangements cannot be made for the rent or charges to fall due when income will be available from the farming operations to make such payment.

(iii) Not more than one year's cash rent or cash charges will be paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year, funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(iv) The terms of the rental agreement provide the applicant with reasonably satisfactory tenure.

(v) The feed crops to be produced and any rented pasture or grazing land will be used by the applicant in feeding his stocker, feeder, or productive livestock.

(2) When the cash rent is for the use of land to produce cash crops, and all of the following conditions are met:

(i) The applicant operates not larger than a family farm.

(ii) The applicant's farming operations do not consist primarily of producing vegetables or other such specialized crops.

(iii) The requirements under paragraphs (d)(1)(i), (ii), (iii), and (iv) of this section are met.

(e) *Taxes, assessments, insurance premiums.*—Payment of not more than one year's taxes and insurance premiums on real or personal property owned by the borrower, not more than one year's premium for hazard insurance, Social Security taxes in connection with hired labor only, and water or drainage charges or assessments for not more than one year.

(f) *Unsecured bills.*—Payment of current unsecured bills incurred for authorized EM loan purposes in connection with the production of livestock, livestock products, and crops which have not been disposed of, lost, or destroyed, and old unsecured bills incurred for authorized EM loan purposes in connection with the production of livestock, livestock products, or crops which have been disposed of, lost or destroyed.

(1) For this purpose, an unsecured bill is a bill for which the creditor did not receive a lien on any property at the time it was incurred and has not received a lien on any property at the time it was such a lien since that time. EM loans will not be made for the payment of unsecure bills or notes which can be paid from the sale of livestock, livestock products, or crops to be marketed within a few weeks following the approval of the loan, or cannot be scheduled for payment from the year's income when it normally would be received.

(2) Generally, the amount being advanced for the payment of old unsecured bills should not exceed 5 percent of the total loan.

(g) *Interest on secured debts.*—Payment of not more than one year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, but not to exceed 8 percent per annum, that is due or about to become due on debts secured by liens of other creditors on essential livestock, farm equipment, and farm real estate.

(h) *Depreciation.*—Payment of an amount equal to the depreciation in any one year not exceeding 15 percent of the market value of essential farm machinery and equipment under prior lien to another creditor or 15 percent of the amount owed to such creditor, whichever is less.

(i) *Replacement and repair of improvements.*—Replacement or repair of essential buildings, silos, storage facilities for feed or water, fences, drainage systems, irrigation facilities, wells, and stock ponds damaged or destroyed by natural disasters. In addition, new wells may be financed, *not* on a replacement basis, where necessary to provide water for domestic use and for livestock where the normal source has been damaged or destroyed by a natural disaster.

(j) *Land leveling, debris clearance.*—Releveling of land and the clearing of debris made necessary as a direct result of the qualifying disaster.

(k) *Pastures, plants, trees, perennial crops.*—Restoration of permanent pastures and the purchase of trees, rootstock, and plants for reestablishing commercial orchards or berry and other perennial crops, when necessary as a direct result of the qualifying disaster.

(l) *Bills for emergency repairs.*—Payment of bills incurred for emergency repairs and improvements to farm real estate, necessary as a direct result of the qualifying disaster, provided:

(1) It is determined that the expenditures were essential to preservation of the property or continuation of the applicant's normal farming or livestock operations, and had to be made before an EM loan could be obtained.

(2) The loan for such purposes is approved within a reasonable period following designation of the area. A reasonable period for this purpose generally will not exceed a few weeks.

(m) *Living expenses.*—Meeting essential family living expenses.

(n) *Home equipment and furnishings.*—Replacement or repair of essential home equipment and furnishings.

(o) *Stock in cooperative.*—Purchase of any stock in a cooperative lending agency that is necessary to obtain the loan.

(p) *Expenses, fees, and Social Security taxes.*—Payment of expenses, fees, charges and taxes as authorized in § 1841.12.

§ 1843.83 Prohibited EM loan purposes.

EM loans will not be guaranteed:

(a) *Unsecured bills, interest on secured debts, depreciation.*—For purposes authorized in paragraphs (f), (g), and (h) of § 1843.82, unless essential operating expenses are provided for with loan funds and then only where there is reasonable payment prospects for the total amount of credit required for the crop year, and adequate security for the EM loan.

(b) *Refinancing.*—To refinance debts, either secured or unsecured, except the payment of bills as authorized in paragraphs (f) and (l) of § 1843.82, without the specific written approval of FHA. Any such written approval will be subject to the conditions, limitations, and requirements of § 1832.19 of this chapter.

(c) *Income and Social Security taxes.*—To pay Federal or State income taxes, or Social Security taxes payable by borrowers on their own family income.

(d) *Automobiles.*—To purchase passenger automobiles.

(e) *Become established or reestablished in farming.*—To enable an applicant to become established or reestablished in farming or ranching.

(f) *Expand operations.*—To enable an applicant to expand his farming or ranching operations substantially in excess of the size of his operations during the year just prior to the loan application. However, this does not prohibit expansion within the size of family farming operations where additional equipment will not be required and livestock purchases will not exceed those authorized by paragraph (c) of § 1843.82.

(g) *Major adjustments in operations.*—To enable an applicant to make major adjustments in his farming or ranching operations. This is not intended, however, to prohibit minor changes such as the shifting or addition or minor crop or livestock enterprises, including the or livestock enterprises, including the establishment of small acreages of permanent pastures, provided:

(1) The new crop is proven for the area, the applicant has the knowledge and ability to produce the crop, the purchase of additional equipment will not be required and the new enterprise will not result in a substantial expansion of the total crop acreages or the total operating expenses.

(2) The new livestock enterprise meets the requirements of paragraph (c)(3) of § 1843.82.

(h) *Commercial feed lot operations.*—To finance commercial feed lot operations.

(i) *Applicant must produce more than one-half of livestock or feed.*—To finance livestock or ranching enterprises where the applicant does not produce more than half of the livestock or more than half of the feed required for his enterprise.

(j) *Landlord furnish.*—To a landlord to furnish his tenant operators, whether share, cash, or standing rent is paid by these tenants. However, with FHA written approval, loans may, under justified circumstances, be made to operating landlords or tenants to furnish their sharecroppers.

(k) *Unproven farming operations.*—To finance unproven types of farming operations in the area.

(l) *Processing or selling agricultural products.*—To finance an applicant's en-

terprises involving the buying, processing for market, or selling of agricultural products produced by others. However, EM loans may be made to finance such an applicant's farming operations if he agrees in writing to maintain separate records on his farming operations, and assigns to the lender the income to be received from his farming.

(m) *Estates, trusts, partnerships, corporations.*—To the following types of applicants:

(1) An estate or a trust.

(2) A corporation owned primarily by an estate, trust, other corporations, or other partnerships.

(3) A partnership composed primarily of an estate, trust, corporations, or other partnerships.

(n) *Bankrupts.*—To an applicant operating under the jurisdiction of a bankruptcy court.

(o) *National Flood Insurance.*—To flood or mudslide victims to repair or replace farm dwellings or service buildings or the contents thereof, damage or destroyed after 12–31–73, in areas where "National Flood Insurance" was available but not obtained.

§ 1843.84 EM loan limitations and special provisions.

(a) *Security.*—The security requirements in § 1843.74(a) are applicable to all EM loans.

(b *Federal crop insurance.*—Recipients of EM loans will be required to carry Federal Crop Insurance during the period their EM loans made for crop production purposes are guaranteed, if such insurance is available.

(c) *Orchard rehabilitation.*—EM loans may be guaranteed for orchard rehabilitation subject to the requirements of § 1843.80 to § 1843.83, both inclusive, except as modified and supplemented herein. "Orchard rehabilitation" means the renovation or reestablishment of orchards made necessary because of major damage resulting from the natural disaster for which the area was designated.

(1) *Eligibility.*—Orchard rehabilitation loans will be made only to otherwise eligible applicants who are owner-operators.

(2) *Loan Purposes.*—Orchard rehabilitation loans will not be made for the purposes authorized by paragraphs (b), (e), (d), (l), and (n) of § 1843.82. Also, paragraph (f) of § 1843.82 is modified to provide for payment of only those unsecured bills incurred during the crop year for which the loan is made for annual recurring expenses in connection with the production of livestock, livestock products, and crops yet to be sold and from which the advances can be repaid. In addition, paragraph (m) of § 1843.82 is modified to provide that advances will not be made for family living expenses to an applicant for an orchard rehabilitation loan unless his full time will be required for his orchard operations.

(3) *Type of fruits or nuts.*—EM loans may be made to enable eligible orchardists to rehabilitate their damaged or destroyed orchards for producing the same type of fruit or nuts, or for producing a different type of fruit or nuts suitable for the area, if the applicant has had adequate experience to assure reasonable prospects for success with that type of fruit or nut.

(d) *Fish farming.*—To be an "established farmer" as that term is used in § 1843.81(b), the applicant must be conducting his own established farming operations consisting in whole or in part of the production of fish for income under controlled conditions in lakes, ponds, streams, or reservoirs.

(1) *Eligibility.*—In addition to the requirements in § 1843.81, the applicant must have a record of successful fish farming operations in the past, and have satisfactory plans for marketing his fish farming products.

(2) *Loan purposes.*—EM loan purposes to finance fish farming operations include only the following:

(i) Purchase of fish for restocking ponds, lakes, streams, or reservoirs under controlled conditions, and for essential operating expenses in continuing an applicant's normal fish farming operations.

(ii) Purposes authorized by paragraphs (e), (m), (o), and (p) of § 1843.82.

(e) *Oyster planters.*—EM loans may be made to established oyster planters to enable them to continue their normal oyster planting operations, including annual operating costs as well as expenses of rehabilitating oyster farming operations when necessary.

(1) *Definitions.*—(i) "Oyster planting" means renovating oyster seed beds and planting, caring for, cultivating, and harvesting planted oysters on the applicant's owned or leased oyster ground. Other types of oyster operations, such as contract planting and gathering wild oysters, are not "oyster planting" operations for this purpose.

(ii) "Oyster planter" means one who performs or actively manages oyster planting functions described in paragraph (e)(1)(i) of this section as his own operation on owned or leased oyster ground. An operator who performs any or all of these functions other than his own oyster planting operations, or is self-employed or employed by others in any type of oyster operations or marine life operations other than oyster planting operations as described in paragraph (e)(1)(i) of this section, is not an oyster planter for this purpose. However, these activities on a limited basis would not disqualify an applicant who conducts such oyster planting operations.

(iii) "Oyster ground" means ground under water on which oyster planting operations are conducted.

(iv) "Rehabilitating oyster planting operations" means restoring such operations to a normal pattern. Generally a period of three years is required for planting oysters to reach the harvesting state. It is the normal pattern for operators to plant one-third of their oyster ground each year in order to have a crop for sale each year. When all of an applicant's planted oysters are destroyed by a natural disaster, the rehabilitation to a normal pattern generally consists of replanting one-third of the applicant's oyster ground during the first year, one-third during the second year, and one-third during the third year. The operations then will have been restored to a normal pattern and subsequent replantings each year will be normal and will not be considered as being made for rehabilitation purposes. It is recognized that there may be variations of the normal pattern of oyster planting operations in some areas. The making of loans will always be adapted to the proven normal pattern of the area.

(2) *Eligibility.*—§ 1843.81 is supplemented by the addition of the following:

(i) The applicant must furnish satisfactory evidence from other reliable sources, such as banks and other lenders, buyers, and lessors, of a good record of oyster planting operations in the past.

(ii) The applicant must agree in writing to abide by any Federal and State laws, or regulations applicable to oyster planting operations in his area.

(3) *Loan purposes.*—EM loans to eligible oyster planters may be made for the following purposes only:

(i) Purchase of seed oysters and oyster planting supplies; the repair of oyster planting machinery or equipment; purchase of replacement oyster planting machinery and equipment and other essential operating expenses, including funds for oyster seed bed renovation.

(ii) Family living expenses for applicants who devote a major portion of their time to their oyster planting operations when funds are not available from other sources for this purpose.

(iii) Payment of not more than one year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens of other creditors on equipment and real estate essential to the applicant's oyster planting operations.

(iv) Payment of not more than one year's customary and equitable cash rent or cash charges for the use of grounds leased for oyster planting operations, provided other arrangements cannot be made for the payment of rent and the applicant holds a written lease.

(v) Payment of not more than one year's taxes on personal property and real estate, payment of not more than one year's premiums for insurance on personal property and real estate, and payment of Social Security taxes in connection with hired labor only.

(vi) Purchase of any stock in a cooperative lending agency that is necessary to obtain the loan.

(vii) Payment of expenses, fees, charges, and taxes as authorized in § 1841.12.

(4) *Loan period.*—§ 1843.83 is supplemented to prohibit making an EM loan to finance an applicant's oyster planting, rehabilitation, or other needs for a period longer than one crop year at a time. This is not intended, however, to prohibit subsequent loans in succeeding years on a crop year basis. This prohibition deals only with loan making and not with scheduling loans for repayment.

(5) *Repayment period.*—EM loans for authorized purposes in connection with the rehabilitation of oyster planting operations, including annual operating expenses during the rehabilitation period, will be scheduled for repayment over the shortest period consistent with the applicant's estimated repayment ability from all sources, but not longer than three years from the date of the loan. When an EM loan is made to meet the cost of renovating and replanting oyster beds and the cost is higher than the cost of normal replantings because of a natural disaster, an amount representing the abnormal portion of the cost may be considered as a capital purpose and scheduled for repayment over a period of not more than 7 years.

§ 1843.85 EM rates and terms.

(a) *Interest rate to borrower.*—See § 1841.13.

(b) *Loan term.*—The final maturity of the loan will not be later than 7 years from the date of the note for loans for other than real estate purposes and not more than 20 years for loans for real estate purposes.

(c) *Renewal.*—The loan for operating type purposes is subject to the renewal provisions of § 1843.75(c). A loan made for real estate type purposes may be renewed if the holder determines that the renewal will assist in the orderly collection of the loan, provided that no such renewal or combination of renewals can extend the repayment period beyond 20 years from the date of the original loan promissory note.

(d) *Reamortization.*—If the borrower pays 25 percent or more of the loan balance before it is due, from the sale of part of the real estate security with the approval of the lender or with funds derived from other non-security sources, the lender may agree to a reamortization of the balance owed, provided the repayment period does not exceed the remaining portion of the original loan term and the remaining security is adequate for the balance owed.

(e) *Maximum amount of loan.*—FHA cannot guarantee an EM loan if the principal amount of the loan would exceed the amount certified by the County Committee.

§§ 1843.86—1843.89 [Reserved]

§ 1843.90 Forms and forms distribution.

(a) *FHA forms.*—The following chart lists the applicable FHA forms, number to be prepared, signatures required, and manner of distribution. These forms may be obtained from FHA.

FHA Form No.	Name of form	Total No.	Signed by [1]	Distribution [2]
400-1	Equal Opportunity Agreement	3	B-O	O-L, C-B, C-FHA.
400-3	Notice to Contractors and Applicants	4	L-O	O-Con, C-B, C-L, C-FHA.
400-6	Compliance Statement	4	L&Con 3-0	O-L, C-Con, C-B, C-FHA.
424-12	Inspection Report	3	L-O	O-L, C-FHA, C-Con.
441-22	Statement of Production Losses and Certification.	2	B-O	O-L, C-FHA.
449-6	Application for Guaranteed Loan (Farmer Programs).	2	B-O	O-L, C-FHA.
449-7	Assumption Agreement for Guaranteed Loans (New Terms).	4	B-O	O-L, C-B, C-FHA, C-FC.
449-8	Assumption Agreement for Guaranteed Loans (Same Terms).	4	B-O	O-L, C-B, C-FHA, C-FC.
449-9	Request for Conditional Commitment to Guarantee Loan.	2	L-O	O-FHA, C-L.
449-11	Certificate of Acquisition or Construction	4	B&L&Con-O	O-FHA, C-L, C-B, C-Con.
449-13	Denial Letter	2	FHA-O	O-L, C-FHA.
449-14	Conditional Commitment for Guarantee	3	FHA-O	O-L, C-FC, C-FHA.
449-17	Contract of Guarantee	3	FHA-O	O-L, C-FHA, C-FC.
449-18	Lenders or Holders Request for Approval	4	L-O	O-FHA, C-L, C-FC, C-FHA.
449-19	Holders Guarantee Fee Report and Interest Subsidy Claim.	3	L-O	O-FC, C-L, C-FHA.
449-20	Report of Loss	3	L-O	O-FC, C-L, C-FHA.
449-21	Request for Contract of Guarantee	2	L-O	O-FHA, C-L.
471-7	Notice and Acknowledgment of Sale of Insured or Guaranteed Loan.	4	L-O	O-FC, C-FC, C-L, C-FHA.

[1] "O"-Original; "C"-Copy "Lender" includes "Holder"
[2] Signatures and Distribution "L"-Lender; "B"-Borrower or assumptor; "FC"-Finance Office; "FHA"-Authorized FHA Official; "Con" -Contractor.
[4] Signature and Distribution "L" -Lender; "B" -Borrower or assumpter; "FC" -Finance Office; "FHA" -Authorized FHA Official; "Con" -Contractor.

(b) *Other forms and information.*—Another form that may be obtained from FHA (although it is not an FHA form) is Form AD-425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375." Any needed forms not furnished by FHA will be provided by the lender, holder, or applicant. They may obtain information and copies of other FHA forms that may be helpful in various aspects of loan making, construction and development, and servicing.

(c) *Racial code.*—Some FHA forms, such as Form FHA 449-6, Form FHA 449-7, and Form FHA 449-8 contain space for coding the race of the applicant for the loan assumption. In that code "W" means "White," "N/B" means "Negro (Black)," and "S" means "Spanish American," "AI" means "American Indian," and "O" means any other race. The lender is responsible for completing this code on all forms on which it appears, in accordance with his best judgment as to the race involved.

§ 1843.91 Access to records of lenders and holders.

The lender and holder will permit representatives of FHA (or of other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of the records of the lender or holder pertaining to FHA guaranteed loans. Such inspection and copying may be made during regular office hours of the lender or holder.

§ 1843.92 Review of decisions.

(a) *Decisions of State Directors.*—If a State Director rejects any party's request for approval as a lender or holder or for approval to serve any area or terminates the previously approved status of any lender or holder, such lender or holder may request the Administrator of FHA to review the State Director's decision. His address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

(1) The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(2) Upon receipt of the copy of this material, the State Director will furnish a full report on the matter to the Administrator.

(3) The Administrator will act on the request as expeditiously as possible under all the circumstances, and will notify the requestor and the State Director in writing of his decision and the reason therefor.

(b) *Decisions of County Supervisors.*—If a County Supervisor rejects a request from an approved lender for issuance of a Conditional Commitment for Guarantee or a Contract of Guarantee, or determines that a previously issued Contract of Guarantee is void or voidable or unenforceable, in a particular case, such lender (or holder) may request the State Director to review the County Supervisor's decision.

(1) The matter will be handled in the same manner as in paragraph (a) of this section, except that the County Supervisor and State Director rather than the State Director and Administrator, will be involved.

(2) If the requesting party is not satisfied with the State Director's decision, such party may follow the procedure in paragraph (a) of this section in obtaining the Administrator's review of the State Director's decision.

Dated October 3, 1973.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.73-21980 Filed 10-17-73;8:45 am]

SUBCHAPTER E—ACCOUNT SERVICING

[FHA Instruction 451.5]

PART 1861—ROUTINE

Servicing of Community Program Loans and Grants; Miscellaneous Amendments

Various sections of Subpart F of Part 1861, Title 7, Code of Federal Regula-

tions (37 FR 15502) are amended to incorporate applicable provisions of the Rural Development Act of 1972 (P.L. 92-419), and to make certain editorial changes as indicated:

1. The introductory wording of § 1861.85(c) is amended as follows to change the requirements for downpayments and repayment schedules for transfers to ineligible applicants:

§ 1861.85 Transfer of security and assumption of loans.

* * * * *

(c) *Transfers to ineligible applicants.*—Such transfers will be considered only when needed as a method for servicing problem cases where an eligible transferee is not available. Transfers should not be considered as a means by which members can obtain an equity or as a method of providing a source of easy credit for purchasers. The State Director is authorized to approve a transfer of indebtedness to and assumption of loan by a transferee who does not meet the eligibility requirements for the kind of loan being assumed where the transferee makes a significant downpayment and agrees to pay the remaining balance within not more than 10 years. Annual installments will be at least equal to an amount amortized over a period not greater than the remaining life of the debt being transferred. The interest rate to the transferee will be the rate set forth in Part 1810, Subchapter A of this Chapter, in the appropriate table to be furnished by the County Supervisor under the heading of "Rate to Lender" column for "Association-Non-Public Body" for 5 thru 9 years plus .125 percent at the time of transfer approval and in accordance with the following:

* * * * *

2. § 1861.88(a)(5) is amended by changing the reference from "§ 1861.85(b)(6)(iii)" to "§ 1861.85(b)(7)(ii);" and

3. § 1861.88(a)(6) is deleted; removing the $4 million debt limitation resulting from mergers; the section as revised to read as follows:

§ 1861.88 Mergers.

(a) General: * * *

(5) If the merger involves assumption of less than the full amount of the debt and the merging borrowers (transferor) is to be released of liability, the County Committee recommendation must contain the statement contained in § 1861.85(b)(7)(ii).

(6) [Reserved]

* * * * *

4. Section 1861.93 is amended by revising the reference to appraisal reports in paragraph (a)(3), to read as follows:

§ 1861.93 Determining present market value.

(a) * * *

(3) He will require a current appraisal report completed in accordance with Subpart A of Part 1809 and other applicable FHA requirements.

((7 U.S.C. 1989) delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Assist. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70)

Effective date.—These amendments shall become effective on October 18, 1973.

Dated October 1, 1973.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.73-21981 Filed 10-17-73;8:45 am]

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