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PART I

HIGHLIGHTS OF THIS ISSUE

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

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REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

FEBRUARY 22, 1974

FAA—Airworthiness directives; bell helicopters 1577, 1-11-74

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List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

Rules and Regulations

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—COST OF LIVING COUNCIL—PHASE IV PRICE REGULATIONS

Special Rule Applicable to Automobile Rate Increases

This special rule is being issued to establish a 60-day moratorium on all automobile insurance rate increases beginning on January 17, 1974. This action is being taken in recognition of the current energy crisis and its probable effect on automobile insurance statistics because of reduced speed limits and gasoline shortages. Some effect has already been demonstrated by the reduction in auto fatalities realized during the Thanksgiving and Christmas holiday periods. Another indication of the expected favorable impact on automobile insurance pricing is the announcement by 12 companies of dividend and refund plans to enable policyholders to get the benefit of significant decreases in loss statistics. The moratorium applies to rate increases of any size, by any insurer, not just those requiring prenotification under § 150.405 of the Cost of Living Council's regulations governing insurance (6 CFR § 150.405).

During the period of the moratorium exception requests may be filed pursuant to the Council's procedural requirements but these requests should include a recommendation for approval from the appropriate state regulatory agency.

The Cost of Living Council is cognizant of the joint efforts being made by the insurance industry and the National Association of Insurance Commissioners to determine the impact of certain restrictions as well as voluntary programs involving the use of automobiles. It is expected that the results of these efforts will be available to the industry by the end of the moratorium and therefore, can be considered in the determination of rates at that time. This special rule assumes that all insurers and rating bureaus will reflect either the recommendations of the NAIC Task Force and Industry Advisory Committee or its own studies in any future determinations of automobile rate increases.

Because the purpose of this special rule is to provide immediate guidance and information with respect to a decision of the Council, the Council finds that publication in accordance with normal rule making procedure is impractical and that good cause exists for making the rule effective in less than 30 days.

In consideration of the foregoing, Title 6, Code of Federal Regulations is amended as set forth below.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14; 38 FR 1489.)

Issued in Washington, D.C. on January 17, 1974.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

Subpart M is amended by adding an Appendix which reads as follows:

APPENDIX

SPECIAL RULE APPLICABLE TO AUTOMOBILE RATE INCREASES

1. *Scope.* This special rule applies to all automobile insurance rates for private passenger and commercial vehicles.

2. *Rate Increase Moratorium.* Except as provided in paragraph 3 of this rule, no insurer or rating bureau may place into effect a rate increase for automobile insurance during the period beginning January 17 and ending 12 o'clock p.m. March 17, 1974. Rates implemented prior to January 17, 1974 may continue to be applied to individual contracts written or renewed on or after January 17, 1974.

3. *Rates by Coverage.* An insurer or rating bureau which determines and charges rates separately for component coverages within the liability or physical damage categories may increase the rates for one or more of the components only if concurrent decreases for the other components within the category result in an overall decrease for that category. However, an overall increase in rates in one category may not be offset by an overall decrease in the other category by an insurer or rating bureau which customarily determines and charges rates separately for each category.

4. *Exceptions.* An insurer or rating bureau may file a request for an exception to this special rule with the Insurance Division, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. All such requests must comply with the procedural requirements of Subpart C of Part 155, Title 6, Code of Federal Regulations and should include a recommendation from the appropriate state regulatory agency.

5. *Rate Increase After March 17, 1974.* No insurer or rating bureau may place into effect a rate increase for automobile insurance after March 17, 1974 unless that rate increase takes into consideration the net effect on frequency and severity of claims attributable to the energy crisis, including reduced speed limits and shortages of fuel, on automobile insurance experience.

6. *Reservation.* This rule may be modified, revoked or otherwise altered by the Council in accordance with the provisions of the Phase IV price regulations.

[FR Doc.74-1723 Filed 1-17-74;9:47 am]

Title 7—Agriculture

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

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Fruits and Vegetables

Administrative Instructions Concerning Handling and Treatment of Mangoes From Central America, the West Indies, and Brazil

The following document prescribes the conditions and procedures for treatment of mangoes imported into the United States from Central America, the West Indies, and Brazil.

Mangoes in Central America, the West Indies, and Brazil are attacked by several species of fruit flies. Such pests are dangerous and destructive pests of mangoes and are not now known to exist or be widely prevalent in the United States.

Fumigation with ethylene dibromide has been found by the Department to be an effective treatment against fruit flies. Accordingly, this amendment of the regulations concerning the treatment of mangoes (7 CFR 319.56-2i) authorizes the importation of mangoes, under permit, from Central America, the West Indies, and Brazil upon compliance with the ethylene dibromide treatment requirement. Also, this amendment revises said regulation with respect to ports of entry, approved fumigation, supervision of treatment, and costs, to clarify the applicable procedure and to make other changes which are deemed to be necessary for the treatment and handling of such imported mangoes.

Pursuant to the authority conferred by sections 5 and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 162) and in accordance with § 319.56-2 of the regulations supplemental to the Fruits and Vegetables Quarantine (7 CFR 319.56), the administrative instructions and heading appearing as 7 CFR 319.56-2i are hereby revised to read as set forth below:

§ 319.56-2i Administrative instructions concerning handling and treatment of mangoes from Central America, the West Indies, and Brazil.

(a) *Condition of entry.* Fumigation with ethylene dibromide, in accordance with the procedures described in this section, is hereby authorized as a condition-of-entry treatment for mangoes from Central America, the West Indies, and Brazil in connection with the issuance of permits for entry under § 319.56-2.

(b) (1) *Central America.* As used in this section, the term "Central America" means the southern portion of North America from the southern boundary of Mexico to South America, including Guatemala, British Honduras, Honduras, El Salvador, Nicaragua, Costa Rica, and Panama.

(2) *West Indies.* As used in this section, the term "West Indies" means the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, including, among others, Cuba, Jamaica, Hispaniola, and the Bahama, Leeward, and Windward Islands, but excluding the chain of islands adjacent and parallel to the north coast of South America (the largest of which are Aruba, Curaçao, Bonaire, Tortuga, Margarita, and Trinidad and Tobago).

(c) *Ports of entry.* (1) Mangoes to be treated on arrival will be limited to entry at the port at New York, New York, or such other port in the United States as may be named in a permit which may be issued by an inspector prior to shipment to the United States, when the inspector has determined that a fumigation chamber meeting the requirement of paragraph (d) would be available at such port for use with respect to the said mangoes.

(2) Mangoes certified by an inspector as having received treatment in the country of origin under supervision of an inspector, as provided in paragraphs (d) and (e) of this section, may be admitted at any port in the United States.

(d) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with ethylene dibromide for 2 hours at normal atmospheric pressure, in a tight fumigation chamber which has been approved by an inspector as meeting the criteria specified in this paragraph. The fumigation chamber is acceptable as tight when an open-arm manometer indicates a positive pressure recession from 25 mm. to no less than 2.5 mm. in the open arm in a period of no less than 22 seconds. The ethylene dibromide must be applied as a liquid and volatilized within the sealed fumigation chamber in an electrically heated vaporizing pan. The electrically heated vaporizing pan shall be controlled by a switch outside the chamber and shall be equipped with a signal light to indicate when the current is on or off. Fifteen minutes after all liquid ethylene dibromide has been injected into the vaporizing pan inside the fumigation chamber, the electric current for the vaporizing pan must be turned off, and the 2-hour period of exposure shall begin. The gas shall be circulated within the chamber continuously for the 2-hour period by electric fans or blowers. The fans or blowers must be of a capacity to circulate the entire air mass within the chamber in 1 minute. Post-treatment aeration is required by forced circulation of air in the fumigation chamber for 30 minutes following treatment.

(2) (i) Mangoes treated because of fruit flies of the genus *Anastrepha* from the countries of the West Indies and Central America, except Bermuda, Costa Rica, Nicaragua, and Panama, shall be fumigated in accordance with the following schedule:

Fruit load in chamber [1]	Dosage of EDB in ounces per 1,000 cubic feet per 2 hours		
	50° F. to 60° F.	Above 60° F. to 70° F.	70° F. or above
25 percent or less	12 oz.	10 oz.	8 oz.
More than 25 percent to 50 percent	14 oz.	12 oz.	10 oz.
50 percent to 80 percent	16 oz.	14 oz.	12 oz.

[1] Percent of chamber capacity.

The temperature shall be that of the fruit. Cubic feet of space shall be that of the unloaded chamber.

(ii) Mangoes treated because of fruit flies of the genus *Anastrepha* and the Mediterranean fruit fly (*Ceratitis Capitata Wiedemann*) from the countries of Bermuda, Costa Rica, Nicaragua, and Panama shall be fumigated in accordance with the following schedule:

Fruit load in chamber [1]	Dosage of EDB in ounce per 1,000 cubic feet per 2 hours	
	60° F. to 70° F.	70° F. or above
25 percent or less	10 oz.	8 oz.
More than 25 percent to 50 percent	12 oz.	10 oz.
50 percent to 80 percent	14 oz.	12 oz.

[1] Percent of chamber capacity.

The temperature shall be that of the fruit. Cubic feet of space shall be that of the unloaded chamber.

(iii) Mangoes from Brazil, treated because of *Anastrepha fraterículus* (Wiedemann), *Ceratitis capitata* (Wiedemann), and fruit flies of the genus *Anastrepha*, shall be fumigated in accordance with the following schedule:

Fruit load in chamber [1]	Dosage of EDB in ounces per 1,000 cubic feet per 2 hours
	70° F. or above
50 percent or less	16 oz.

[1] Percent of chamber capacity.

The temperature shall be that of the fruit. Cubic feet of space shall be that of the unloaded chamber.

(3) (i) Mangoes may be fumigated in accordance with this section if packed in wooden field boxes or prepacked slatted wooden crates with wood excelsior. Individually wrapped mangoes may be fumigated if individually wrapped with conventional citrus tissue. Other containers or wrappers may be approved for fumigation purposes by the Deputy Administrator of the Plant Protection and Quarantine Programs if he determines that such containers are of substantially nonabsorbent material with respect to ethylene dibromide, or such wrappers are permeable with respect to ethylene dibromide.

(ii) When loaded in the fumigation chamber, the crates or containers must be stacked evenly over the floor surface, and the crates or containers in a stack shall be separated at least 2 inches on all sides by wooden strips or other means, to insure adequate gas circulation.

(e) *Supervision of treatment.* The treatment approved in this section must be conducted under the supervision of an inspector. The inspector shall require such safeguards in each specific case for unloading and handling of the mangoes at the port of entry, transportation of the mangoes from the place of unloading to the treatment facilities, and their handling during fumigation and aeration as required by paragraph (d) of this section and as he deems necessary to prevent the spread of plant pests and assure compliance with the provisions of this section. If any part of the treatment is conducted in the country of origin, those in interest must make advance arrangements for supervision and for approval of the fumigation plant in accordance with this section and furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurances that they will provide to the U.S. Department of Agriculture funds to cover all salaries, transportation, per diem, and other administrative and incidental expenses for the supervising inspectors, including funds to compensate inspectors for requested inspectional services in excess of 40 hours weekly, according to the rates established for the payment of inspectors of the Plant Protection and Quarantine Programs.

(f) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or his representative. When treatment is given in foreign countries, all costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the fruit or his representative.

(g) *Department not responsible for damage.* The treatments prescribed in paragraph (d) of this section are judged from experimental tests to be safe for use with mangoes. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatments or because of safeguards required under paragraph (e) of this section.

(Sec. 5, 9, 37 Stat. 316, 318; 7 U.S.C. 159, 162; 37 FR 28464, 28477; 38 FR 19140)

This action relieves restrictions, and it does not appear that public participation in rulemaking procedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public participation with respect to this action is impracticable and unnecessary, and this action may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. This amendment shall become effective January 22, 1974.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.74-1794 Filed 1-21-74;8:45 am]

[No. 74-16]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Premiums, Benefits, and Charges; Correction

JANUARY 16, 1974.

The Federal Home Loan Bank Board hereby corrects FR Doc. No. 74-1011 amending § 563.23-1 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.23-1) which was published in the issue dated January 14, 1974, at 39 FR 1745, by deleting the word "fee" as it appears in the penultimate paragraph of the preamble to the regulation following the phrase "one percent of the original loan commitment * * *."

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.74-1746 Filed 1-21-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 72-CE-34-AD; Amdt. 39-1771]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 50, 65, 65-80 and 70 Series Airplanes

AD 73-23-4, Amendment 39-1740 (38 FR 30867) applicable to Beech Models 50, 65, 65-80 and 70 series airplanes is an airworthiness Directive (AD) which requires the installation of either Beech Nacelle Interior Fire Seal Kits Nos. 65-9008-1 or 65-9008-3, as applicable, within 100 hours' time in service after January 1, 1974.

Subsequent to the issuance of AD 73-23-4 the manufacturer has advised that the subject kits will not be available for modifying the airplanes in accordance with the present compliance time provided in this AD. The Federal Aviation Administration has reviewed the service records on these airplanes and finds that the extension of compliance time for AD 73-23-4 will not materially reduce the level of safety in operating the affected aircraft. Accordingly, a new compliance time of 100 hours' time in service after April 1, 1974, for AD 73-23-4 is being established.

Since this amendment is relaxatory in nature and imposes no additional burden on any person, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not necessary and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1740 (38 FR 30867), AD 73-23-4, is amended as follows:

The compliance paragraph is amended so that it now reads as follows:

Compliance: Required within the next 100 hours' time in service after April 1, 1974, unless already accomplished.

This amendment becomes effective January 24, 1974.

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

Issued in Kansas City, Missouri, on January 10, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-1726 Filed 1-21-74;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-412; Order 473]

UNIFORM SYSTEM OF ACCOUNTS

Accounting for Gains and Losses of Utility Property That Had Been Classified in Utility Service; Certain Depreciation and Amortization Accounts; Correction

DECEMBER 27, 1973.

The following corrections are made to FR Doc. 73-3444, issued February 15, 1973, and published at 38 FR 4947, on February 23, 1973:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSES

Preceding ordering paragraph A.3. (page 4949) add new ordering paragraph A.3. and recodify present ordering paragraph as A.4. to read as follows:

3. Amend paragraph C of the text of "Account 302, Franchises and Consents" of the Electric Plant Accounts. As amended, account 302 reads:

Electric Plant Accounts

1. INTANGIBLE PLANT

* * * * *

302 Franchises and consents.

* * * * *

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 111, Accumulated Provision for Amortization of Electric Utility Plant, as appropriate.

* * * * *

4. (Previously codified 3)

* * * * *

PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C AND CLASS D PUBLIC UTILITIES AND LICENSEES

Preceding ordering paragraph B.3. (page 4949) add new ordering paragraph B.3. and recodify present ordering paragraph as B.4. to read as follows:

3. Amend paragraph C of the text of "Account 302, Franchises and Consents" of the Electric Plant Accounts. As amended, account 302 reads:

Electric Plant Accounts

1. INTANGIBLE PLANT

* * * * *

302 Franchises and consents.

* * * * *

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant, as appropriate.

* * * * *

4. (Previously codified 3)

* * * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

Preceding ordering paragraph D.1. (page 4950) add new ordering paragraph D.1. and recodify present ordering paragraph D.1. as D.2. to read as follows:

1. Amend the list of accounts under General Instruction 16. *Significance of Commission Opinion Nos. 568 and 568A on Accounting.* As amended, General Instruction 16 reads:

General Instructions

* * * * *

16. Significance of Commission Opinion Nos. 568 and 568A on Accounting.

* * * * *

111 Accumulated Provision for Amortization and Depletion of Gas Utility Plant.

* * * * *

2. (Previously codified 1)

* * * * *

Recodify ordering paragraph D.2. and D.3. (page 4950) as D.3. and D.4. to read as follows:

3. (Previously codified 2)

* * * * *

4. (Previously codified 3)

* * * * *

Preceding ordering paragraph D.4. (page 4951) add new ordering paragraph D.5. and recodify present ordering paragraph D.4. as D.6. to read as follows:

5. Amend paragraph C of the text of "Account 302, Franchises and Consents" of the Gas Plant Accounts. As amended account 302 reads:

Gas Plant Accounts

1. INTANGIBLE PLANT

* * * * *

302 Franchises and consents.

* * * * *

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant, as appropriate.

* * * * *

6. (Previously codified 4)

* * * * *

Recodify ordering paragraph D.5. (page 4951) as D.7. and amend the text of Account 797, Abandoned Leases, of the Operation and Maintenance Expense Accounts, in accordance with Docket No. R-403, Order No. 440-A, issued January 5, 1973, to read as follows:

* * * * *

Operation and Maintenance Expense Accounts

* * * * *

1. PRODUCTION EXPENSES

* * * * *

C. EXPLORATION AND DEVELOPMENT EXPENSES

* * * * *

797 Abandoned leases.

A. This account shall be charged with amounts credited to account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant, to cover the probable loss on abandonment of natural gas leases acquired before October 8, 1969, included in account 105, Gas Plant Held for Future Use, which has never been productive.

B. When natural gas leaseholds which were acquired before October 8, 1969, and which have never been productive are abandoned, and the amounts provided in account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant, are not sufficient to cover the cost thereof, the deficiency shall be charged to this account unless otherwise authorized or directed by the Commission. (See account 182.)

* * * * *

PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C AND CLASS D NATURAL GAS COMPANIES

Preceding ordering paragraph E.3. add new ordering paragraph E.3. and recodify present ordering paragraph E.3. as E.4. to read as follows:

3. Amend paragraph C of the text of "Account 302, Franchises and Consents" of the Gas Plant Accounts. As amended account 302 reads:

Gas Plant Accounts

1. INTANGIBLE PLANT

* * * * *

302 Franchises and consents.

* * * * *

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant, as appropriate.

* * * * *

4. (Previously codified 3)

* * * * *

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1798 Filed 1-21-74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74-38]

PART 134—COUNTRY OF ORIGIN MARKING

Country of Origin Marking

Marking of Imported Eyeglass and Sunglass Frames

Pursuant to section 304(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1304(a)), and section 134.42 of the Customs Regulations (19 CFR 134.42), relating to the marking of imported merchandise as to its country of origin, notice is hereby given that imported eyeglass and sunglass frames, whether assembled or unassembled, must be so marked by means of die stamping in a contrasting color, by raised lettering, by engraving, or by some other method producing a permanent mark. The marking must be legible and conspicuous and must clearly indicate the country of origin to the ultimate purchaser in the United States by the words "Frame made in (country of origin)" or "Frame—(country of origin)".

Imported eyeglass or sunglass frames marked by means of ink stamping, tagging with adhesive labels, or any other impermanent form of marking which permits the mark to be smudged, blurred, or otherwise easily obliterated or removed are not considered to be acceptably marked as to country of origin for purposes of section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), and Part 134 of the Customs Regulations (19 CFR Part 134).

Effective date. The above ruling shall be effective as to merchandise entered, or withdrawn from warehouse, for consumption on or after April 22, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.74-1767 Filed 1-21-74;8:45 am]

[T.D. 74-41]

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

Brix Values

On September 13, 1973, there was published in the FEDERAL REGISTER (38 FR 25448) a notice of proposed rulemaking, finding the average Brix value for Bilberry (Whortleberry, *Vaccinium Myrtillum*) juice to be 13.4 degrees and for Soursop (Guanabana, *Annono Muricata*) juice to be 16.0 degrees, and amending § 151.91 of the Customs Regulations to add this information to the list of the average Brix values for unconcentrated natural fruit juices set forth therein. No comments were received in response to this notice of proposed rulemaking.

Accordingly, the alphabetical listing of unconcentrated natural fruit juices whose Brix values have been determined, as set forth in § 151.91 of the Customs Regulations, is amended by inserting "Bilberry (Whortleberry, *Vaccinium Myrtillum*)—13.4" after "Apricot—14.3" and before "Black currant—15.0", and by inserting "Soursop (Guanabana, *Annono Muricata*)—16.0" after "Red currant—10.5" and before "Strawberry—8.0".

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14, 63; 19 U.S.C. 66, 1202 (Gen. Hdnte. 12, sch. 1, pt. 12A hdnte. 3(b)), 1624)

Effective date. This amendment shall become effective on February 21, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 14, 1974.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.74-1788 Filed 1-21-74;8:45 am]

[T.D. 74-37]

PART 174—PROTESTS

Time for Review

On August 13, 1973, there was published in the FEDERAL REGISTER (38 FR 21785), a notice of a proposed amendment to section 174.21 of the Customs Regulations (19 CFR 174.21), to provide for the prompt disposition of protests concerning merchandise excluded from entry or delivery under any provision of the Customs laws. The proposed amendment directs the district directors of Customs to review and act on such protests within 30 days from the date they are filed unless the person seeking entry or delivery of the merchandise requests additional time for the submission of evidence or arguments. However, notwithstanding the 30-day period allowed the district directors, they will process such protests as expeditiously as possible.

After careful consideration of the comments received in response to the notice of the proposed amendment, no changes in the proposed amendment were deemed necessary.

Accordingly, § 174.21 of the Customs Regulations is amended to read as follows:

§ 174.21 Time for review of protests.

(a) *In general.* Except as provided in paragraph (b) of this section, the district director shall review and act on a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 2 years from the date the protest was filed. If several timely filed protests are treated as part of a single protest pursuant to section 174.15, the 2-year period shall be deemed to run from the date the last such protest was filed in accordance with section

514, Tariff Act of 1930, as amended (19 U.S.C. 1514).

(b) *Protests relating to exclusion of merchandise.* If the protest relates to an administrative action involving exclusion of merchandise from entry or delivery under any provision of the Customs laws, the district director shall review and act on a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 30 days from the date the protest was filed, unless the person filing the protest shall request an additional delay for the purpose of presenting evidence or argument with respect to the matters involved in the protest. In no event shall the district director (or the Commissioner of Customs or his designee if the protest is the subject of further review as provided for in §§ 174.25 and 174.26) delay action on the protest beyond 30 days, or such additional time period as may be agreed to by the person filing the protest. Any protest filed pursuant to this paragraph shall clearly so state on its face.

(R.S. 251, as amended, secs. 515, 624, 46 Stat. 736, as amended, 759; 19 U.S.C. 66, 1515, 1624)

Effective date. This amendment shall become effective on February 21, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 10, 1974.

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

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PART 134—COUNTRY OF ORIGIN MARKING

"Danmark" an Acceptable Variant Spelling of "Denmark"

JANUARY 16, 1974.

Pursuant to section 134.45(a) of the Customs Regulations (19 CFR 134.45(a)), notice is hereby given that the word "Danmark" is an acceptable variant spelling of "Denmark" for country of origin marking purposes.

Merchandise made in Denmark has recently been imported into the United States marked with the word "Danmark" to indicate the country of origin. Section 134.45(b) of the Customs Regulations provides that markings in the form of variant spellings of the English name of the country of origin which clearly indicate its name, such as "Brasil" for "Brazil" and "Italie" for "Italy," are acceptable. "Danmark" is an acceptable variant spelling of the English "Denmark" inasmuch as it clearly indicates that country's name for country of origin marking purposes.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

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Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Conditions for Marketing of Digoxin Products

In April, 1970, the Food and Drug Administration inaugurated a program to systematically test marketed batches of digoxin tablets after the agency became aware of an apparent potency problem with this cardiac glycoside. As a result of this testing program, from April to November, 1970, there were 79 recalls of digoxin products. In October, 1970, a voluntary certification program was initiated whereby participating manufacturers agreed not to release new batches of digoxin tablets until samples of the batches were tested by the Food and Drug Administration and found to meet The United States Pharmacopeia (USP) requirements for potency and content uniformity.

In December, 1971, John Lindenbaum, M.D. and his colleagues published a paper in The New England Journal of Medicine (Lindenbaum, J., Mellow, M. G., Blackstone, M. D., Butler, V. P., "Variation in Biologic Availability of Digoxin from Four Preparations", The New England Journal of Medicine, 285:1344, 1971) describing a study of the biologic availability in normal human volunteers of 4 batches of commercially marketed digoxin tablets. The study noted marked differences in serum digoxin levels achieved with tablets produced by different manufacturers. Significant variation between different batches prepared by a single manufacturer was also observed. Lindenbaum conducted the study after observing low serum digoxin concentrations in several patients receiving unusually large maintenance doses of digoxin.

The tablets used in the study had not been analyzed for compliance with compendial specifications including potency and content uniformity. Subsequently, the Food and Drug Administration analyzed tablets from batches used in the Lindenbaum study and found that the two batches which gave acceptable serum digoxin levels met these compendial specifications. One batch which had given very low serum digoxin levels did not meet these compendial specifications varying from 76 to 152 percent of labeled potency. At that time sufficient tablets of the other batch which gave low serum digoxin levels could not be found for analysis. On this basis, it was the Food and Drug Administration's view that the problem identified by Lindenbaum may have been one of potency and not bioavailability (Vitti, T. G., Banes, D., Byers, T. E., "Bioavailability of Digoxin", The New England Journal of Medicine, 285:1433, 1971).

Somewhat prior to this, the Food and Drug Administration had begun a systematic investigation of several formulations of the cardiac glycosides. John G. Wagner, Ph.D., Professor of Pharmacy, Upjohn Center for Clinical Pharmacology, University of Michigan, Ann Arbor, Michigan, under an extramural contract with the Food and Drug Administration, had just completed a pharmacokinetic evaluation of digitoxin when the agency learned of the results of the Lindenbaum study. Dr. Wagner then proceeded to study the bioequivalence of digoxin tablets. In addition to conducting a bioavailability study on digoxin tablets made by two different manufacturers, Dr. Wagner developed a reproducible in vitro dissolution test which showed significant correlation with in vivo bioavailability test results. The results of the Wagner study were published in The Journal of the American Medical Association in April, 1973 (Wagner, J. G., et al., "Equivalence Lack in Digoxin Plasma Levels," Journal of the American Medical Association, 224:199–204, 1973).

In the meantime, sufficient tablets of the second batch of digoxin tablets which gave low serum digoxin levels in the Lindenbaum study were located for chemical analysis. The Food and Drug Administration's analysis showed that the tablets met the compendial specifications for content uniformity. It was therefore apparent that the problem identified originally by Lindenbaum and his colleagues was attributable to bioavailability and not to potency (Skelly, J. and Knapp, G., "Biologic Availability of Digoxin Tablets," Journal of the American Medical Association, 224:243, 1973).

The Food and Drug Administration recognized that very few well controlled digoxin bioavailability studies had been performed and was aware of data which indicated that even the possibility of batch-to-batch bioavailability inconsistency could not be discounted. The agency continued to implement studies to determine the dimension of the problem and to provide the basis for a systematic regulatory approach to assure the uniformity of all digoxin products. In addition to inaugurating additional in vivo studies under the extramural contract program, the agency, in its own laboratories, adapted, modified, and validated several dissolution procedures in both acid and water media based on the method originally developed by Dr. Wagner. Samples of digoxin tablets produced by all known manufacturers were obtained for laboratory analysis. A dissolution profile was obtained on all the tablets which met compendial requirements for potency and content uniformity. A satisfactory correlation existed with the available in vivo data.

The USP in conjunction with the FDA have initiated studies to determine the correlation between bioavailability in vivo and the dissolution rate of digoxin tablets in vitro. As a result of the avail-

able data from all such studies showing a satisfactory correlation between bioavailability and dissolution, the USP monograph for digoxin tablets has been revised to include a requirement for dissolution. This revision is included in the USP XVIII Sixth Interim Revision Announcement which became effective on November 15, 1973. The dissolution method described in the revision involves the use of a rotating basket in an acid dissolution medium.

The Commissioner has determined that the solution to the problem of the bioavailability of digoxin products will involve three separate but related actions. As a first step, immediate action will be taken to remove from the market those digoxin products which, on the basis of dissolution test results, are not adequately bioavailable. The second action will include procedures to assure that manufacturers conduct the in vivo tests needed to demonstrate the bioavailability of those digoxin products which meet all compendial requirements including dissolution. The third action will involve procedures to monitor digoxin product reformulations in order to assure that orderly progress is made towards the marketing of digoxin products which are 100 percent bioavailable. The third action will include means of adequately advising practitioners of the changes in digoxin bioavailability resulting from product reformulations.

The Food and Drug Administration is prepared to take the actions necessary to assure the removal from the market of all batches of digoxin tablets in the channels of commerce after November 15, 1973, which do not meet all compendial requirements. The agency has initiated a program for sampling and analyzing batches of digoxin tablets in the channels of commerce. Manufacturers of batches of digoxin tablets which are found not to be in compliance with the compendial requirements will be requested by the Food and Drug Administration to initiate recall of the subject batches from the market. Violative batches which are not promptly and effectively recalled will be subject to regulatory procedures.

Data indicate that a significant number of manufacturers will need to reformulate their digoxin tablets to assure that their digoxin tablets meet the new compendial requirement for dssolution. Because of the narrow margin between therapeutic and toxic levels of digoxin and the potential for serious risk to cardiac patients using digoxin products which may vary in bioavailabilty, the Commissioner has determined that immediate actions must be taken to assure better uniformity of all digoxin products for oral use. These actions include:

1. Procedures to remove from the market all batches of digoxin products which do not meet current good manufacturing practice and compendial requirements.

2. Procedures to require manufacturers to submit samples of all new batches of digoxin tablets to the Food and Drug Administration for analysis and certification prior to release of these batches for distribution.

3. Procedures to monitor digoxin product formulations to assure that any reformulation will result in compliance with all in vitro test requirements and in uniform batch-to-batch bioavailability.

4. Procedures to require manufacturers to conduct in vivo bioavailability tests.

5. Procedures to assure uniformity in the labeling of all digoxin products for oral use.

The Commissioner is of the opinion that, in view of the questions that have been raised regarding the biavailability of digoxin products and the need for some manufacturers to reformulate their products to meet the new requirements for dissolution, these drug products cannot properly be considered generally recognized as safe and effective within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act. Therefore, all digoxin products for oral use are new drugs for which approved new drug applications are required. All persons marketing such drug products must submit an abbreviated new drug application for these products on or before February 21, 1974, if marketing is to continue. After this date, any such drug product then on the market which is not the subject of an abbreviated new drug application submitted for such drug product will be subject to regulatory procedures under section 505 of the Act.

The Commissioner has determined that, in view of the questions raised regarding the bioavailability of digoxin products for oral use, there is sufficient evidence to invoke the authority under section 505(j) of the act to fully investigate this question in order to obtain more definitive data to demonstrate the bioavailability of these products and to correlate bioavailability in vivo with the dissolution rate of digoxin tablets in vitro. Therefore, any person who submits an abbreviated new drug application for digoxin products for oral use shall, within the times specified in the new § 130.51, submit to the Food and Drug Administration additional data in the form of records and reports, pursuant to section 505(j) of the act, which show adequate evidence of the product's bioavailability. A review of these data will facilitate a determination of whether there is a ground for withdrawing approval of the drug in question under section 505(e) of the act. Failure to submit these required records and reports is in itself a violation of the act, justifying withdrawal of approval of the application.

Digoxin products for parenteral use are new drugs subject to the requirements of the Drug Efficacy Study Implementation notice (DESI 8627) published in the FEDERAL REGISTER of July 27, 1972 (37 FR 15024). The conditions for marketing digoxin products for parenteral use are described in the DESI notice and include a requirement for the submission of data to show the biologic availability of the drug in the formulation which is marketed.

Digoxin tablets formulated so that the quantity of digoxin dissolved at one hour, when tested by the method in the USP, is greater than 95 percent of the assayed amount of digoxin or so that the quantity of digoxin dissolved at 15 minutes is greater than 90 percent of the assayed amount of digoxin are new drugs which may not be marketed without an approved new drug application. Persons intending to market such drugs are required to submit full new drug applications as provided for in § 130.4 (21 CFR 130.4). The application shall include, but not be limited to, clinical studies establishing significantly greater bioavailability than digoxin tablets meeting compendial requirements and dosage recommendations based on clinical studies establishing the safe and effective use of the more bioavailable digoxin product. Marketing of these digoxin products will be allowed only under a proprietary or trade name, established name, and labeling which differs from that used for digoxin tablets that meet all of the requirements in USP XVIII and that are formulated so that the quantity of digoxin dissolved at one hour is not more than 95 percent of the assayed amount of digoxin or that the quantity of digoxin dissolved at 15 minutes is not more than 90 percent of the assayed amount of digoxin.

The Food and Drug Administration is familiar with two in vitro methods ("paddle-water," "paddle-acid"), in addition to that described in the USP, developed to measure digoxin tablet dissolution. These three methods result in data which show significant differences in dissolution in comparative tests on some formulations. Definitive bioavailability data to compare the relative value of each of these methods to predict bioavailability of the few formulations where the methods show significant differences in dissolution rate are not now available. Until such data are available it is not possible to rule out the usefulness of each method in particular situations or to define the limitations of any method. Once such data is available it is anticipated more stringent dissolution rate requirements will be set. The Commissioner requests that manufacturers who conduct research utilizing the "paddle-water" and "paddle-acid" methods, particularly in comparison with the method in the USP, submit any data obtained using these methods to the Food and Drug Administration pursuant to section 505(j) of the act.

Available evidence shows that digoxin tablets which have a dissolution rate below the compendial requirement (i.e., 55 percent at one hour) when tested by the in vitro method in USP XVIII are not adequately bioavailable when tested by in vivo methods. Correlative in vivo and in vitro data are not now available to predict with certainty the minimum dissolution rate at which biologic availability will be demonstrated. Manufacturers whose digoxin tablets do not meet the compendial requirements for dissolution may reformulate their product to

achieve a dissolution at any rate above the dissolution requirements of the USP, but not more than 95 percent dissolution at one hour or more than 90 percent dissolution at 15 minutes. The Food and Drug Administration recommends that these manufacturers reformulate their products to achieve dissolution of 70 to 90 percent at one hour by all three methods. This recommendation is based on data compiled by the Food and Drug Administration which indicates that when in vitro tests uniformly shows dissolution at 70 to 90 percent at one hour by all three methods there is good probability to predict that in vivo tests will demonstrate that the product is bioavailable. To assist manufacturers who do not have the capability to determine dissolution by all three methods, the Food and Drug Administration is prepared, on request, to test samples of reformulated tablets by all three methods and to supply the results of these analyses to the manufacturer.

The references set forth in the preamble together with the following additional supportive data and background information have been assembled and are on display in the office of the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852:

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The two methods for in vitro dissolution tests referred to in the preamble, namely the "paddle-water" and the "paddle-acid" methods, are set forth in § 130.51(h).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 501(b), 502, 505, 701(a); 52 Stat. 1041–1042, 1049–1053, 1055; 21 U.S.C. 321(p), 351(b), 352, 355, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 130 of Title 21 of the Code of Federal Regulations is amended by adding a new § 130.51 as follows:

§ 130.51 Digoxin products for oral use; conditions for marketing.

(a) Studies have shown evidence of clinically significant differences in bioavailability in different batches of certain marketed digoxin products for oral use from single manufacturers as well as in batches of these products produced by different manufacturers. These differences were observed despite the fact that the products met compendial specifications. Other studies have shown that there is a sufficient correlation between bioavailability in vivo and the dissolution rate of digoxin tablets in vitro to make the dissolution test an important addition to the compendial standards. Because of the potential for serious risk to cardiac patients using diagoxin products which may vary in bioavailability, the Commissioner of Food and Drugs has determined that immediate action must be taken to assure the uniformity of all digoxin products for oral use. The Commissioner is of the opinion that digoxin products for oral use are new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act for which approved new drug applications are required. The Commissioner has determined that, because of questions raised regarding the bioavailability of digoxin products for oral use, there is sufficient evidence to invoke the authority under section 505(j) of the act to fully investigate this question and to facilitate a determination of whether there is a ground for withdrawal of approval of the drug product under section 505(e) of the act. Marketing of these products may be continued only under the following conditions:

(1) Digoxin products for oral use, other than tablets: Any person marketing digoxin products for oral use, other than tablets, shall submit to the Food and Drug Administration on or before February 21, 1974, an abbreviated new drug application for these products. Any such drug product then on the market which is not the subject of an application submitted for the drug product shall be subject to regulatory procedures under section 505 of the act. In addition to the information specified in § 130.4(f), the application shall contain:

(i) A full list of the articles used as components of the digoxin product, specifications for components, detailed identification and analytical procedures used to assure that the components meet established specifications of identity, strength, quality, and purity and a complete description of the manufacturing process.

(ii) The source of the digoxin used in the formulation including the name and address of the supplier.

(iii) A statement that stability studies will be conducted to establish a suitable expiration date for the digoxin product in the form in which it is distributed.

(iv) A statement that the product label will contain a suitable expiration date. In the absence of any stability test data, this expiration date shall be no longer than one year after the batch is manufactured. If the expiration date is greater than one year, supporting stability data shall be included in the application.

(v) Labeling that is in compliance with all requirements of the act and regulations promulgated thereunder, the pertinent parts of which are as indicated in paragraph (e) of this section.

(vi) A statement that the applicant will initiate recall of all stocks of the drug product outstanding when so requested by the Food and Drug Administration.

(vii) A statement that the applicant intends to conduct in vivo bioavailability tests and that the applicant, under the records and reports provisions of section 505(j) of the act, will:

(*a*) Within 30 days after the submission of the application, submit to the Food and Drug Administration the protocol which the applicant proposes to follow in conducting these in vivo bioavailability tests. The protocol shall contain all of the essential elements set forth in paragraph (d) of this section. The tests shall not be initiated prior to receiving notification from the Food and Drug Administration that the bioavailability protocol has been reviewed and either approved or its deficiencies delineated.

(*b*) Within 180 days after receiving notification from the Food and Drug Administration that the bioavailability protocol has been reviewed, submit to the Food and Drug Administration the results of the in vivo bioavailability tests.

(2) Digoxin tablets: Any person marketing digoxin tablets, in addition to complying with all of the requirements of paragraph (a)(1) of this section, shall include in their abbreviated new drug application:

(i) A statement that the applicant will establish procedures to test each lot of digoxin tablets prior to releasing the batch for distribution to assure that the batch meets all of The United States

Pharmacopeia (USP XVIII) requirements for digoxin tablets including, but not limited to, potency, content uniformity, and dissolution and that the quantity of digoxin dissolved at one hour is not more than 95 percent of the assayed amount of digoxin or that the quantity of digoxin dissolved at 15 minutes is not more than 90 percent of the assayed amount of digoxin.

(ii) A statement that finished product specifications shall be established to include provisions to assure that the range of average one-hour dissolution values among batches of digoxin tablets does not exceed 20 percent.

(3) Before releasing for distribution any batch of digoxin tablets manufactured after January 22, 1974, the manufacturer shall:

(i) Test a sample of the batch to assure that the batch meets all of the requirements of The United States Pharmacopeia (USP XVIII) including but not limited to, potency, content uniformity, and dissolution and that the quantity of digoxin dissolved at one hour is not more than 95 percent of the assayed amount of digoxin or that the quantity of digoxin dissolved at 15 minutes is not more than 90 percent of the assayed amount of digoxin.

(ii) Submit a sample of the batch to the Foid and Drug Administration according to the procedures set forth in paragraph (g) of this section. Results of tests conducted on the batch by or for the manufacturer and the batch production record shall accompany the sample.

(iii) Withhold the batch from distribution until he is notified by the Food and Drug Administration that the sample was tested and found to meet all of the requirements in The United States Pharmacopeia (USP XVIII) for potency, content uniformity, and dissolution and that the quantity of digoxin dissolved at one hour is not more than 95 percent of the assayed amount of digoxin or that the quantity of digoxin dissolved at 15 minutes is not more than 90 percent of the assayed amount of digoxin.

(iv) Submit a sample of each batch of digoxin tablets as provided for in paragraph (a)(3)(ii) of this section until he is notified by the Food and Drug Administration that he is released from the certification program. This notification will be made on the basis of sample test results, inspectional findings regarding compliance with current good manufacturing practice, and compliance with all other requirements of this section and any other directives issued by the Food and Drug Administration as a condition for release from the certification program.

(4) Any manufacturer who has distributed any batch of digoxin tablets which does not meet the compendial requirement for dissolution, when tested by the method in The United States Pharmacopeia (USP XVIII), shall initiate recall of the subject batch when so requested by the Food and Drug Administration.

(b) Failure of an applicant to submit the protocol and/or the results of the in vivo bioavailability tests showing adequate evidence of the product's bioavailability within the times specified in paragraph (a)(1)(vii) of this section and/or to comply with all of the certification requirements of paragraph (a)(3) of this section shall be justification for withdrawal of approval of the application under section 505(e) of the act.

(c) Any product reformulation or change in manufacturing process will require the submission of a supplement to the approved abbreviated new drug application containing adequate data to demonstrate the bioavailability of the reformulated product. Food and Drug Administration approval of the supplement is required before the reformulated product is marketed. The Food and Drug Administration recommends that, where digoxin tablets are reformulated, manufacturers reformulate their product to achieve dissolution of 70 to 90 percent at one hour when tested by all three methods (i.e., the USP method, and the "paddle-water" and "paddle-acid" methods) described in paragraph (h) of this section.

(d) The protocol for the in vivo bioavailability tests required in paragraphs (a) and (c) of this section shall employ a three-way crossover design using the digoxin test product; a reference digoxin tablet supplied, on request, by the Food and Drug Administration; and bulk digoxin USP in an oral solution. Appropriate venous blood and urinary samples are to be collected and analyzed. The method shall be capable of detecting the difference between the reference tablet and the reference oral solution. Bioavailability of the test product shall be demonstrated if a mean absorption of at least 75 percent of the combined mean of the two reference standards is observed. Assistance in developing a protocol for a particular dosage formulation may be obtained by contacting the Food and Drug Administration, Bureau of Drugs (HFD-220), 5600 Fishers Lane, Rockville, MD 20852.

(e) Parts of the digoxin product labeling indicated below shall be substantially as follows:

CARDIAC (DIGITALIS) GLYCOSIDES LABELING GUIDELINE (ADULTS)

DESCRIPTION

The cardiac (or digitalis) glycosides are a closely related group of drugs having in common specific and powerful effects on the myocardium. These drugs are found in a number of plants. The term "digitalis" is used to designate the whole group. Typically, the glycosides are composed of three portions, a steroid nucleus, a lactone ring, and a sugar (hence "glycosides").

(This section should include a chemical and physical description of digoxin and the same quantitative ingredient information as that required on the label.)

ACTION

The digitalis glycosides have qualitatively the same therapeutic effect on the heart. They (1) increase the force of myocardial contraction, (2) increase the refractory period of the atrioventricular (A–V) node, and (3) to a lesser degree, affect the sinoatrial (S–A) node and conduction system via the parasympathetic and sympathetic nervous systems.

Gastrointestinal absorption of digoxin is a passive process. Absorption of digoxin from tablets is 50–75 percent. Digoxin is only 20–25 percent bound to plasma proteins and is predominantly excreted by the kidneys unmetabolized unless there is significant renal failure. Renal excretion of digoxin is proportional to glomerular filtration rate and is largely independent of urine flow. Digoxin is not effectively removed from the body by dialysis, exchange transfusions or during cardiopulmonary bypass presumably because of tissue binding. In subjects with normal renal function digoxin is excreted exponentially with an average half-life of 36 hours resulting in the loss of 35–40 percent of the body stores daily.

Serum levels and pharmacokinetics are essentially unchanged by massive weight loss suggesting that lean body mass should be used in dosage calculations. The peak blood level from oral dosing with tablets occurs 1–3 hours after administration. The onset of therapeutic action of digoxin after oral tablets is 1–2 hours with the peak therapeutic effect occurring 6–8 hours after dosing.

INDICATIONS

1. "Congestive heart failure," all degrees, is the primary indication. The increased cardiac output results in diuresis and general amelioration of the disturbances characteristic of right (venous congestion, edema) and left (dyspnea, orthopnea, cardiac asthma) heart failure.

Digitalis, generally, is most effective in "low output" failure and less effective in "high output" (bronchopulmonary insufficiency, infection, hyperthyroidism) heart failure.

Digitalis should be continued after failure is abolished unless some known precipitating factor is corrected.

2. "Atrial fibrillation"—especially when the ventricular rate is elevated. Digitalis rapidly reduces ventricular rates and eliminates the pulse deficit. Palpitation, precordial distress or weakness are relieved and any concommitant congestive failure ameliorated.

Digitalis is continued in doses necessary to maintain the desired ventricular rate and other clinical effects.

3. "Atrial flutter" digitalis slows the heart and regular sinus rhythm may appear. Frequently the flutter is converted to atrial fibrillation with a slow ventricular rate. Stopping digitalis at this point may be followed by restoration of sinus rhythm, especially if the flutter was of the paroxysmal type. It is preferable, however, to continue digitalis if failure ensues or if atrial flutter is a frequent occurrence.

4. "Paroxysmal atrial tachycardia" digitalis may be used, especially if it is resistant to lesser measures. Depending on the urgency, a more rapid acting parenteral preparation may be preferable to initiate digitalization, although if failure has ensued or paroxysms recur frequently, digitalis is maintained by oral administration.

Digitalis is not indicated in sinus tachycardia or premature systoles in the absence of heart failure.

"Cardiogenic shock"—the value of digitalis is not established, but the drug is often employed, especially when the condition is accompanied by pulmonary edema. Digitalis seems to adversely affect shock due to infections.

CONTRAINDICATIONS

The presence of toxic effects (See "Overdosage") induced by any digitalis prepara-

tion is an absolute contraindication to all of the glycosides.

Allergy, though rare, does occur. It may not extend to all preparations and another may be tried.

Ventricular Fibrillation.

Ventricular tachycardia, unless congestive failure supervenes after a protracted episode not itself due to digitalis.

WARNINGS

Many of the arrhythmias for which digitalis is advised are identical with those reflecting digitalis intoxication. If the possibility of digitalis intoxication cannot be excluded, cardiac glycosides should be temporarily withheld if permitted by the clinical situation.

The patient with congestive heart failure may complain of nausea and vomiting. These symptoms may also be indications of digitalis intoxication. A clinical determination of the cause of these symptoms must be attempted before further drug administration.

Patients with renal insufficiency are apt to be unusually sensitive to digoxin. See Action Section for mechanism.

PRECAUTIONS

"Potassium depletion" sensitizes the myocardium to digitalis and toxicity is apt to develop even with usual dosage. Hypokalemia also tends to reduce the positive inotropic effect of digitalis.

Potassium wastage may result from diuretic, corticosteroid, hemodialysis and other therapy. It is apt to accompany malnutrition, old age and long-standing congestive heart failure.

"Acute myocardial infarction," severe pulmonary disease, or far advanced heart failure are apt to be more sensitive to digitalis and more prone to disturbances of rhythm.

"Calcium" affects contractility and excitability of the heart in a manner similar to that of digitalis. Calcium may produce serious arrhythmias in digitalized patients.

"Myxedema"—Digitalis requirements are less because excretion rate is decreased and blood levels are significantly higher.

"Incomplete AV block," especially patients subject to Stokes Adams attacks, may develop advanced or complete heart block. Heart failure in these patients can usually be controlled by other measures and by increasing the heart rate.

"Chronic constrictive pericarditis," is apt to respond unfavorably.

"Idiopathic hypertrophic subaortic stenosis" must be managed extremely carefully. Unless cardiac failure is severe it is doubtful whether digitalis should be employed.

"Renal insufficiency" delays the excretion of digitalis and dosage must be adjusted accordingly in patients with renal disease.

NOTE: This applies also to potassium administration should it become necessary.

Electrical conversion of arrhythmias may require adjustment of digitalis dosage.

ADVERSE REACTIONS

Gynecomastia, uncommon.

Overdosage or toxic effects. Gastrointestinal—anorexia, nausea, vomiting, diarrhea are the most common early symptoms of overdosages in the adult (but rarely conspicuous in infants). Uncontrolled heart failure may also produce such symptons. Central Nervous System—headache, weakness, apathy, visual disturbances.

Cardiac Disturbances (Arrhythmias)—ventricular premature beats is the most common, except in infants and young children.

Paroxysmal and nonparoxysmal nodal rhythms, atrioventricular (inference) dissociation and paroxysmal atrial tachycardia (PAT) with block are also common arrhythmias due to digitalis overdosage.

Conduction Disturbances—excessive slowing of the pulse is a clinical sign of digitalis overdosage. Atrioventricular block of increasing degree, may proceed to complete heart block.

NOTE: The electrocardiogram is fundamental in determining the presence and nature of these toxic disturbances. Digitalis may also induce other changes (as of the ST segment), but these provide no measure of the degree of digitalization.

TREATMENT OF ARRHYTHMIAS PRODUCED BY OVERDOSAGES

Digitalis is discontinued until after all signs of toxicity are abolished. This may be all that is necessary if toxic manifestations are not severe and appear after the time for peak effect of the drug.

Potassium salts are commonly used. Potassium chloride in divided doses totaling 4 to 6 gm. for adults (See Pediatric Information for children) provided renal function is adequate.

When correction of the arrhythmia is urgent, potassium is administered intravenously in a solution of 5 percent dextrose in water, a total of 40–100 mEq. (40 mEq. per 500 ml.) at the rate of 40 mEq. per hour unless limited by pain due to local irritation.

Additional amounts may be given if the arrhythmia is uncontrolled and the potassium well tolerated.

Electrocardiographic monitoring is indicated to avoid potassium toxicity, e.g. peaking of T waves.

CAUTION

Potassium should not be used and may be dangerous for severe or complete heart block due to digitalis and not related to any tachycardia.

Chelating agents to bind calcium may also be used to counteract the arrhythmia effect of digitalis toxicity, hypokalemia and of elevated serum calcium which may also precipitate digitalis toxicity.

Four grams (0.8 percent solution) of the disodium salt of EDTA is dissolved in 500 ml. of 5 percent dextrose in water (50 mg. per ml.) and administered over a period of 2 hours unless the arrhythmia is controlled before the infusion is completed.

A continuous electrocardiogram should be observed so that the infusion may be promptly stopped when the desired effect is achieved.

Other counteracting agents are: Quinidine procainamide and beta adrenergic blocking agents.

DOSAGE AND ADMINISTRATION

Oral digitalis is administered slowly or rapidly as required until the desired therapeutic effect is obtained without symptoms of overdosage. The amount can be predicted approximately from the weight of the patient with allowances made for excretion during the time taken to induce digitalization.

Subsequent maintenance dosage is also determined tentatively by the amount necessary to sustain the desired therapeutic effect.

Recommended dosages are practical average figures which may require considerable modification as dictated by individual sensitivity or associated conditions. (See Warning Precautions.)

The average digitalizing dose with digoxin tablets is 1.25–1.5 milligrams. Digitalization may be accomplished by several approaches. A dose of 1.0 milligram orally usually produces a digitalis effect in 1–2 hours and becomes maximal in 6–8 hours. Additional doses of 0.25 or 0.5 milligram may be given at 6–8 hour intervals to full digitalization.

The usual daily oral maintenance dose is 0.25–0.5 milligram. For previously undigitalized patient, institution of daily maintenance therapy without a loading dose results in development of steady-state plateau concentrations in about seven days in patients with normal renal function. By giving 0.75 milligram digoxin daily in divided doses the desired therapeutic effect may be achieved in a previously undigitalized patient with normal renal function in 4–5 days.

It cannot be overemphasized that the values given are averages and substantial individual variation can be expected.

(If pediatric dosage is available the labeling sections above should be expanded to include the following information.)

PEDIATRIC INFORMATION

WARNINGS

Newborn infants during first month of life have a sharply defined tolerance to digitalis. Impaired renal function must also be carefully taken into consideration.

"Premature and immature infants" are particularly sensitive and further reduction of dosage may be necessary.

Congestive failure accompanying acute "glomerulonephritis" requires extreme care in digitalization. A relatively low total dose administered in divided doses and concomitant use of reserpine or other antihypertensive agents has been recommended. Constant ECG monitoring is essential and digitalis discontinued as soon as possible.

IDIOPATHIC HYPERTROPHIC SUBAORTIC STENOSIS

See Adult Precautions.

"Rheumatic carditis"—such cases, especially when severe, are unusually sensitive to digitalis and prone to disturbances of rhythm. If heart failure develops, digitalization may be tried with relatively low doses; then cautiously increased until a beneficial effect is obtained. If a therapeutic trial does not result in improvement, the drug should be considered ineffective and be discontinued.

NOTE: Digitalis glycosides are an important cause of accidential poisoning in children.

PRECAUTIONS

Dosage must be carefully titrated.

Electrocardiographic monitoring may be necessary to avoid intoxication.

Premonitory signs of toxicity in the newborn are undue slowing of the sinus rate, sinoatrial arrest, and prolongation of PR interval.

OVERDOSAGE EFFECTS

Toxic signs differ from the adult in a number of respects.

Cardiac arrhythmias are the more reliable and frequent signs of toxicity.

Vomiting and diarrhea, neurologic and ophthalmological disturbance are rare as initial signs.

Premature centricular systoles are rarely seen; nodal and atrial systoles are more frequent.

Atrial arrhythmias, atrial ectopic rhythms and paroxysmal atrial tachycardia with AV block particularly are more common manifestations of toxicity in children.

Ventricular arrhythmias are rare.

TREATMENT OF TOXIC ARRHYTHMIAS

(See section for adults.) Potassium preparations may be given orally in divided doses totaling 1–2 gm. daily in children. When correction of the arrhythmia is urgent, 5 to 10 mEq. of potassium per hour are given, this amount being dissolved in 100 ml. of 5 percent dextrose in water. Additional amounts of potassium may be given if necessary and well tolerated by the child.

A chelating agent may be tried if other measures fail. EDTA intravenously has been

recommended in a dose of 15 mg./kg./hr. in 5 percent dextrose in water, the total not to exceed 60 mg./kg./day. A continuous electrocardiogram should be observed so that the infusion can be stopped promptly when the desired effect is achieved.

DOSAGE AND ADMINISTRATION

Digitalization must be individualized. Generally, premature and immature infants are particularly sensitive permitting reduced dosage which must be determined by careful titration.

Oral dosage. Newborn (normal), from birth to 1 month, require adult proportions by body weight.

Infants, 1 month to 2 years require approximately 50 percent more by body weight than adult proportions.

Children, 2 years and over require adult proportions by body weight.

(Complete by adding dosage for the specific preparation.)

Long term use of digitalis is indicated in almost all infants who have been digitalized for acute congestive failure unless the cause is transient. Many favor maintaining digitalis until at least 2 years of age in all infants with paroxysmal atrial tachycardia or who show either definite or latent failure.

Many children with severe inoperable congenital defects need digitalis throughout childhood and often for life.

(f) Abbreviated new drug applications shall be submitted to the Food and Drug Administration, Bureau of Drugs, Office of Scientific Evaluation, Generic Drug Staff (HFD–107), 5600 Fishers Lane, Rockville, MD 20852.

(g) All samples of digoxin tablets required by paragraph (a)(3) of this section to be submitted to the Food and Drug Administration shall be handled as follows:

(1) The sample shall consist of 6 subsamples of 1000 tablets each collected at random from throughout the manufacturing run. Each of the 6 subsamples shall be identified with the name of the product, the labeled potency, the date of manufacture, the batch number, and the name and address of the manufacturer.

(2) The sample together with the batch production record and results of all tests conducted by or for the manufacturer to determine the product's identity, strength, quality, and purity, content uniformity and dissolution shall be submitted to the Department of Health, Education, and Welfare, Public Health Service, FDA National Center for Drug Analysis, 1114 Market St., St. Louis, MO 63101. The outer wrapper shall be identified "SAMPLE—DIGOXIN CERTIFICATION."

(h) The Food and Drug Administration is aware of data with two in vitro methods, in addition to that described in The United States Pharmacopeia (USP XVIII), developed to measure digoxin tablets dissolution. These two methods, the so-called "paddle-water" and "paddle-acid" methods, are described below and are identical with the exception of the nature of the dissolution medium used in the procedures (i.e., distilled or deionized water vs. dilute hydrochloric acid (0.6 percent volume/volume)). The dissolution apparatus used in these two methods differs significantly from the apparatus described in the method in the compendium. The Food and Drug Administration is aware that the three methods (i.e., USP, "paddle-water," and "paddle-acid") show significant differences in dissolution in comparative tests on some formulations. Definitive bioavailability data to compare the relative value of each of these methods to predict bioavailability of the few formulations where the methods show significant differences in dissolution rate are not now available. Manufacturers who conduct research utilizing the "paddle-water" and "paddle-acid" methods, particularly in comparison with the method in The United States Pharmacopeia, shall submit any data obtained using these methods to the Food and Drug Administration pursuant to section 505(j) of the act.

(1) *Dissolution apparatus.*

(NOTE: Throughout this procedure use scrupulously clean glassware, which previously has been rinsed with dilute hydrochloric acid, distilled or deionized water, then with alcohol, and carefully dried. Take precautions to prevent contamination from airborne, fluorescent particles and from metal and rubber surfaces.) The apparatus consists of a suitable water bath, a 1000 milliliter glass vessel (Kimble Glass No. 26220 or equivalent), a motor, and a polytetrafluoroethylene stirring blade (Sargent S–76637, Size B, 3 inch length; or equivalent) on a glass stirring shaft (Sargent 5–76636, 14.5 inch length; or equivalent). The water bath may be of any convenient size that permits keeping the water temperature uniformly at 37° C. ±0.5° C. throughout the test. The vessel is spherical, and is provided with three ports at the top, one of which is centered. The lower half of the vessel is 65 millimeters in inside radius and the vessel's nominal capacity is 1000 milliliters. The glass stirring shaft from the motor is placed in the center port, and one of the outer ports may be used for insertion of a thermometer. Samples may be removed for analysis through the other port. The motor is fitted with a speed-regulating device that allows the motor speed to be held at 50 rpm ±2 rpm. The motor is suspended above the vessel in such a way that it may be raised or lowered to position the stirring blade. The glass stirring shaft is 10 millimeters in diameter and about 37 centimeters in length. It must run true on the motor axis without perceptible wobble. The polytetrafluoroethylene stirring blade is 4 millimeters thick and forms a section of a circle, whose diameter is 83 millimeters and which is subtended by parallel chords of 42 and 77 millimeters. The blade is positioned horizontally, with the 42-millimeter edge down, 2.5 centimeters ±0.2 centimeter above the lowest inner surface of the vessel.

(2) *Reagents*—(i) *Dissolution medium.* For "paddle-water," use distilled or deionized water. For "paddle-acid," use dilute hydrochloric acid (0.6 percent volume/volume). Use the same batch of dissolution medium throughout the test.

(ii) *Standard solutions.* Accurately weigh approximately 25 milligrams of The United States Pharmacopeia Digoxin Reference Standard, dissolve in a minimum amount of 95 percent ethanol in a 500 milliliter volumetric flask and add 95 percent ethanol to volume and mix. Dilute 10.0 milliliters of this first solution to 100.0 milliliters with 95 percent ethanol and mix for the second solution. Just prior to use, individually dilute 1.0, 2.0, 3.0, 4.0, and 5.0 milliliter aliquots of the second solution with dissolution medium to 50.0 milliliters. These solutions are equivalent to 20, 40, 60, 80, and 100 percent of dissolution, respectively, for a 0.25 milligram digoxin tablet.

(iii) *Extraction solvent.* Prepare a solvent containing 6 volumes of chloroform, analytical reagent grade, with 1 volume of n-propyl alcohol, analytical reagent grade.

(iv) *Ascorbic acid-methanol solution.* Prepare a solution containing 2 milligrams of ascorbic acid, analytical reagent grade, per 1 milliliter of methanol, absolute, analytical reagent grade.

(v) *Hydrochloric acid, concentrated reagent grade.*

(vi) *Hydrogen peroxide-methanol solution.* On the day of use, dilute 2.0 milliliters of recently assayed 30 percent hydrogen peroxide, reagent grade, with methanol, absolute, analytical reagent grade to 100.0 milliliters. Store in a refrigerator. Just proior to use, dilute 2.0 milliliters of this soluton with methanol to 100.0 milliliters.

(3) *Procedure*—(i) *Dissolution.* Place 500 milliliters of dissolution medium in the vessel, immerse it in the constant-temperature bath set at 37°C.±0.5°C., and allow the dissolution medium to assume the temperature of the bath. Position the shaft so that there is a distance of 2.5 centimeters ±0.2 centimeter between the midpoint of the bottom of the blade and the bottom of the vessel. With the stirrer operating at a speed of 50 rpm±2 rpm, place 1 tablet into the flask. After 60 minutes, accurately timed, withdraw 25 milliliters, using a glass syringe connected to a glass sampling tube, of solution from a point midway between the stirring shaft and the wall of the vessel, and approximately midway in depth. Filter the solution promptly after withdrawal, using a suitable membrane filter of not greater than 0.8 micron porosity (Millipore AAWP 025 00, or equivalent), mounted in a suitable holder (Millipore Swinnex SX00 025 00, or equivalent), discarding the first 100 milliliters of filtrate. This is the test solution. Repeat the dissolution procedure on 5 additional tablets.

(ii) *Extraction.* Transfer 10.0 milliliters of each of the six filtrates, 10.0 milliliters of each of the five standard solutions, and 10.0 milliliters of dissolution medium, to provide a blank, in separate 60-millliter separators. Extract each solution with two 10-milliliter portions of extraction solvent. Combine the extracts of each solution in separate, glass-stoppered, 50-milliliter conical flasks, and evaporate on a steam bath with the aid of a stream of nitrogen to dryness, rinsing the sides of the flasks with extraction solvent. Take care to ensure that all

traces of solvent are removed, but avoid prolonged heating. For convenience the residues may be stored in a vacuum desiccator overnight.

(iii) *Measurement of fluorescence.* Begin with the standard solutions, and keep all flasks in the same sequence throughout, so that the elapsed time from addition of reagents to reading of fluorescence is the same for each. Carry the test solutions, standard solutions, and the blank through the determination in one group. Add the following three reagents in as rapid a sequence as possible, swirling after each addition, treating 1 flask at a time, in the order named: 1.0 milliliter of ascorbic acid-methanol solution, 3.0 milliliters of concentrated hydrochloric acid, and 1.0 milliliter of hydrogen peroxide-methanol solution. Insert the stoppers in the flasks, and after 2 hours, measure the fluorescence at about 485 millimicrons, using excitation at about 372 millimicrons. In order to provide a check on the stability of the fluorometer, reread one or more standard solutions. Correct each reading for the blank and plot a standard curve of fluorescence versus percentage dissolution. Determine the percentage dissolution of digoxin in the test solutions by reading from the standard graph.

(i) Digoxin tablets formulated so that the quantity of digoxin dissolved at one hour, when tested by the method in The United States Pharmacopeia (USP XVIII), is greater than 95 percent of the assayed amount of digoxin or so that the quantity of digoxin dissolved at 15 minutes is greater than 90 percent of the assayed amount of digoxin are new drugs which may be marketed only with an approved full new drug application as provided for in § 130.4. The application shall include, but not be limited to, clinical studies establishing significantly greater bioavailability than digoxin tablets meeting compendial requirements and dosage recommendations based on clinical studies establishing the safe and effective use of the more bioavailable digoxin product. Marketing of these digoxin products will be allowed only under a proprietary or trade name, established name, and labeling which differs from that used for digoxin tablets that meet all of the requirements in The United States Pharmacopeia (USP XVIII) and that are formulated so that the quantity of digoxin dissolved at one hour is not more than 95 percent of the assayed amount of digoxin or so that the quantity of digoxin dissolved at 15 minutes is not more than 90 percent of the assayed amount of digoxin. New drug applications for these digoxin products shall be submitted to the Food and Drug Administration, Bureau of Drugs, Office of Scientific Evaluation (HFD-100), 5600 Fishers Lane, Rockville, MD 20852.

Effective date. This order shall be effective January 22, 1974. The Commissioner finds that immediate compliance with the requirements of this regulation is necessary to protect the public health and, therefore, notice, time for public comment, and delayed effective date are impracticable, unnecessary, and contrary to the public interest. Comments on this regulation may be submitted to the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, on or before February 21, 1974. Comments received and supportive materials may be seen in the above office during working hours, Monday through Friday. Comments received may result in modification of this section.

(Secs. 201(p), 501(b), 502, 505, 701(a), 52 Stat. 1041-1042, 1049-1053, 1055; 21 U.S.C. 321(p), 351(b), 352, 355, 371(a).)

Dated: January 10, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74-1512 Filed 1-21-74;8:45 am]

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

Styrylpyridinium Chloride-Diethylcarbamide Combination Drug

The Commissioner of Food and Drugs has evaluated a new animal drug application (49-555V) filed by American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, proposing safe and effective use, in feed for dogs, of a combination drug containing styrylpyridinium chloride and diethylcarbamazine (as base) for the control of various worms. The application is approved.

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

§ 135e.67 Styrylpyridinium chloride, diethylcarbamazine (as base).

(a) *Chemical name.* (1) For styrylpyridinium chloride: 2-(*p*-Chlorostyryl)-1-methylpyridinium chloride.

(2) For diethylcarbamazine: *N,N*-Diethyl - 4 - methyl - 1 - piperazine-carboxamide.

(b) *Approvals.* Finished feed containing 0.035 percent styrylpyridinium chloride, and 0.021 percent diethylcarbamazine (as base) has been granted; for sponsor see code No. 004 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used for the control of hookworms (*Ancylostoma caninum*) and roundworms (*Toxocara canis*) and for the prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

(2) Finished feed containing 0.035 percent styrylpyridinium chloride and 0.021 percent diethylcarbamazine (as the base) is administered to dogs as follows: Maximum stressed dogs are fed an amount of the finished feed in ounces equal to the dogs body weight in pounds divided by 4. Medium stressed dogs are fed an amount of the finished feed in ounces equal to the dogs body weight in pounds divided by 4.5. Low stressed dogs are fed an amount of the finished feed in ounces equal to the dogs body weight in pounds divided by 5. Underweight dogs are fed 10 percent more than the amounts specified in this subparagraph. Overweight dogs are fed 10 percent less than the amounts specified in this subparagraph, with adjustments made every 7 days until the desired body weight is obtained.

(3) Dogs with established heartworm infections should not be treated with the drug until they have been converted to a negative status. For the prevention of heartworm infestation, the drug should be administered before the mosquito season and as soon as young puppies are born. The drug should be administered continuously during periods of exposure to hookworm, roundworm, and heartworm infestations to control recurring burdens of hookworms and roundworms and prevent the maturation of immature heartworms (third stage infective larvae) into adults.

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

Effective date. This order shall be effective on January 22, 1974.

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

Dated: January 15, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-1762 Filed 1-21-74;8:45 am]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

DELEGATION OF AUTHORITY RELATING TO BLOOD AND BLOOD PRODUCTS TO THE COMMISSIONER OF FOOD AND DRUGS

The Assistant Secretary for Health, by memorandum dated December 28, 1973, delegated limited authority under section 361 of the Public Health Service Act (42 U.S.C. 264) relating to blood and blood products to the Commissioner of Food and Drugs. The functions delegated are not exclusive and are to be exercised only when they relate to the law enforcement functions of the Food and Drug Administration. The delegation was effective December 28, 1973 and the authority may be redelegated.

The Commissioner is amending Part 2—Administrative Functions, Practices, and Procedures (21 CFR Part 2) to include this delegation of authority in the listing of other delegations of authority under section 361 of the act made by the Assistant Secretary for Health to the Commissioner.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 2 is amended in § 2.120 by revising paragraph (a)(4) to read as follows:

§ 2.120 Delegations from the Secretary and Assistant Secretary.

(a) * * *

(4) Functions vested in the Secretary under section 361 of the Public Health

Service Act (42 U.S.C. 264) which relate to blood and blood products when such functions relate to the law enforcement functions of the Food and Drug Administration; interstate travel sanitation (except interstate transportation of etiological agents under 42 CFR 72.25); milk and food service sanitation; and shellfish sanitation.

* * * * *

Effective date. This order shall be effective on January 28, 1974.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a).)

Dated: January 16, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-1822 Filed 1-21-74;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Departmental Reg. 108.695]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Issuance of Nonimmigrant Visas

A notice of proposed rulemaking regarding the issuance and revalidation in the United States of nonimmigrant visas to certain classes of aliens was published in the FEDERAL REGISTER of December 6, 1973 (38 FR 33603). That notice also provided for submission of comments by interested persons not later than December 28, 1973.

Over thirty comments were received in response to the Notice. All expressed opposition to the proposed regulatory amendments, the great majority concerning the proposed amendment of 22 CFR 41.125(g). There were three general bases for objection: (1) Aliens affected would be inconvenienced and caused additional expense by the necessity of travelling to a United States consular office to seek revalidation of their visa; (2) the adjudication by the Immigration and Naturalization Service of an application for extension of stay for an alien affected obviates the necessity of careful consideration, including personal interview, of the alien's application for revalidation of his visa; and (3) aliens affected will be delayed or prevented from returning to the United States by bureaucratic procedures and arbitrary requirements and decisions by consular officers abroad.

With respect to the first basis for objection, while it is true that many of the aliens affected will be travelling to cities or areas in which there is no United States consular office, it is also true that international transportation routes and scheduling will cause virtually all such aliens to transit one or more cities in which a United States consular office is located and at which they will be able to apply for revalidation of their visa. With respect to the second basis for objection, the fact that the Immigration and Naturalization Service may have, in some cases, fairly recently adjudicated an application for extension of stay for an alien affected in no way relieves the consular officer of the necessity of satisfying himself as to the alien's eligibility to receive a visa. The situation in this respect is similar to that which exists when the alien originally undertakes to travel to the United States. He must first apply to a consular officer abroad for, and be found eligible to receive, the appropriate visa and must then apply to an immigration officer at a port of entry for admission into the United States and be found admissible. With respect to the third basis for objection the Department finds it highly doubtful that the bureaucratic and arbitrary practices allegedly engaged in by consular officers abroad are widespread. Moreover, whatever may be the actual extent of such practices, the remedy therefor is corrective action by the Department of State in the individual case on the basis of facts presented by the alien who has been the victim of such practices or by an interested third party acting in his behalf.

After due consideration of the comments received, it has been determined that the amendments to 22 CFR 41.120 (b) and 41.125(g) which terminate the procedure under which nonimmigrant visas under sections 101(a)(15)(E), (H), and (L) of the Immigration and Nationality Act, as amended, may be issued in the United States in certain circumstances and under which nonimmigrant visas under sections 101(a)(15)(F) and (J) of the Immigration and Nationality Act, as amended, may be revalidated in the United States in certain circumstances, are hereby adopted without change and are set forth below.

Effective date. The amendments will become effective on February 21, 1974.

(Sec. 104, 66 Stat. 174 (8 U.S.C. 1104))

Dated: January 15, 1974.

For the Secretary of State.

[SEAL] BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs, Department of State.

1. Section 41.120 is amended as follows:

§ 41.120 **Authority to issue visas.**

* * * * *

(b) *Issuance in the United States in certain cases.* * * *

(2) Other qualified aliens who—

(i) Are properly classifiable under subparagraph (A) or (G) of section 101(a)(15) of the Act or under the visa symbols NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7;

* * * * *

2. Section 41.125 is amended as follows:

§ 41.125 **Revalidation of visas.**

* * * * *

(g) *Revalidation in the United States in certain cases.* * * *

(2) Other qualified aliens who—

(i) Are properly classifiable under subparagraph (A), (E), (G), (H), (I), or (L) of section 101(a)(15) of the Act or under the visa symbols NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7;

* * * * *

[FR Doc.74-1770 Filed 1-21-74;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—OFFICE OF THE TREASURER OF THE UNITED STATES

PART 360—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE TREASURER OF THE UNITED STATES

Use of General Powers of Attorney

The Department of the Treasury finds that it is necessary to amend its regulations at 31 CFR Part 360 governing the indorsement and payment of Treasurer's checks (also appearing as Department Circular No. 21, Revised) to clarify that regulation. 31 CFR 360.12(b)(2) is to be amended, in view of the regulations of the Internal Revenue Service at 26 CFR Part 301—Procedure and Administration, and at 26 CFR Part 601—Statement of Procedural Rules, Subpart F—Rules, Regulations, and Forms.

It is necessary to limit the authority provided by 31 CFR Part 360 and Standard Form 231, the general power of attorney form, in the case of agents of payees of tax refund checks, because Internal Revenue Service regulations allow such agents only to receive such checks.

More specifically, 31 CFR 360.12(b)(2) provides that checks drawn on the Treasurer in payment of tax refunds "may be *negotiated* under a general power of attorney * * *" (Italic supplied in all quotations herein.) The text of Standard Form 231, "Power of Attorney by Individual for the *Collection* of Checks Drawn on the Treasurer of the United States," the general power of attorney form prepared by the Office of the Treasurer, provides authority to the agent "to *receive, endorse, and collect* checks." The instructions on the reverse of the form state that the power may be used "for the *collection* of checks drawn on the Treasurer of the United States in payment of * * * tax refunds * * *"

26 CFR 301.6402-2(f) provides that tax refund checks "may be sent direct to the claimant or to such person in care of an attorney or agent who has filed a power of attorney specifically authorizing him to *receive* such checks." 26 CFR 601.506(b) provides that the Internal Revenue Service will mail a refund check "in care of a recognized representative who has filed a power of attorney from the taxpayer, specifically authorizing him to *receive but not to endorse* such check (see paragraph (c)(1)(i) of § 601.502) * * *."

Since the amendment constitutes a rule of agency procedure and practice, the Department finds that notice and

public procedure are not necessary. Therefore, Part 360, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations is hereby amended by revising § 360.12(b)(2) to read:

§ 360.12 Powers of attorney.

* * * * *

(b) *General powers of attorney.* * * *

(2) Payments for tax refunds, but subject to the limitations concerning the mailing of internal revenue refund checks contained in 26 CFR 601.506(b);

* * * * *

(5 U.S.C. 301)

The instructions on the reverse of Standard Form 231 will be revised when the current supply is exhausted and a new edition becomes necessary.

Dated: January 16, 1974.

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

[FR Doc.74-1768 Filed 1-21-74;8:45 am]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Order No. 45]

PART 3002—ORGANIZATION

Establishment of Official Seal

JANUARY 16, 1974.

The Commission has decided to use rulemaking procedures to establish its official seal.

The Commission finds that the amendment herein ordered involves matters of agency organization, procedure and practice and that, accordingly, the notice requirements of the Administrative Procedure Act 5 U.S.C. 553 do not apply. We further find that good cause exists for making this amendment effective immediately.

Accordingly, pursuant to section 3603 of the Postal Reorganization Act (39 U.S.C. 3603), it is ordered that Chapter III Part 3002, Organization, of the Commission's Regulations (39 CFR Part 3002) is hereby amended, by adding a new section, § 3002.12, *Official Seal*, as follows, said amendment to become effective on January 22, 1974.

§ 3002.12 Official seal.

(a) *Authority.* The Seal described in this section is hereby established as the official seal of the Postal Rate Commission.

(b) *Description.* (1) On a white disc within a blue border with inner and outer rims gold and inscribed at top POSTAL RATE COMMISSION and in base, between two small five-pointed stars, 1970, all in gold, the shield of the coat of arms in full color blazoned as follows:

Five blue stars on a white stripe running from the upper left to the lower right of the shield, with three white billets on each of the upper and lower sections of the shield, the former blue and the latter red.

(2) The official seal of the Postal Rate Commission is modified when reproduced in black and white and when embossed, as it appears below.

(c) *Custody and authorization to affix.* (1) The seal is the official emblem of the Postal Rate Commission and its use is therefore permitted only as provided in this part.

(2) The seal shall be kept in the custody of the Secretary and is to be used to authenticate records of the Postal Rate Commission and for other official purposes.

(3) Use by any person or organization outside of the Commission may be made only with the Commission's prior written approval. Such request must be made in writing to the Secretary.

(39 U.S.C. sec. 3603.)

By the Commission.

[SEAL] JOSEPH A. FISHER,
Secretary.

[FR Doc.74-1745 Filed 1-21-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 216—MARINE MAMMALS

Incidental Taking in the Course of Tuna Purse-Seining Operations

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407, "the Act") was implemented by interim regulations governing the taking and importing of marine mammals published in the FEDERAL REGISTER on December 21, 1972 (37 FR 28177). On November 12, 1973, a notice of proposed rulemaking, to amend § 216.10 of the interim regulations, was published in the FEDERAL REGISTER (37 FR 31180), as directed by section 111(b) of the Act.

Twenty-eight days were allowed, until December 10, 1973, for any person wishing to do so to file written comments, suggestions, or objections pertaining to the proposed regulations with the Director, National Marine Fisheries Service, Washington, D.C. 20235.

On January 15, 1974, final regulations governing the taking and importing of marine mammals were published in the FEDERAL REGISTER (39 FR 1851), superseding the interim regulations. The section of the final regulations which is derived from and is identical to § 216.10 of the interim regulations is § 216.24 ("Taking incidental to commercial fishing operations"). Therefore, the regulations set out herein amend § 216.24 of the final regulations governing the taking and importing of marine mammals.

Comments were received from eight respondents with regard to §§ 216.24(b), 216.24(c), 216.24(g) (1) and (2) of the proposed regulations (as renumbered), as well as, the proposed regulations in general. As a result of the comments received, several changes were made in the proposed regulations.

One significant change involves the extension of the coverage of the regulations to purse-seine vessels of all capacities fishing for yellowfin tuna. The proposed regulations were limited in application to purse-seine vessels of 300 tons or more carrying capacity.

The published rules are applicable to, among things, all U.S. citizens who are owners or Masters of vessels utilizing a purse seine to catch and land yellowfin tunafish.

The effective date of the regulations has been delayed by one month to April 1, 1974, in order to allow those persons affected by the regulations to obtain the necessary netting and implement other changes required. According to our present information, nylon netting is available but is limited in supply, as a result of the petroleum shortage and the impact of the proposed regulations on normal net stock.

Special attention is directed to § 216.24(b)(1). Two inch stretch mesh is established as a maximum for the porpoise safety panel. Mesh smaller than 2" stretch measure will be accepted as complying with the safety panel requirement in § 216.24(b)(1).

The regulations, as proposed, are hereby adopted, subject to the following changes:

1. All references in these regulations to "§ 216.10" are changed to read "§ 216.24."

2. In § 216.24(b) the words "of 300 tons or more carrying capacity" are deleted, and the words "and land" are inserted following the words "nets to catch."

3. In § 216.24(b) the date "March 1, 1974" is changed to "April 1, 1974." Following "April 1, 1974." the following is inserted: "U.S. citizens who are masters or owners of vessels utilizing purse-seine entirely constructed with a 2" stretch mesh or smaller to catch and land yellowfin tuna shall be considered in compliance with § 216.24(b) (1), (2), and (3)."

4. In the second sentence of § 216.24(b)(4) the word "2'" is deleted and the word "1⅜'" is inserted in its place.

5. In § 216.24(d)(1) the words "U.S. citizens who are" are inserted at the beginning of the sentence.

6. In § 216.24(d)(1) the date "March 1, 1974" is changed to "April 1, 1974."

7. In § 216.24(d)(1)(i) the date "March 1, 1974" is changed to "April 1, 1974."

8. In § 216.24(d) following "(iv) * * * these regulations," the following is added, "or, (v) that the entire purse-seine net is constructed with a stretch mesh 2" or smaller."

9. In § 216.24(d)(1), the words "during the period beginning March 1, 1974 and ending" are deleted and the words "prior to" inserted in their place.

10. In § 216.24(d)(2) the words "of over 300 tons carrying capacity" are deleted.

11. In § 216.24(d)(2) the date "March 1, 1974" is changed to "April 1, 1974."

12. In § 216.24(f) the words "to catch and land yellowfin tuna" are added following "a non-approved net."

13. In § 216.24(g)(1) the words "Effective April 1, 1974" are added at the beginning of the first sentence.

14. In § 216.24(g)(2) the words "or the operator of any transport vehicle" are added following "any cargo vessel." The words "land in a port of" are deleted and the words "imported into" are added in their place.

15. In § 216.24(g)(2)(ii) the words "or operator's" are added following "the master's."

16. In § 216.24(g)(2)(iii)(C) the word "or" is added after "in (h) below."

17. In § 216.24(g)(2)(iii) a new paragraph is added following paragraph "(C)" which reads "(D) That the yellowfin tunafish in the shipment were caught prior to the effective date of these regulations."

Dated: January 17, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

§ 216.24 Same-taking and related acts incidental to commercial fishing operations.

(a) Until October 21, 1974, marine mammals may be taken incidental to the course of commercial fishing operations and no permit shall be required, so long as the taking constitutes an incidental catch, except as required in (b) and (c) below for tuna purse-seine vessels. It is the immediate goal that the incidental kill or incidental serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

(b) Commercial tuna fishing vessels of utilizing purse-seine nets to catch and land yellowfin tuna shall be required to equip the purse-seine nets with a porpoise safety panel prior to utilizing the net in actual fishing operations. Vessels at sea on the effective date of these regulations which have not had their purse-seine nets approved shall be required to equip the nets with a porpoise safety panel prior to leaving port for any fishing trip commencing after April 1, 1974. U.S. citizens who are masters or owners of vessels utilizing purse-seine entirely constructed with a 2" stretch mesh or smaller to catch and land yellowfin tuna shall be considered in compliance with § 216.24(b)(1), (2), and (3).

(1) The porpoise safety panel shall consist of the substitution of small mesh webbing not to exceed 2" stretch mesh, preshrunk, either knotted or knotless, having a minimum meshes depth equivalent to one full strip of 4¼" stretch meshes x 100 meshes (425") extending from the corkline down.

(2) The panel shall be of sufficient length, starting at the end of the #3 cork-bunching line (bunch) around the perimeter of the net a sufficient distance that when five bunches of corks are pulled, the panel will extend around the back-down area to the tie-down point. At a minimum, the length of the panel shall not be less than 100 fathoms. Further, the entire perimeter back-down area will be protected with a porpoise safety panel, whether three, four, or five bunches of corks are pulled.

(3) Each end of the porpoise safety panel must be identified with an easily distinguishable marker which may be separate from the corkline or may be a single cork in the corkline of a different color than the one on either side.

(4) Throughout the length of the corkline in which the porpoise safety panel is located, hand-hold openings are to be secured by either (a) false hangings, or (b) installation of small sections of 2" stretch mesh, or (c) hand-constructed webbing of the same size as the porpoise safety panel. In any event, by whatever means these areas are closed to prevent porpoise entrapment, proof of its utility to achieve results shall be its resistance to the insertion of a cylindrical shaped object no larger than 1⅜" diameter equal to resistance encountered in the porpoise safety panel.

(5) Throughout the entire net, corkline hangings shall be inspected following each set. Hangings found to have loosened to the extent that a 3" diameter cylindrical object will not meet resistance to its insertion between the cork and corkline hangings, must be tightened so that a 3" cylindrical object cannot be inserted.

(c) Following a net set by a purse-seining vessel of any carrying capacity where porpoises or any other marine mammals are captured in the course of commercial purse-seine tuna fishing operations, back down or other release procedures shall be continued until all live animals have been released from the net. "Back down procedures" means a series of maneuvers which take place after the seine is tied-down following a set and pursing, which keep the net open to the greatest degree, and allow porpoises to leave the pursed net over the net floats which are submerged when the vessel moves astern.

(d) Certification.

(1) U.S. citizens who are masters or owners of vessels subject to the requirements of these regulations shall certify to the Regional Director, National Marine Fisheries Service, Terminal Island, California, prior to April 1, 1974, that:

(i) The required porpoise safety panel has been permanently installed in all purse-seine nets aboard his vessel which will be used in fishing operations after April 1, 1974, in accordance with these interim regulations;

(ii) Hand-hold areas along the corkline throughout the length of the porpoise safety panel have been closed in accordance with these regulations;

(iii) Corkline hangings have been inspected along the entire length of the net and openings restricted in accordance with these regulations; and

(iv) Nets will be maintained in good repair, in conformance with these regulations or,

(v) That the entire purse-seine net is constructed with a stretch mesh 2" or smaller.

Upon receipt of the above certification, the Regional Director may issue a notice that the net or nets so certified by vessel masters or owners are conditionally approved for use pending an initial inspection of the net or nets by an authorized agent of the National Marine Fisheries Service prior to October 20, 1974. After inspection of any conditionally approved vessels by an authorized agent of the National Marine Fisheries Service, and upon the satisfaction of the Regional Director that nets on such vessels fully conform to these regulations, the Regional Director shall notify the vessel masters or owners that the subject nets are approved for use.

(2) Masters or owners of tuna purse-seine vessels entering tuna purse-seine fishing operations after April 1, 1974, must, prior to departure from any port on a fishing trip, submit the certification required in § 216.10(d)(1) and receive approval for use of the net or nets so certified.

(e) Inspection of purse-seine nets by an authorized agent of the National Marine Fisheries Service may be made at any time at the discretion of the Regional Director, National Marine Fisheries Service, Terminal Island.

(f) Failure to comply with the provisions of § 216.10 (a), (b), (c), (d), or (e)—including, but not limited to, failure to submit upon demand to a net inspection by an authorized agent of the National Marine Fisheries Service, failure at any time of purse-seine nets to satisfy the requirements of § 216.10(b), failure to receive an initial net inspection no later than October 20, 1974, after being notified to submit to a net inspection, will subject vessel masters or owners to immediate revocation by the Regional Director of approval of such net or nets for use in the tuna fishery and to the penalties provided for under the Act. Furthermore, any person who in actual fishing operations uses a non-approved net to catch and land yellowfin tuna is subject also to the penalties provided in the Act.

(g) Importation of yellowfin tuna fish.

(1) Effective April 1, 1974, it shall be unlawful to import any yellowfin tuna fish, whether fresh, frozen, or otherwise prepared, if caught by vessels not registered under the laws of the United States in a manner not in conformance with the provisions of paragraphs (b) and (c) above.

(2) The master of any cargo vessel or the operator of any transport vehicle seeking permission to import into the United States a cargo of yellowfin tuna fish shall be required to provide, as an agent and on behalf of the person desiring to import such tuna fish, to the nearest Customs Office as a prerequisite to obtaining such permission from Customs the following information with respect to such cargo:

(i) A description of the quantity of yellowfin tuna fish desired to be landed and the manner in which prepared, i.e., fresh, frozen, or otherwise;

(ii) A statement that, to the best of the master's or operator's and the importer's knowledge and belief, the yellowfin tuna fish in the subject shipment were caught in conformance with these regulations; and

(iii) A signed statement from a responsible official of the government of each nation from which yellowfin tuna fish in the shipment was exported to the United States, or a statement signed by the master or masters of the fishing vessel or vessels which caught the yellowfin tuna fish certifying:

(A) The identity of the fishing vessels which caught the yellowfin tuna fish, and

(B) That the yellowfin tuna fish in the shipment concerned were caught in conformance with these regulations, or

(C) That the yellowfin tuna fish in the shipment concerned were not caught with purse-seine gear or were caught by a vessel identified by a nation as prescribed in (h) below, or

(D) That the yellowfin tuna fish in the shipment were caught prior to the effective date of these regulations.

(3) Any person who unloads or permits to unload yellowfin tuna fish from a cargo vessel in violation of paragraph (2) of this subsection (g) or any person that provides false information in violation of paragraph (2) of this subsection shall be subject to the penalties provided in the Act.

(h) Any nation may certify to the United States Government a list of vessels, by name and official number, fishing under such nation's flag, which are fishing in conformance with these regulations.

(i) In furtherance of the Secretary's research and development program under Section 111 of the Act, the following regulations shall apply. Any duly authorized agents of the Secretary may from time to time, after timely oral or written notice to the vessel owner or charterer board and/or accompany commercial fishing vessels documented under the laws of the United States, whenever the Secretary determines that there is space available, on regular fishing trips, for the purpose of conducting research or observation operations. Such research and observation operations shall be carried out in such manner as to minimize interference with commercial fishing operations. No master, charterer, operator or owner of such vessel shall impair or in any way interfere with the research or observations being carried out. The Secretary shall provide for the payment of all reasonable costs directly related to the quartering and maintaining of such agents on board such vessels.

[FR Doc.74-1785 Filed 1-21-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Corrections

On June 22, 1973 (38 FR 16550 at 16558) and November 28, 1973 (38 FR 32884 at 32893), the section numbers involving the control strategy for carbon monoxide and photochemical oxidants for the Pennsylvania plan were incorrectly promulgated under § 52.2036. These citations are changed to read § 52.2037.

Dated: January 17, 1974.

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

[FR Doc.74-1802 Filed 1-21-74;8:45 am]

CHAPTER IV—LOW EMISSION VEHICLE CERTIFICATION BOARD

PART 1400—PROCEDURES FOR CERTIFICATION OF LOW-EMISSION VEHICLES

Redesignation of Part

It is now desired to resdesignate existing 40 CFR, Chapter IV, Part 400 as 40 CFR, Chapter IV, Part 1400, in order to make more parts of the Code of Federal Regulations available to the Environmental Protection Agency for the publication of effluent guidelines, in a consistent and logical sequential order.

Therefore it is ordered that Part 400, Chapter IV of Title 40 of the Code of Federal Regulations be redesignated and hereafter referred to as Part 1400, Chapter IV of Title 40 of said Code. Further, all references to said 40 CFR, Chapter IV Part 400 shall be so redesignated as to reflect and refer to the newly redesignated 40 CFR, Chapter IV, Part 1400. By order of the Chairman of the Low Emission Vehicle Certification Board, this redesignation shall become effective January 22, 1973.

Dated: January 18, 1974.

RUSSELL E. TRAIN,
Chairman, Low Emission Vehicle Certification Board.

[FR Doc.74-2010 Filed 1-21-74;1:54 pm]

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

Comptroller of the Currency

[12 CFR Parts 7, 11, 18]

APPLICATION OF LENDING LIMITS TO STAND-BY LETTERS OF CREDIT AND FINANCE ACCEPTANCES

Disclosure Requirements

Notice is hereby given that the Comptroller of the Currency pursuant to the authority contained in R.S. 324 *et seq.*, as amended; 12 U.S.C. 1 *et seq.*, as amended, R.S. 5200, 12 U.S.C. 84, and 15 U.S.C. 78 1(g)(5)(i) is considering the adoption of a revision of § 7.1160, an Interpretive Ruling now entitled "Commitments to Lend or Pay"; a revision of § 7.1550, entitled "Exception 5; Bankers' Acceptances"; a new Interpretive Ruling § 7.7361 to be entitled "Stand-by Letter of Credit or Finance Acceptance on Behalf of Affiliate"; and amendments to § 11.7 and § 18.8 of the financial disclosure regulations.

Under the proposed revision of I.R. 7.1160, commercial letters of credit, under which sight drafts or bankers' acceptances potentially eligible for rediscount at Federal Reserve Banks are drawable, may continue to be issued without reference to the lending limit. All other types of irrevocable letters of credit not paid for in advance will be considered the same as loans to the account party for the purpose of statutory lending limits on loans to single borrowers or affiliates.

Similarly, bankers' acceptances of the type eligible for rediscount with the Federal Reserve will continue to be exempt from the lending limits contained in section 84 and remain subject to the special limitations contained in section 13a of the Federal Reserve Act (12 U.S.C. 372 and 373).

All other types of bankers' acceptances will be treated as loans made by the accepting bank to its account party for the purpose of all statutory limitations.

The forms for annual financial statements to shareholders are proposed to be amended by requiring a footnote showing the total amount of stand-by letters of credit outstanding.

All interested persons are invited to submit comments in writing to Robert Bloom, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20220, to be received not later than March 15, 1974. Such material will be made available for inspection and copying upon request except as provided in § 4.16(a) of the Comptroller's rules regarding availability of information.

The proposed revisions appear below.

§ 7.1160 Application of Lending Limits to Stand-by Letters of Credit.

(a) *Definition.* A "stand-by letter of credit" is any letter of credit or similar arrangement, however named or described, *other than* a commercial letter of credit issued to facilitate the sale of goods, of the character under which sight drafts or bankers' acceptances of the kind eligible, or which would become eligible, for discount by a Federal Reserve bank under Regulation A, could be drawn. It would include, but not be limited to, letters of credit attached to promissory notes, *i.e.*, so-called documented discount notes.

(b) *Subject to lending limits.* A stand-by letter of credit is subject to the limitations of section 84 and must be combined with any other nonexcepted loans to the customer by the issuing bank for the purposes of applying section 84. See I.R. 7.1550 for the application of section 84 limits to acceptances of drafts drawn under letters of credit.

§ 7.1550 Exception 5: Bankers' Acceptances.

(a) Law—12 U.S.C. 84(5)

NOTE: Such limitation of 10 per centum shall be subject to the following exceptions:

(5) Obligations in the form of bankers' acceptances of other banks of the kind described in [12 U.S.C. 372 and 373] shall not be subject under this section to any limitation based upon such capital and surplus.

(b) *Acceptances of other banks.* Exception 5 permits the purchase by a national bank without limitation of bankers' acceptances made by other banks, provided that such acceptances are of the kinds described in sections 372 and 373 (ineligible acceptances). Other kinds of acceptances (ineligible acceptances) made by other banks are included within the purchasing bank's lending limit to each acceptor bank.

(c) *Own acceptances*—(1) *Eligible.* The limits under which a national bank may itself accept drafts eligible for rediscount are contained in Sections 373 and 373. Said limits are distinct from the section 84 limit. Thus a bank may accept eligible drafts for a customer up to the amount permitted by sections 372 and 373 at the same time that customer is indebted to the bank in other ways up to his section 84 limit.

(2) *Ineligible.* A national bank may accept ineligible paper on behalf of a customer only within the limits of section 84. All nonexcepted indebtedness of the customer to the accepting bank must be combined with his obligations in regard to ineligible paper and the total may not exceed the section 84 lending limit.

(3) *Discount of own acceptance.* During any period within which a bank holds its own acceptance, eligible or ineligible, having given value therefor, the amount thereof is included against the Section 84 limit of the customer for whom the acceptance was made.

§ 7.7361 Stand-by letters of credit or finance acceptance on behalf of affiliate.

A stand-by letter of credit as that term is defined in Interpretive Ruling 7.1160 constitutes an extension of credit within the meaning of 12 U.S.C. 371c, when issued on behalf of an affiliate. A finance acceptance, referred to in Interpretive Ruling 7.1550(c)(2) as an ineligible acceptance, constitutes an extension of credit within the meaning of 12 U.S.C. 371c, when made on behalf of an affiliate.

§ 11.7 [Amended]

In § 11.7(c)(9), *General Notes to Balance Sheets*, add new subparagraph (viii) as follows:

(viii) *Stand-by letters of credit.* A "stand-by letter of credit" is any letter of credit or similar arrangement, however named or described, *other than* a commercial letter of credit issued to facilitate the sale of goods, of the character under which sight drafts or bankers' acceptances of the kind eligible, or which would become eligible, for discount by a Federal Reserve bank under Regulation A, could be drawn. It would include, but not be limited to, letters of credit attached to promissory notes, *i.e.*, so-called documented discount notes.

In § 18.2 *Definition of Terms*, add a new paragraph (f):

§ 18.2 Definition of terms.

* * * * *

(f) *Stand-by letter of credit.* A stand-by letter of credit is any letter of credit or similar arrangement, however named or described, *other than* a commercial letter of credit issued to facilitate the sale of goods, of the character under which sight drafts or bankers' acceptances of the kind eligible, or which would become eligible, for discount by a Federal Reserve bank under Regulation A, could be drawn. It would include, but not be limited to, letters of credit attached to promissory notes, *i.e.*, so-called documented discount notes.

In § 18.8, *Rules of general application*, add a new paragraph (f) as follows:

§ 18.8 **Rules of general application.**

* * * * *

(f) Furnish in a footnote to Item 19 of the balance sheet, the amount of outstanding stand-by letters of credit.

Dated: January 15, 1974.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.74-1787 Filed 1-21-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

PROCESSED RAISINS

Proposed U.S. Standards for Grades [1]

Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Processed Raisins pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090; as amended; 7 U.S.C. 1624). The cited section of the Agricultural Marketing Act of 1946 provides for the issuance of official United States grades to designate different quality levels for the voluntary use of producers, buyers, and consumers. Official grading services are also provided for under this Act upon request and upon payment of the fee to cover the cost of such services.

Interested persons desiring to submit written data, views, or arguments for consideration in connection with the proposal should file the same, in duplicate, not later than March 1, 1974, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public review at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

STATEMENT OF CONSIDERATION LEADING TO THE PROPOSED AMENDMENTS

The proposed amendment would define "discolored" raisins for the purpose of these standards. This discoloration appears periodically, principally on the capstem end of bleached or light-colored raisins. While it affects the overall appearance of the product, it is not serious enough to be classified as "damaged" as defined and limited in these standards. Therefore, in order to clarify the intent of these standards and promote uniformity in their application, this new category of defect, with appropriate allowances, is being proposed.

Section 52.1845 would be revised to read as follows:

§ 52.1845 **Grades of Thompson seedless raisins.**

(a) * * *

(1) Not more than 1 piece of stem per 96 ounces of raisins may be present;

(2) Not more than 15 capstems per 16 ounces of raisins may be present;

(3) Not more than 1 percent, by weight, of raisins of all sizes may be undeveloped;

(4) Not more than 4 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 2 percent, by weight, may be damaged, and not more than 2 percent, by weight, may be moldy;

(5) Not more than 5 percent, by weight, of raisins may be sugared;

(6) The appearance or edibility of the product may not be affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(7) No grit, sand, or silt of any consequence may be present that affects the appearance or edibility of the raisins.

(b) * * *

(1) Not more than 2 pieces of stem per 96 ounces of raisins may be present;

(2) Not more than 25 capstems per 16 ounces of raisins may be present;

(3) Not more than 2 percent, by weight, of "small (or midget) size" raisins may be undeveloped; and not more than 1 percent, by weight, of raisins other than "small (or midget) size" may be undeveloped;

(4) Not more than 6 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 3 percent, by weight, may be damaged, and not more than 3 percent, by weight, maybe moldy;

(5) Not more than 10 percent, by weight, of raisins may be sugared;

(6) The appearance or edibility of the product may not be more than slightly affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(7) No grit, sand or silt of any consequence may be present that affects the appearance or edibility of the raisins.

(c) * * *

(1) Not more than 4 pieces of stem per 96 ounces of raisins may be present;

(2) Not more than 35 capstems per 16 ounces of raisins may be present;

(3) Not more than 2 percent, by weight, of "small (or midget) size" raisins may be undeveloped; and not more than 1 percent, by weight, of raisins other than "small (or midget) size" may be undeveloped,

(4) Not more than 9 percent, by weight, of raisins may be discolored, damaged, or moldy; *Provided,* That not more than 5 percent, by weight, may be damaged, and not more than 4 percent, by weight, may be moldy;

(5) Not more than 15 percent, by weight, of raisins may be sugared;

(6) The appearance or edibility of the product may not be materially affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(7) Not more than a trace of grit, sand, or silt may be present that affects the appearance or edibility of the raisins.

(d) * * *

TABLE I.—*Allowances for defects in Type I, Thompson seedless raisins*

Defects	U.S. Grade A or U.S. Fancy	U.S. Grade B or U.S. Choice	U.S. Grade C or U.S. Standard
Pieces of stem (maximum count, per 96 ounces).	1	2	4
Capstems (maximum count, per 16 ounces).	15	25	35
Undeveloped (maximum, percent by weight.	All sizes-1	Small size-2 Other sizes-1	Small size-2. Other sizes-1.
Sugared	5	10	15
Discolored, damaged or moldy raisins. Provided these limits are not exceeded:	4	6	9
Damaged	2	3	5
Moldy	2	3	4
	Appearance or edibility of product		
Slightly discolored or damaged by fermentation or any other defect not described above.	May not be affected	May not be more than slightly affected.	May not be materially affected.
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.		Not more than a trace may be present that affects the appearance or edibility of the product.

Section 52.1847 would be revised to read as follows:

§ 52.1847 **Grades of Muscat Raisins.**

(a) * * *

(1) Not more than 1 piece of stem per 32 ounces of raisins may be present;

(2) Not more than 10 capstems per 16 ounces of raisins may be present in other than uncapstemmed raisins; and not more than 20 loose capstems per 16 ounces of raisins may be present in uncapstemmed raisins;

(3) Not more than 12 seeds per 16 ounces of raisins in Seeded or Soda-dipped Seeded raisins may be present;

(4) Not more than 1 percent, by weight, of raisins may be undeveloped;

(5) Not more than 5 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 3 percent, by weight, may be

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

damaged, and not more than 2 percent, by weight, may be moldy;

(6) Not more than 5 percent, by weight, of raisins may be sugared;

(7) The appearance or edibility of the product may not be affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(8) No grit, sand, or silt of any consequence may be present that affects the appearance or edibility of the raisins.

(b) * * *

(1) Not more than 2 pieces of stem per 32 ounces of raisins may be present;

(2) Not more than 15 capstems per 16 ounces of raisins may be present in other than uncapstemmed raisins; and not more than 20 loose capstems per 16 ounces of raisins may be present in uncapstemmed raisins;

(3) Not more than 15 seeds per 16 ounces of raisins in Seeded or Soda-dipped Seeded raisins may be present;

(4) Not more than 2 percent, by weight, of raisins may be undeveloped;

(5) Not more than 7 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 4 percent, by weight, may be damaged, and not more than 3 percent, by weight, may be moldy;

(6) Not more than 10 percent, by weight, of raisins may be sugared;

(7) The appearance or edibility of the product may not be affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(8) No grit, sand, or silt of any consequence may be present that affects the appearance or edibility of the raisins.

(c) * * *

(1) Not more than 3 pieces of stem per 32 ounces of raisins may be present;

(2) Not more than 20 capstems per 16 ounces of raisins may be present in other than uncapstemmed raisins; and not more than 20 loose capstems per 16 ounces of raisins may be present in uncapstemmed raisins;

(3) Not more than 20 seeds per 16 ounces of raisins in Seeded or Soda-dipped Seeded raisins may be present;

(4) Not more than 2 percent, by weight, of raisins may be undeveloped;

(5) Not more than 9 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 5 percent, by weight, may be damaged, and not more than 4 percent, by weight, may be moldy;

(6) Not more than 15 percent, by weight, of raisins may be sugared;

(7) The appearance or edibility of the product may not be affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(8) Not more than a trace of grit, sand, or silt may be present that affects the appearance or edibility of the raisins.

(d) * * *

TABLE II.—*Allowances for defects in Type II, Muscat Raisins*

Defects	U.S. Grade A or U.S. Fancy	U.S. Grade B or U.S. Choice	U.S. Grade C or U.S. Standard
	Maximum count (per 32 ounces)		
Pieces of stem	1	2	3
	Maximum count (per 16 ounces)		
Capstems in other than uncapstemmed types.	10	15	20
Seeds in seeded types	12	15	20
Loose capstems in uncapstemmed types.	20	20	20
	Maximum (percent by weight)		
Undeveloped	1	2	2
Sugared	5	10	15
Discolored, damaged, or moldy. Provided these limits are not exceeded:	5	7	9
Damaged	3	4	5
Moldy	2	3	4
	Appearance or edibility of product		
Slightly discolored or damaged by fermentation or any other defect not described above.	May not be affected	May not be more than slightly affected.	May not be materially affected.
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.		Not more than a trace may be present that affects the appearance or edibility of the product.

Section 52.1849 would be revised to read as follows:

§ 52.1849 Grades of Sultana Raisins.

(a) * * *

(1) Not more than 1 piece of stem per 32 ounces of raisins may be present;

(2) Not more than 25 capstems per 16 ounces of raisins may be present;

(3) Not more than 1 percent, by weight, of raisins may be undeveloped;

(4) Not more than 4 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 2 percent, by weight, may be damaged, and not more than 2 percent, by weight, may be moldy;

(5) Not more than 5 percent, by weight, of raisins may be sugared;

(6) The appearance or edibility of the product may not be affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(7) No grit, sand, or silt of any consequence may be present that affects the appearance or edibility of the raisins.

(b) * * *

(1) Not more than 2 pieces of stem per 32 ounces of raisins may be present;

(2) Not more than 45 capstems per 16 ounces of raisins may be present;

(3) Not more than 2 percent, by weight, of raisins may be undeveloped;

(4) Not more than 6 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 3 percent, by weight, may be damaged, and not more than 3 percent, by weight, may be moldy;

(5) Not more than 10 percent, by weight, of raisins may be sugared;

(6) The appearance or edibility of the product may not be more than slightly affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(7) No grit, sand, or silt of any consequence may be present that affects the appearance or edibility of the raisins.

(c) * * *

(1) Not more than 3 pieces of stem per 32 ounces of raisins may be present;

(2) Not more than 65 capstems per 16 ounces of raisins may be present;

(3) Not more than 2 percent, by weight, of raisins may be undeveloped;

(4) Not more than 9 percent, by weight, of raisins may be discolored, damaged, or moldy: *Provided,* That not more than 5 percent, by weight, may be damaged, and not more than 4 percent, by weight, may be moldy;

(5) Not more than 15 percent, by weight, of raisins may be sugared;

(6) The appearance or edibility of the product may not be materially affected by slightly discolored raisins or raisins damaged by fermentation or any other defect not previously described; and

(7) Not more than a trace of grit, sand, or silt may be present that affects the appearance or edibility of the raisins.

(d) * * *

TABLE III.—Allowances for defects in Type III, Sultana Raisins

Defects	U.S. Grade A or U.S. Fancy	U.S. Grade B or U.S. Choice	U.S. Grade C or U.S. Standard
	Maximum count (per 32 ounces)		
Pieces of stems	1	2	3
	Maximum count (per 16 ounces)		
Capstems	25	46	65
	Maximum (percent by weight)		
Undeveloped	1	2	2
Sugared	5	10	15
Discolored, damaged, or moldy. Provided these limits are not exceeded:	4	6	9
Damaged	2	3	5
Moldy	2	3	4
	Appearance or edibility of product		
Slightly discolored or damaged by fermentation or any other defect not described above.	May not be affected	May not be more than slightly affected.	May not be materially affected.
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.		Not more than a trace may be present that affects the appearance or edibility of the product.

Section 52.1851 would be revised by adding the following definition:

§ 52.1851 **Definition of terms.**

* * * * *

(i) "Slightly discolored" means a raisin affected by a brown to dark brown discolored area around the capstem end of the raisin that is less than the area of a circle ⅛ inch in diameter.

(j) "Discolored" means a raisin affected by a brown to dark brown discolored area around the capstem end of the raisin that equals or exceeds the area of a circle ⅛ inch in diameter: *Provided*, That the overall appearance, keeping quality, and edibility of the product is not seriously affected.

§ 52.1852 **[Revoked]**

Section 52.1852 would be revoked.

Dated: January 16, 1973.

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

[FR Doc.74-1795 Filed 1-21-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Income and Resources

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. On October 3, 1973, there was published in the FEDERAL REGISTER (38 FR 27406) a Notice of Proposed Rule Making and proposed new Subparts K and L of Part 416. The proposed amendments set forth below add to the proposed regulations published October 3, 1973, with notice of proposed rulemaking, new § 416.1163 (Earned income of a student child) and § 416.1185 (Deeming of income) and a new paragraph (c) (Additional exclusion of household goods and personal effects) to § 416.1216 (Exclusion of household goods and personal effects). Part 416 comprises the policies and procedures for payment of supplemental security income to aged, blind, or disabled individuals under title XVI of the Social Security Act, as amended by section 301 of the Social Security Amendments of 1973 (Public Law 92-603), enacted October 30, 1972. This amendment to title XVI of the Social Security Act is effective January 1, 1974.

Proposed § 416.1163 provides for the exclusion from income of earnings of a child who is a student.

Proposed § 416.1185 provides for deeming of income to an individual from an ineligible spouse with whom he is living and to an individual who is a child from the parents with whom he is living.

Proposed § 416.1216(c) provides for the exclusion from household goods and personal effects of a wedding ring and an engagement ring and certain household goods and personal effects required because of a person's physical condition.

The rules set forth in the proposed regulations will be applied by the Social Security Administration in administering the Supplemental Security Income program during the period from January 1, 1974, when the new program becomes effective, until the regulations are finally adopted.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before February 21, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendment is to be issued under the authority contained in sections 1102, 1611, 1612, 1613, 1614, and 1631, 49 Stat. 647, as amended, 86 Stat. 1466, 1468, 1470, 1473; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: January 3, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 11, 1974.

CASPER W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 416 of Chapters III of Title 20 of the Code of Federal Regulations is amended as follows:

1. A new § 416.1163 is added to read as follows:

§ 416.1163 **Earned income of a student child.**

The first $1,200 of quarterly earnings, not to exceed $1,620 a calendar year, shall be excluded from the earned income of a blind or disabled child who is a student regularly attending school in accordance with the provisions of § 416.1057.

2. A new § 416.1185 is added to read as follows:

§ 416.1185 **Deeming of income.**

(a) *Individual with spouse.* In the case of an individual who is living in the same household with a person not eligible for benefits under this part who is or who is considered to be such individual's husband or wife in accordance with the provisions set forth in §§ 416.1001-416.1041, such individual's income shall be deemed to include any income (as defined in § 416.1102(a)) of such spouse whether or not such income is available to such individual. However, in the case of earned income (as defined in § 416.1102(b)) of such spouse, such earned income will be reduced by $65 a month (or the amount of earned income if less than $65) for all expenses attributable to the earning of such income. In addition, such spouse's income is reduced by $65 a month, and by an allocation of $65 a month for each ineligible child under age 21 of the eligible individual and/or his ineligible spouse residing in the household. Any income of the ineligible child will be used to reduce his $65 allocation of income from the ineligible spouse. Income deemed to the eligible individual will be treated as unearned income.

(b) *Child.* In the case of an individual who is a child (as defined in § 416.1050) and under age 21, such individual's income shall be deemed to include any income (as defined in § 416.1102(a)) of a

parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not such income is available to such individual. However, in the case of earned income (as defined in § 416.1102(b)) of the parent and spouse of such parent, such earned income will be reduced by $65 a month (or the amount of earned income if less than $65) for all expenses attributable to the earning of such income. In addition, such parent's and spouse of parent's income is reduced by $130 a month when there is one parent (or spouse of a parent) in the household or $195 a month when the parent and spouse of such parent both reside in the household and by an allocation of $65 a month for each ineligible child (as defined in § 416.1050) under age 21 of the parent or spouse of the parent residing in the household. However, any income of the ineligible child will be used to reduce his $65 allocation of income. The remaining income of the parent and spouse of such parent shall be deemed to be available to the eligible individual who is a child. Income deemed to the eligible child will be treated as unearned income.

(c) *Income not included.* For purposes of this section, the term income does not include: (i) assistance based on need and furnished by any State or political subdivision of a State (or the Bureau of Indian Affairs), or the payments made under title XVI of the Social Security Act and any income taken into account in determining the eligibility for and amount of such assistance or payments; (ii) any portion of any grant, scholarship, or fellowship used to pay the cost of tuitions and fees; (iii) amounts received for foster care of an ineligible child; (iv) bonus value of food stamps and the value of the Department of Agriculture donated foods; (v) home produce grown for personal consumption; (vi) refund of taxes paid on real property or food purchased by the family; and (vii) such income needed to fulfill an approved plan for achieving self-support. In determining the income of ineligible children in the household for purposes of allocating a share of the parent's income, the items enumerated shall be excluded and in addition, the total earned income of such child who is a student (subject to the limitation in § 416.1163) unless the child actually makes this income available to the family.

3. In § 416.1216, a new paragraph (c) is added to read as follows:

§ 416.1216 Exclusion of household goods and personal effects.

* * * * *

(c) *Additional exclusions of household goods and personal effects.* In determining the resources of an individual (and spouse, if any) and in determining the value of the household goods and personal effects of such individual (and spouse), there shall be excluded a wedding ring and an engagement ring and household goods and personal effects such as prosthetic devices, dialysis machines, hospital beds, wheel chairs and similar equipment required because of a person's physical condition. The exclusion of items required because of a person's physical condition is not applicable to items which are used extensively and primarily by members of the household in addition to the person whose physical condition requires the item.

[FR Doc.74-1778 Filed 1-21-74;8:45 am]

Food and Drug Administration

[21 CFR Part 130]

OVER-THE-COUNTER DRUGS GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Revision of Tentative Final Order for Antacid Products; Modification of in Vitro Test

In the FEDERAL REGISTER of November 12, 1973 (38 FR 31260), the Commissioner of Food and Drugs published a tentative final monograph on over-the-counter (OTC) antacid drugs pursuant to 21 CFR 130.301(a)(7).

The proposed and tentative final monographs contained an in vitro test to measure the acid neutralizing capacity of an antacid product. The Commissioner stated in the preamble to the tentative final monograph that the Food and Drug Administration was conducting appropriate studies to validate the in vitro test. Pursuant to those tests, and taking into consideration the comments submitted on the proposal (see paragraphs 32 through 45 of the preamble to the tentative final order, published in the FEDERAL REGISTER on November 12, 1973 (38 FR 31263)), the Commissioner has determined that further modification of § 130.305(a)(1) is appropriate. Accordingly, the Commissioner is hereby publishing a revision of § 130.305(a)(1) as a new tentative final order.

Under § 130.305(a)(1)(i) of the tentative final order, temperature controlling equipment and a phototachometer or similar device were required. The revised test procedure requires a stirring speed (300 ± 30 r.p.m.). The person conducting the test may select any method to assure the speed is within the limits. The temperature does not have to be controlled as long as it is reasonable.

The variation found in disintegration time of antacid tablets made it impossible to obtain uniform acid neutralizing capacity values under the proposed test. It is therefore necessary to also establish a disintegration test for antacid tablets. The revised procedure requires that the tablet samples be of a uniform particle size. The disintegration test will determine how a product will be labeled. If the tablet disintegrates in 10 minutes or less, the manufacturer may recommend chewing or swallowing, at the patient's option. However, if the tablet does not dissolve in 10 minutes, the directions for use may only recommend chewing the tablet. The rationale for this requirement is that any tablet that takes longer than 10 minutes to disintegrate must be chewed to make the particle size appropriate to result in acid neutralization in the stomach in the first 10 minutes of use. The Tablet Disintegration Test Method described in The United States Pharmacopeia XVIII (page 932) shall be used with simulated gastric fluid test solution, listed on page 1026 of The United States Pharmacopeia XVIII, as the immersion fluid, with the time limit of 10 minutes. Any tablets not meeting this standard must recommend chewing in its directions for use. A time limit for disintegration on the chewed tablets is not necessary because the tablet must pass the preliminary antacid test.

The preliminary antacid test is an adaptation of that proposed by the Advisory Review Panel, except that all tablet samples will be in a uniform particle form and wetted with ethanol to prevent any floating particles. In addition, a procedure for chewing gum containing the antacid in the coating has been included.

The major change from the test proposed by the Panel is in the acid neutralizing capacity part of the test. Under the proposed test, the rate of adding the acid to the sample affected the neutralizing capacity value obtained and may have favored the fast-acting strong alkaline ingredients. Since the rate of adding the acid affected the final values, it was impossible to validate that part of the proposed test procedure. Once a product qualifies as an antacid, the critical factor is the product's potential for neutralizing acid, i.e. neutralizing capacity. Therefore, the most appropriate procedure is to add sufficient acid to neutralize all the antacid and back titrate with a basic solution. This change in the test eliminates the rate of addition of acid as a variable and also the problems caused by faster-acting and buffered antacid ingredients.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 321, 352, 355, 371), the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243 as amended; 5 U.S.C. 553, 554, 702, 703, 704), and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs is proposing to revise § 130.305(a)(1) of the tentative final monograph, published in the FEDERAL REGISTER of November 12, 1973 (38 FR 31260), to read as follows:

§ 130.305 Antacids.

* * * * *

(a) * * *

(1) The neutralizing capacity of the products shall be measured in the following way:

(i) *Apparatus and reagents.* (*a*) pH meter, equipped with glass and saturated calomel electrodes.

(*b*) Magnetic stirrer.

(*c*) Magnetic stirring bars (about 40 mm. long and 10 mm. in diameter).

(*d*) 50 ml. buret.

(*e*) Buret stand.

(*f*) 100 ml. beakers (45 mm. inside diameter).

(*g*) 250 ml. beakers.

(*h*) 10 ml., 20 ml. and 30 ml. pipets calibrated to deliver.

(*i*) Tablet comminuting device.

(*j*) Number 20 standard mesh sieve.

(*k*) Tablet disintegration apparatus.

(*l*) 0.1 N, 0.5 N and 1.0 N hydrochloric acid.

(*m*) 0.5 N sodium hydroxide.

(*n*) Standard pH 4.0 buffer solution (0.05 M potassium hydrogen phthalate).

(*o*) 95 percent ethanol.

(ii) *Procedure—(a) Reagent standardization.* Standardize the sodium hydroxide (NaOH) and hydrochloric acid (HCl) solutions according to the procedures in The United States Pharmacopeia XVIII (NaOH page 1036 and HCl page 1034) or the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th Ed., 1970, (NaOH page 876 and HCl page 873).[1]

(*b*) *Disintegration test.* A tablet disintegration test shall be performed on tablets that are not to be chewed following the procedures described in the United States Pharmacopeia XVIII (page 932). If the label states the tablet may be swallowed, it must disintegrate within a 10 minute time limit pursuant to the test procedure using simulated gastric fluid test solution, The United States Pharmacopeia XVIII page 1026, rather than water as the immersion fluid.

(*c*) *Preliminary antacid test—(1) pH meter.* Standardize the pH meter at pH 4.0 with the standardizing buffer and at pH 1.1 with 0.1 NHC1.

(2) *Liquid sample.* Place an accurately weighed and well mixed amount of the antacid product equivalent to the minimum labeled dosage, e.g. 5 ml., into a 100 ml. beaker. Add sufficient water to obtain a total volume of about 40 ml. and mix on magnetic stirrer at 300 ± 30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in subdivision (ii) (*c*) (*6*) of this subparagraph.

(3) *Chewable and non-chewable tablet sample.* Place an accurately weighed amount of a tablet composite equivalent to the minimum labeled dosage into a 100 ml. beaker. (The composite shall be prepared by determining the average weight of not less than 20 tablets and then comminuting the tablets sufficiently to pass through a number 20 standard mesh sieve. Mix the sieved material to obtain a uniform sample.) Add 5 ml. of 95 percent ethanol, mix to thoroughly wet the sample and add water to a volume of 40 ml. and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in subdivision (ii) (*c*) (*6*) of this subparagraph.

(*4*) *Effervescent sample.* Place an amount equivalent to the minimum labeled dosage into a 100 ml. beaker. Add 10 ml. water and swirl the beaker gently while allowing the reaction to subside. Add another 10 ml. of water and swirl the beaker gently. Wash down the walls of the beaker with 20 ml. of water and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in subdivision (ii) (*c*) (*6*) of this subparagraph.

(*5*) *Chewing gum samples with antacid in coating.* Place the number of pieces of gum equivalent to the minimum labeled dosage in a 100 ml. beaker. Add 40 ml. of water and mix on magnetic stirrer at 300±30 r.p.m. for about 2 to 3 minutes. Analyze the sample according to the procedure set forth in subdivision (ii) (*c*) (*6*) of this subparagraph.

(*6*) *Test procedure.* (*i*) Add 10.0 ml. 0.5 HCl to the test solution while stirring on the magnetic stirrer at 300±30 r.p.m.

(*ii*) Stir for exactly 10 minutes.

(*iii*) Read and record pH.

(*iv*) If pH is below 3.5, the product shall not be labeled as an antacid. If the pH is 3.5 or greater, determine the acid neutralizing capacity according to the procedure set forth in subdivision (ii) (*d*) (*6*) of this subparagraph.

(*d*) *Acid neutralizing capacity test—(1) pH meter.* Standardize the pH meter at pH 4.0 with the standardizing buffer and at pH 1.1 with 0.1 N HC1.

(*2*) *Liquid sample.* Place an accurately weighed and well mixed amount of product equivalent to the minimum labeled dosage (e.g. 5 ml., etc.) into a 250 ml. beaker. Add sufficient water to obtain a total volume of about 70 ml. and mix on the magnetic stirrer at 300 ± 30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in subdivision (ii) (*d*) (*6*) of this subparagraph.

(*3*) *Chewable and non-chewable tablet sample.* Place an accurately weighed amount of a tablet composite equivalent to the minimum labeled dosage into a 250 ml. beaker. (The composite shall be prepared by determining the average weight of not less than 20 tablets and then comminuting the tablets sufficiently to pass through a number 20 standard mesh sieve. Mix the sieved material to obtain a uniform sample). Add 5 ml. of 95 percent ethanol, mix to thoroughly wet the sample and add water to a volume of 70 ml. and mix on magnetic stirrer at 300 ± 30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in subdivision (ii) (*d*) (*6*) of this subparagraph.

(*4*) *Effervescent sample.* Place an amount equivalent to the minimum labeled dosage into a 250 ml. beaker. Add 10 ml. water and swirl the beaker gently while allowing the reaction to subside. Add another 10 ml. of water and swirl the beaker gently. Wash down the walls of the beaker with 50 ml. of water and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in subdivision (ii) (*d*) (*6*) of this subparagraph.

(*5*) Chewing gum sample and test procedure *with antacid in coating.* Assay six pieces of gum individually in the following manner.

(*i*) Place one piece of gum in a 250 ml. beaker and add 50 ml. of water.

(*ii*) Pipette in 30.0 ml. of 1.0 N HCl and stir on magnetic stirrer at 300±30 r.p.m.

(*iii*) Stir for exactly 10 minutes.

(*iv*) Stop the stirrer and remove the gum using a long needle or similar utensil.

(*v*) Rinse the long needle or utensil and the gum with 20 ml. of water into the sample beaker.

(*vi*) Stir for exactly 5 minutes.

(*vii*) In a period of time not to exceed 5 minutes titrate the excess 1.0 N HCl with 0.5 N NaOH to pH 3.5.

(*vii*) Check sample solution 10 to 15 seconds after obtaining pH 3.5 to make sure the pH is stable.

(*ix*) Average the results of the six individual assays and calculate the total mEq. based on the minimum labeled dosage as follows:

mEq./piece of gum = (30.0 ml.) (N of HCl) − (ml. of NaOH) (N of NaOH).

Total mEq. = (number of pieces of gum in minimum dosage) × (mEq./piece of gum).

(*6*) *Acid neutralizing capacity test procedure (except chewing gum).* (*i*) *Pipette* 30.0 ml. of 1.0 N HCl into the sample solution while stirring on the magnetic stirrer at 300±30 r.p.m.

(*ii*) Stir for exactly 15 minutes.

(*iii*) In a period not to exceed an additional 5 minutes titrate the excess 1.0 N HCl with 0.5 N NaOH to pH 3.5.

(*iv*) Check the sample solution 10 to 15 seconds after obtaining pH 3.5 to make sure the pH is stable.

(*v*) Calculate the number of mEq. of acid neutralized by the sample as follows:

Total mEq. = (30.0 ml.) (N of HCl) − (ml. of NaOH) (N of NaOH).

Use appropriate factors, i.e. specific gravity, average tablet weight etc. to calculate the total mEq. of acid neutralized per minimum labeled dosage.

(iii) *Test modifications.* The formulation and/or mode of administration of certain products may require modification of this in vitro test. Any proposed modification shall be submitted to the Food and Drug Administration for approval.

* * * * *

Interested persons may file written objections and request an oral hearing before the Commissioner regarding this tentative final order on or before February 21, 1974. To be considered such objections or request shall be received by the Hearing Clerk (rather than simply mailed) by the close of business on or before February 21, 1974. Request for an oral hearing shall specify points to be covered and time requested.

All objections and requests shall be addressed to the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received objections and requests may be seen in the above office during working hours, Mon-

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

day through Friday. Any scheduled oral hearing will be announced in the FEDERAL REGISTER.

Dated: January 16, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-1821 Filed 1-21-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 232]

[FRA Petition No. 93]

NOTICE OF TRAIN AIR BRAKE TEST PROGRAM

Maximum Allowable Brake Pipe Leakage

Notice is hereby given that on January 10, 1974, the FRA Railroad Safety Board approved a test program as set forth below to determine the feasibility of increasing the maximum allowable brake pipe leakage prescribed in §§ 232.12(b)(1) and 232.13(d)(1) from 5 pounds to 8 pounds during below freezing weather on freight trains hauled by locomotives with pressure maintaining type automatic brake valves controlling train air brake operation when the brake pipe pressure gradient (difference between pressures at the head and rear end) does not exceed 15 pounds.

Experience indicates that during cold weather numerous minute brake pipe leaks occcur due to hardening of rubber and gasket materials and shrinkage of metal parts. These leaks are often extremely difficult if not impossible to detect and correct. In these circumstances, attempts to comply with the 5 pound brake pipe leakage limit often results in needless prolonged delays of trains or substantial reductions in the lengths of trains.

Modern locomotive air brake equipment has a pressure maintaining feature which compensates for leakage of more than 10 pounds per minute. This feature holds service brake pipe reduction constant at the value selected by the engineman. In the absence of this feature, brake pipe leakage increases the reduction value selected by the engineman and could increase it to the extent that "overbraking" of the train occurs. Thus, the pressure maintaining feature gives the engineman better control of the train brakes.

APPROVED TEST PROGRAM

Participating Carriers

Southern Railway Company;
The Cincinnati, New Orleans, and Texas Pacific Railway Company;
The Alabama Great Southern Railroad Company;
Union Pacific Railroad Company;
Penn Central Transportation Company;
Chicago and North Western Transportation Company; and
Chicago, Milwaukee, St. Paul and Pacific Railroad.

Test period. January 15–April 15, 1974.

Trains. This test is limited to freight trains other than "run-through" and "unit run-through" trains operated in accordance with 49 C.F.R. 232.10 and interchanged with non-participating carriers, which are hauled by locomotives with pressure maintaining type automatic brake valves controlling train air brake operation.

Mandatory Brake Test Procedures. (1) The air brake system on a freight train prior to making train air brake system tests must be charged to within 15 pounds of the setting of the brake pipe pressure regulating valve on the locomotive, but in no case to less than 60 pounds, as indicated by an accurate gage at rear end of train;

(2) Pressure maintaining feature must be cut out and not functioning during brake pipe leakage tests;

(3) Leakage in excess of 5 pounds per minute, and not exceeding 8 pounds per minute, is permissible if, in the opinion of qualified personnel, the excess leakage is caused by below freezing weather, does not result from equipment defects, and does not constitute a hazard.

Reporting of Test Results. For each 30 day period, a written report summarizing each freight train operation with brake pipe leakage of 5 to 8 pounds per minute must be prepared and sent to Associate Administrator for Safety, RA-60, Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590. Each report must be received within 15 days following the end of the 30 day period and must contain the following:

1. Date and time,
2. Location, also state whether initial terminal or other;
3. Temperature and weather;
4. Type of train (general merchandise, high priority freight, unit, etc.);
5. A description of train consist including number of locomotive units and cars and tonnage;
6. Brake pipe leakage;
7. Statement of delay, if any, caused by working train in attempt to minimize leakage, including description of work done;
8. Narrative description of any significant circumstances other than those tabulated above, including any unusual delays or occurrences enroute which might be connected with train handling, and an estimate of penalty, such as additional delay or extent of train consist reduction, which would have resulted if the leakage has been reduced to 5 pounds per minute.

This notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 C.F.R. 1.49(n).

Issued in Washington, D.C. on January 17, 1974.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.74-1789 Filed 1-21-74;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 73-34; Notice 1]

SCHOOL BUS BODY JOINT STRENGTH

Notice of Proposed Rulemaking

NOTE: This notice is a republication of a similarly-titled notice of proposed rulemaking published January 7, 1974. Due to a clerical error, the notice published reproduced an earlier draft of the signed original. Interested parties should substitute the notice set forth below for the one published January 7, 1974.

This notice proposes a motor vehicle safety standard that will require the sheet metal panels and other structural parts of school bus bodies to be more strongly joined, thereby providing greater safety for school children in crashes.

In several bus accident investigations since 1967, the National Transportation Safety Board (NTSB) has pointed to the failure of sparsely riveted bodies as a factor contributing to deaths and injuries in school bus accidents. The NTSB studies suggest that failure of the bus joints contributes to disintergration of the bus body and occupant ejection, and that the edges of the opened joints cause lacerative injuries.

Upon reviewing the available accident information, the recommendations of the NTSB and the current construction practices in the school bus industry, this agency has tentatively concluded that practicable methods exist to increase the strength of school bus bodies and that the adoption of these methods will save lives and mitigate injuries. The standard hereby proposed will require each joint to have at least 60% of the strength of the weakest joined part. The requirement derives from section 5.6 of the Vehicle Equipment Safety Commission's Regulation VESC-6, *Minimum requirements for school bus design and equipment*, whose adoption has been urged both by the NTSB and by several consumer interest groups, headed by B.U.S. W.R.E.C., who have jointly filed a petition for rulemaking on this subject.

The basic intent of the 60 percent strength requirement is that each joint must be capable of providing a relatively high proportion of the strength of the joined materials. For example, if the sheet metal panels forming the sides of the bus are capable of sustaining a tensile force of 40,000 pounds per square inch of cross sectional area, the joints that connect the panels must be capable of sustaining a force of 24,000 pounds per square inch of cross sectional area. This relative level of strength is well within the capacity of conventional joining methods, and the means of strengthening a deficient joint to reach this level are usually straight-forward: if a riveted joint is took weak, the manufacturer may simply install more rivets, at closer intervals.

In order to bring the basic VESC-6 requirement into a form that satisfies the legal and operational requirements of the motor vehicle safety standards, the agency has included a test procedure to make possible an objective determination of a joint's strength. Under this procedure, a testing agency would cut a joint or joint segment at random from the bus together with specified portions of the joined parts, and subject the resulting test specimen to a tensile test in a tension testing machine. If the specimen withstands the required force before it breaks, that particular portion of the joint satisfies the requirement.

Although the procedure could theoretically produce an indeterminate number of tests, in practice a manufacturer

would choose to test those portions of the joint where the rivets or other bonding agents are most widely separated. This approach of having the manufacturer determine his own "worse case" conforms to NHTSA practice in many other motor vehicle safety standards. Moreover, the uniform pattern of most joints would make repetitious testing unnecessary. The agency therefore anticipates that the procedure will permit the overall strength of a bus's joints to be determined without resorting to an unduly burdensome amount of testing.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: February 15, 1974.

Proposed effective date: January 1, 1976.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8).)

Issued on January 15, 1974.

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

STANDARD NO. 2

SCHOOL BUS BODY JOINT STRENGTH

S1. *Scope.* This standard establishes requirements for the strength of joints in school bus bodies.

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries resulting from the structural collapse of school bus bodies during crashes.

S3. *Application.* This standard applies to school buses.

S4. *Definitions.*

"Body component" means a part made from a single piece of homogeneous material or from a single piece of composite material such as plywood.

"Bus body" means the portion of a bus that encloses the bus's occupant space, exclusive of the bumpers, the chassis frame, and any structure forward of the forwardmost point of the windshield mounting.

"Joint" means the area of contact or close proximity between two or more adjacent body components, excluding spaces designed for ventilation or another functional purpose, and excluding doors, windows and maintenance access panels.

S5. *Requirement.* When tested in accordance with the procedure of S6, each joint in a bus body shall be capable of holding the joined body components together when subjected to a force of 60% of the tensile strength of the weakest joined body component determined pursuant to S6.2.

S6. *Procedure.*

S6.1 *Preparation of the test specimen.*

S6.1.1 If a joint is 8 inches long or longer, measured along its centerline, select at random any 8-inch segment of the joint and cut a test specimen from the bus body so that the specimen's longitudinal centerline is perpendicular to the joint at the midpoint of the joint segment and the specimen's dimensions are as specified in Figure 1 to the extent permitted by the size of the joined parts.

S6.1.2 If a joint is less than 8 inches long, measured along its centerline, cut the joint from the bus body together with enough of the adjacent material to permit it to be held in the tension testing machine specified in S6.3.

S6.1.3 Prepare the test specimen in accordance with the preparation procedures specified in the 1973 edition of the Annual Book of ASTM Standards, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania, 19103.

S6.2 *Determination of minimum allowable strength.* For purposes of determining the minimum allowable joint strength, determine the tensile strengths of the joined body components as follows:

(a) If the mechanical properties of a material are specified by the American Society for Testing and Materials, the relative tensile strength for such a material is the minimum tensile strength specified for that material in the 1973 edition of the Annual Book of ASTM Standards.

(b) If the mechanical properties of a material are not specified by the American Society for Testing and Materials, determine its tensile strength by cutting a specimen from the bus body outside the area of the joint and by testing it in accordance with S6.3.

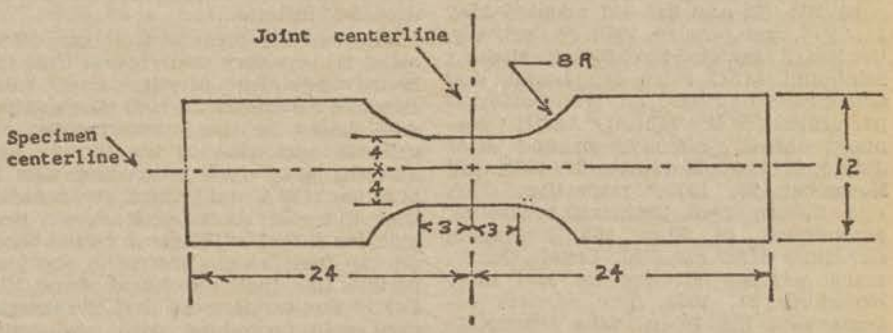
S6.3 *Strength test.*

S6.3.1 Grip the joint specimen on opposite sides of the joint in a tension testing machine calibrated in accordance with Method E 4, Verification of Testing Machines, of the American Society for Testing and Materials (1973 Annual Book of ASTM Standards).

S6.3.2 Adjust the testing machine grips so that the joint, under load, will be in stress approximately perpendicular to the centerline of the joint.

S6.3.3 Apply a tensile force to the specimen at a uniform rate of not less than 10,000 and not more than 100,000 pounds per square inch of joint cross sectional area per minute until the specimen breaks.

FIGURE 1



All dimensions in inches.

[FR Doc.74-1722 Filed 1-21-74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 288]

[Docket No. 26317; EDR-262]

EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Proposed Logair and Quicktrans Minimum Rates

JANUARY 15, 1974.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 288 of the regulations with respect to minimum rates for Logair and Quicktrans domestic cargo charters performed for the Department of Defense (DOD). The principal features of the proposed amendment are discussed in the attached Explanatory Statement, and the text of the proposed amendment is also attached. The Explanatory Statement deals with the petitions filed by

Overseas National Airways, Inc. (ONA)[1] and Saturn Airways, Inc. (Saturn)[2] requesting amendment of Part 288 effective November 21, 1973, with respect to the minimum rates for Logair and Quicktrans services established therein. ONA and Saturn petition the Board to take immediate action to fix interim final minimum rates and, thereafter, that the Board conduct a full-scale rate review.

The Board is proposing in this proceeding to provide for the establishment of prospective interim final rates effective on the date of this Notice, pending completion of a full-scale MAC rate review and the establishment of final rates to be effective on a prospective basis. The amendments are proposed under authority of sections 204, 403 and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386).

Interested persons may participate in the proposed rule providing for the establishment of interim final rates effective on the date of this Notice, through submission of 12 copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before February 21, 1974, will be considered by the Board before taking final action on the proposed rules. Copies of such communication will be available for examination by interested persons in the Docket Section of the Board, Room 714, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

By ER–733 and ER–747 adopted May 11, 1972, and June 30, 1972, respectively, the Board amended Part 288 establishing minimum MAC rates for Logair and Quicktrans domestic air transportation performed for the Military Airlift Command (MAC), effective on and after July 1, 1971. On November 21, 1973, and November 23, 1973,[3] respective, ONA and Saturn filed petitions requesting amendment of Part 288 increasing minimum MAC rates for Logair/Quicktrans services effective on and after November 21, 1973. The carriers request that the Board take immediate action to fix interim final minimum rates[4] and follow this by initiating a full-scale rate review.

Answers were filed by DOD on December 17, 1973, supporting the carriers' request for fixing interim final rates and initiating a full-scale rate review to determine final rates, but conditions its support to the fixing of these rates on a nonadjustable basis and prospectively only.

Upon consideration of the foregoing, the Board has determined to initiate a full-scale review of MAC minimum rates for Logair/Quicktrans services. Pending such review, we are proposing herein amendment to Part 288 to revise, effective as of the date of this Notice, the minimum rates which will be established as interim final rates for Logair and Quicktrans operations.

The Board has reviewed the carriers' petitions, the answers by DOD, and the latest reported results and other available data in reaching the proposals enumerated above. The analytical techniques and adjustments applied are consistent with established Board ratemaking policy and practice. Detailed discussions of the factors underlying these proposals are set out in the subsequent sections of this statement.

THE CARRIERS' PETITION AND DOD ANSWER

A. *Carriers' petition.* Both ONA and Saturn present the same conditions for initiating a rate review—increased costs, particularly fuel prices. The carriers point out that there have been substantial cost increases in all operational areas[5] since the year ended September 30, 1970, the base period for the current Logair and Quicktrans rates, and the price of fuel obtained from military sources alone has risen more than 30 percent between April and September of 1973. Because of these cost escalations, the petitioners contend the MAC rates for domestic services are inadequate and an expedited rate review should be initiated.

The carriers contend that immediate relief is necessary and request that the Board establish interim final rates effective November 21, 1973, the petition date, based on the latest reported results as was done in the foreign and overseas MAC rate proceeding now in progress.[6] ONA and Saturn also indicate that the rate amendment should provide for a fuel adjustment factor based on the fuel prices effective in the base period for fuel purchased from the DOD.[7] The carriers say that the interim final rate procedure, with prospective adjustments as may be required would minimize the amount of retroactive payment necessary to fully compensate the carriers.

ONA claims that based on the reported results for the year ended March 31, 1973, adjusted for stage length and utilization in accordance with the principles established in the last rate review and further adjusted to reflect current fuel prices charged by the military, the DC–9 and L–188 Logair minimum linehaul rate should be $2.0634 per course-flown statute mile. This would be exclusive of $150 per directed landing which ONA claims is inadequate. For the same base period and with the same fuel price adjustment, Saturn claims that the interim final rate should yield $2.13 and $2.23 for L–188 operations and $2.63 and $2.71 for L–100 operations in Logair and Quicktrans services, respectively, per statute mile flown inclusive of $150 for each directed landing, which Saturn also claims as inadequate. No documentation is provided to support either carrier's rate claims.

B. *Answer by DOD.* In its answers filed December 17, 1973, the DOD points to the similarity of the carriers' requests and asks the Board to consolidate Dockets 26132 and 26136. DOD supports the requests for initiating a full-scale rate review for minimum MAC rates in the Logair/Quicktrans operations and for the Board to establish interim final rates pending the completion of this review. DOD agrees that, in view of the three years that have passed since the base period, a rate review is in order. DOD also feels that the interim final rate procedure should be utilized in this proceeding to avoid retroactive rate adjustments. However, it does not concur in the carriers' request for the amended MAC rates to be effective on and after November 21, 1973. It is DOD's position that interim final rate and the ensuing rate determinations based on the full-scale review were contemplated as prospective rates only consistent with the Board's proposals and findings in EDR–249 and ER–819.

DOD contends that the only cost element specifically addressed by the petitions is the cost of fuel supplied by the military. Accordingly, it feels that it would be appropriate for the Board to amend the current rates to provide interim final rates which reflect only fuel increases. The respondent then pursues an analysis which revises the forecasts costs in ER–733 for each aircraft type in Logair and Quicktrans services to reflect the current fuel prices in lieu of those included in the forecasts. On this basis, for interim final rates, DOD would not object to rates that do not exceed $2.0087 and $2.2166 as the linehaul rates per course-flown statute mile for L–100 in Logair and Quicktrans, respectively, and $1.7673 and $1.9194 for L–188 and DC–9 in Logair and Quicktrans, respectively. While DOD recognizes that other cost changes, upward and downward, have taken place since establishment of the current rates, it claims that it is not aware of other net cost changes to warrant any additional adjustments in an interim final rate determination.

The DOD takes further note of Saturn's rate recommendation including $150 per directed landing, as being for an overall single rate per statute mile. DOD assumes that Saturn based its calculations on operational patterns under

[1] Docket 26132

[2] Docket 26136

[3] Although Saturn's petition is dated by the carrier on November 21, 1973, it was not received in the C.A.B. Dockets Section until November 23, 1973.

[4] This MAC ratemaking procedure, aimed at minimizing retroactive rate adjustment, was adopted by the Board in the current foreign and overseas MAC rates review proceeding—See EDR–249, adopted June 5, 1973, pages 11 through 17, and ER–819, adopted August 28, 1973, pages 10 through 13.

[5] The carriers claim that they have experienced increased costs for salaries, maintenance, materials and other general expenses.

[6] ER–819, August 28, 1973.

[7] ER–831, adopted November 14, 1973, provides for automatic fuel price adjustment to Logair and Quicktrans rates based on current fuel price levels.

its present contracts. It illustrates how a single rate could produce unacceptable and marked differences in compensation for revisions in operational patterns when compared with results obtained under the present rate formula structure. Accordingly, it is DOD's contention that the present multielement rate structure should be retained and there is no evidence given to demonstrate that the existing $150 rate per directed landing is inappropriate.

INTERIM FINAL RATES

The determinations herein for the proposed interim final rates to be applied to Logair and Quicktrans services are based on the reported results by ONA and Saturn [6] for the year ended September 30, 1973, after adjustments considered consistent with the Board's established ratemaking policies and practices.[7] This gives consideration to the latest reported net cost and investment changes available. For the purposes of this review, revenues were computed on the basis of revenue plane miles flown, and the results obtained were within a range of two percent of the reported revenues for each equipment category in each class of service. Therefore, we believe that, with such close correlation of course-flown statute miles and reported revenue plane miles flown, the proposed rate amendment findings are reasonable for the purposes of the interim final rate determinations herein.

The basic adjustments applied to the reported expenses and investment were based on the same ratio of nonpolicy adjustments which were made in ER–733, the last Logair/Quicktrans rate review. In addition, we found the reported average daily utilization for each aircraft type flown each carrier in the domestic MAC services, set out in Appendix D–1,[8] to be unreasonably low for the character of the services involved when compared to system results and/or those recognized in ER–733. Accordingly, for the purposes of our interim final rate determinations, we have recognized the level of daily aircraft utilizations as were found in ER–733 to be reasonable in establishing the current rates.

The carriers have indicated that the rates per directed landing are inadequate but have not provided any evidence to support a change in those rates. Accordingly, we propose to maintain the current directed landing rates and multielement rate structure, deferring further consideration of amendments for this rate element and the rate structure to the full-scale rate review. Thus, we will amend the linehaul rates for the proposed interim final rates to obtain the revenue changes found necessary to provide the carriers prospectively with the fair and reasonable rate of return indicated by the adjusted results for the base period.

As set out in Appendix A–2,[8] the reported results for the year ended September 30, 1973, after the adjustments discussed above, indicate that the linehaul revenues obtained from Logair services performed with L–100 aircraft should be increased by 19.24 percent and for these services performed with DC–9/L–188 aircraft should be increased by 11.23 percent. In the Quicktrans operations, we find that the L–100 linehaul revenues need to be increased by 11.20 percent; whereas, the DC–9/L–188 [9] results in the base period indicates that a decrease of 4.28 percent in the linehaul revenues is appropriate for the interim final rate purposes. Since no return provision is warranted for leased equipment, the foregoing revenue adjustments represent the amounts required to provide the carriers with the recognized level of 10.5 percent return, after taxes, on the adjusted reported investment, as detailed in Appendix C.[8]

As correctly pointed out by ONA and Saturn and supported by DOD,[10] the findings above require an amendment to the base fuel prices currently in effect for the automatic fuel price rate adjustment.[11] The current military fuel formula reflects increases above the level experienced in the base year. Accordingly, to properly adjust the proposed interim final rates it is necessary for the fuel price rate adjustment to correspond to military fuel prices which were in effect during the base period. The Board wishes to clarify that this action is being taken prospectively to satisfy the interim final rate amendment findings in this proceeding and shall in no way be construed as a prejudgment of the carriers' petition for reconsideration of ER–831.

There does appear to be a misunderstanding on the carriers' part as to the timing and finality of interim final rates. DOD is correct in its interpretations of the Board's expressions in EDR–249 and ER–819 indicating that the interim final rate procedure, as adopted, contemplates prospective ratemaking and the rates are to be final and not subject to retroactive adjustment, absent unsual circumstances.[12] It was originally intended that such rates would become effective upon adoption of the final rule rather than the Notice date. However, in retrospect, we believe that this places an unfair burden upon the carriers in times of rising costs—and, in reverse, upon the DOD when rates warrant a reduction. Our Notice in EDR–249, issued on June 5, 1973, was not finalized until August 28, 1973, by ER–819, a period of almost three months despite the Board's efforts to expedite the action. We believe that with the Notice proposing to amend the rates, sufficient indication is given to all parties of the Board's intent, and it would be appropriate to fix the date of such Notice as the effective date for the resulting interim rate findings by the Board. Accordingly, we are proposing that the minimum interim final rates for domestic MAC services found to be fair and reasonable in this proceeding, as set out below, shall become effective on the date of this Notice.

Our revision of policy enunciated above above with respect to interim final rate effectiveness should not, in our opinion, significantly impair efforts to minimize MAC rate retroactivity. We emphasize that it is still our intention that the definitive final rate determinations resulting from the full-scale rate review shall become effective prospectively upon our adoption of the final rule. The main problem of extensive retroactivity which has arisen in the past, due to the substantial lapse of time between notice and adoption of the final rule because of the more complex analytical coverage involved in the final rate determinations, will be eliminated. The only retroactivity that will result will be for the relatively short period anticipated between notice of proposed interim final rates and adoption.

As to DOD's request for consolidation of the dockets representing each carrier's individual petition, we agree that it is appropriate to act simultaneously on these dockets within this proceeding.

PROPOSED RULES

It is proposed to amend Part 288 of the Economic Regulations (14 CFR 288) as follows:

Amend 288.7 to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(b) For Logair and Quicktrans services, other than specified in paragraph (c) of this section:

(1) For services provided on and after Janaury 15, 1974:

Aircraft type	Linehaul rate per Course-flown statute mile		Rates per directed landing
	Logair	Quicktrans	
DC–9–30	$1.8152	$1.7079	$150
L–188C	1.8152	1.7079	150
L–100–20/30	2.2367	2.3033	150
AW 650	1.7111		125
DC–6A	1.1535	1.1535	125
DC–8–61F	2.4584	2.5399	275

* * * * *

[6] Revised Form 243 reports filed by Saturn for 1972 and 1973 were reviewed by C.A.B. auditors and found acceptable for interim ratemaking purposes.

[7] Similar to the analyses accorded the carriers' reported results upon which the interim final rates for foreign and overseas MAC services were determined in ER–819.

[8] Appendices A–1 through D–3 filed as part of the original document.

[9] Although no DC–9 aircraft were operated in Quicktrans services during the base year, the DC–9 and L–188 aircraft were commonrated. Thus, the findings here are based on the L–188 experience.

[10] DOD would provide for fuel price changes from those reflected in ER–733; however, this proposal is based on a rate adjustment keyed to the ER–733 forecasts.

[11] As established in ER–831, November 14, 1973.

[12] Amended interim final rates would also be effective prospectively, if such rate adjustments were found to be required pending completion of the full-scale review which are also prospective.

Provided, however, that, effective January 15, 1974, if the price of any fuel product purchased from DOD for such services varies from the base levels specified below, the total minimum compensation for the transportation provided shall be adjusted (either upward or downward, as the case may be) by the difference in the price per gallon for such product paid by the carrier and the price specified for such product below, times the number of U.S. gallons of such product purchased by the carrier from DOD for the transportation provided:

The base levels are as follows:

	Standard price per U.S. gallon
AV gas:	
115/145	$0.20
100/130	.38
91/96	.38
80/87	.38
Jet:	
JP-4	.113
JP-5	.123

[FR Doc.74-1796 Filed 1-21-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 419]

PETROLEUM REFINING POINT SOURCE CATEGORY PROPOSED EFFLUENT LIMITATIONS GUIDELINES AND NEW SOURCE STANDARDS

Extension of Time for Comments

On December 14, 1973, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking 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, et seq. (38 FR 34542). The proposed regulation establishes effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the petroleum refining point source category. The due date for comments provided in the notice was January 14, 1974.

EPA anticipated that the "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category" and the "Economic Analysis of Proposed Effluent Guidelines Petroleum Refining Industry," which contain information pertinent to the proposed regulation, would be available to the public throughout the comment period. Production difficulties, however, have delayed the availability of the Development Document and the Economic analysis report. The Agency believes that members of the public should have an opportunity to review the Development Document and the Economic Document in connection with their review of the proposed regulation. Accordingly, the date for submission of comments is hereby extended to and including February 10, 1974.

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

JANUARY 17, 1974.

[FR Doc.74-1803 Filed 1-21-74;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 337]

UNSAFE AND UNSOUND BANKING PRACTICES

Proposed Restrictions and Disclosure Requirements Governing Letters of Credit

1. Notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation, under the authority contained in sec. 2[9], 64 Stat. 881; 12 U.S.C. § 1819, is considering the addition of a new Part 337 to Title 12 of the Code of Federal Regulations, as set forth below.

The immediate purpose of the proposed Part 337 is to establish reasonable guidelines for certain letter of credit practices which are likely to have adverse effects on the safety and soundness of insured State nonmember banks of which are likely to result in violations of law, rule, or regulation. The Board of Directors of the Federal Deposit Insurance Corporation has determined that a violation of these guidelines may constitute an unsafe or unsound banking practice or result in a violation of a law, rule, or regulation which would warrant resort to the enforcement procedures set forth in section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. section 1818(b)). Consequently the Board has decided to promulgate these guidelines as regulations so as to provide guidance to those banks which are subject to the Corporation's jurisdiction and thereby obviate the delay, expense and uncertainty which would otherwise be involved in proceedings under section 8(b) of the Act.

The proposal seeks to impose reasonable limitations on the practices in question which will neither place an undue burden on individual members of the banking industry nor disrupt existing transactions to any greater extent than that necessary to accomplish the desired result. The form of the proposal fits the general statutory scheme embodied in section 8 of the Federal Deposit Insurance Act. Its primary function is to serve as a basis for voluntary compliance with the provisions of the Act by establishing guidelines for such compliance. Failure to comply with these guidelines may necessitate corrective action on the part of the Corporation.

The Corporation recognizes that letters of credit play an undeniably important role in modern commercial banking and can be used to serve a variety of legitimate purposes. By pledging its credit at the request and for the account of a customer, a bank can facilitate a wide range of commercial transactions which the parties involved therein might otherwise find difficult or impossible to carry on. As an example, letters of credit have historically been employed by banks in the United States to facilitate the purchase and sale of goods in international commerce. More recently, letters of credit have been used to facilitate domestic transactions involving the rendition of services as well as the sale or movement of goods in commerce.

Generally speaking, a letter of credit is any arrangement (however named or described) under which a bank, at the request and for the account of a customer, commits itself to make payment to or to the order of a third person (the "beneficiary"), or is to pay, accept or negotiate drafts drawn by such third person, or authorizes such payments to be made or such drafts to be paid, accepted, or negotiated by another bank. The commitment may be revocable or irrevocable. It is usually conditional in the sense that the bank's obligation to make such payments arises only upon the occurrence of certain specified events. However, the occurrence or nonoccurrence of such events normally depends upon the acts or omissions of third parties, thus placing them beyond the control of the bank.

As a practical matter, a bank may be called upon to honor its commitment under a letter of credit due to circumstances entirely beyond its control. While such commitments may not be inherently unsafe or unsound, or necessarily result in any violation of a law, rule, or regulation, they entail substantial risks for those banks which fail to take adequate steps to assure themselves of reimbursement by their customers. It is the Corporation's view that actuarial projections as to the probability of occurrence or nonoccurrence of a given event or series of events should never become a substitute for sound credit judgments.

Whenever a bank becomes obligated to and does in fact make payment to the beneficiary of a letter of credit, it extends an equivalent amount of credit to its customer to the extent that the customer fails to immediately reimburse the bank for such payment. This may place the bank in the position of violating State or Federal laws limiting such extensions of credit. It may also constitute an unsafe or unsound banking practice in those instances where the customer is unable to repay the credit extended.

In the case of so-called "guaranty" or "standby" letters of credit, the bank's obligation to pay the beneficiary may be triggered by the customer's nonperformance of an obligation to the beneficiary. As such nonperformance is often indicative of the customer's insolvent condition, the bank issuing the letter of credit is faced with taking a loss as a result of the customer's inability to make reimbursement. Unless the bank has obtained security to cover its potential exposure, it will be placed in the same position as it would have been in had it initially made an unsecured loan to the customer. The bank's risk exposure arises when the loan is made or when the letter of credit is issued; in both instances the kind and amount of risk exposure is the same.

For these reasons, the Corporation believes an insured State nonmember bank should apply the same credit evaluation techniques when issuing a letter of credit that it would apply when making a loan in an equivalent amount to its customer. Except in the case of

prepaid letters of credit, or of so-called "commercial documentary" letters of credit where the bank's potential liability is usually covered by documents of title and immediate reimbursement by the customer is contemplated, insured State nonmember banks should avoid issuing letters of credit which, if treated as loans to the customer, would exceed applicable State or federal lending limits. Insured State nonmember banks should also maintain adequate control and subsidiary records of their letters of credit. This means that such records should contain information comparable to that maintained for the bank's direct loans. In addition, such letters of credit should be adequately reflected on a bank's published financial statements.

In the Corporation's view, a failure to take the essential, minimum steps outlined above would itself be a sufficiently unsafe or unsound banking practices as to warrant corrective action on the part of the Corporation.

The following guidelines apply to letters of credit other than a letter of credit:

(1) Which has been fully paid for by the customer prior to or at the time of issue; or,

(2) Which is used to facilitate the purchase and sale of goods; which is in an amount that is reasonably related to the anticipated cost of facilitating the purchase and sale; and which requires presentation of title documents, invoices or other documents evidencing such purchase and sale, or alternatively, under which the bank obtains funds or other collateral (other than obligations of the party for whose account the letter of credit is issued) securing any and all payments the bank may be called upon to make under the letter of credit.

2. Chapter III of Title 12 of the Code of Federal Regulations is amended by adding a new Part 337 which reads as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

Sec.
337.1 Scope.
337.2 Letters of credit.
337.3–337.9 [Reserved]
337.10 Waiver.
337.11 Effect on other banking practices.

§ 337.1 Scope.

The provisions of this part apply to certain banking practices which are likely to have adverse effects on the safety and soundness of insured State nonmember banks or which are likely to result in violations of law, rule, or regulation.

§ 337.2 Letters of credit.

(a) *Restriction.* No insured State nonmember bank shall issue any letter of credit (which shall for purposes of this § 337.2 include any similar arrangement, however named or described) or make any loan which in maximum amount, considered in the aggregate with all other letters of credit and loans, would be in excess of any legal limitation on loans of the bank (including limitations on loans to any one borrower, on loans to affiliates of the bank, or on aggregate loans) at the time of issuance of such letter of credit. The creation of an acceptance shall be considered a "similar arrangement" unless subject to legal limitations under applicable state law or regulation.

(b) *Exceptions.* A letter of credit (including any similar arrangement) shall not be subject to the provisions of this section 337.2 if:

(1) Prior to or at the time of issuance, the issuing bank is paid an amount equal to the bank's maximum liability under the letter of credit; or,

(2) (i) The letter of credit is issued to facilitate the purchase and sale of goods, (ii) the maximum amount the bank is obligated to pay under the letter of credit is reasonably related to the anticipated cost of facilitating the purchase and sale, and (iii) the letter of credit requires presentation of title documents, invoices or other documents evidencing such purchase and sale, or alternatively, the issuing bank obtains funds or other collateral (other than obligations of the party for whose account the letter of credit is issued) securing any and all payments the bank may be called upon to make under the letter of credit.

(c) *Disclosure.* The bank must maintain adequate control and subsidiary records of its letters of credit comparable to the records maintained in connection with the bank's direct loans so that at all times the bank's potential liability thereunder and the bank's compliance with this section may be readily determined. In addition, all such letters of credit must be adequately reflected on the bank's published financial statements.

§§ 337.3–337.9 [Reserved]

§ 337.10 Waiver.

An insured State nonmember bank has the right to petition the Board of Directors of the Corporation for a waiver of this Part or any subpart thereof in respect of any particular transaction or series of similar transactions. A waiver may be granted at the discretion of the Board upon a showing of good cause.

§ 337.11 Effect on other banking practices.

Nothing in this part shall be construed as restricting in any manner the Corporation's authority to deal with any banking practice which is deemed to be unsafe or unsound or otherwise not in accordance with law, rule, or regulation; or which violates any condition imposed in writing by the Corporation in connection with the granting of any application or other request by an insured State nonmember bank, or any written agreement entered into by such bank with the Corporation. Compliance with the provisions of this Part shall not relieve an insured State nonmember bank from its duty to conduct its operations in a safe and sound manner nor prevent the Corporation from taking whatever action it deems necessary and desirable to deal with specific acts or practices which, although they do not violate the provisions of this Part, are considered detrimental to the safety and sound operation of the bank engaged therein.

3. This notice is published pursuant to section 553(b) of Title 5, United States Code, and §§ 302.1–302.5 of the rules and regulations of the Federal Deposit Insurance Corporation.

4. Interested persons are invited to submit written data, views or arguments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429, no later than March 15, 1974.

By order of the Board of Directors, January 16, 1974.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.74–1777 Filed 1–21–74;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 73–1827]

FEDERAL SAVINGS AND LOAN SYSTEM

Service Corporations

DECEMBER 14, 1973.

The Federal Home Loan Bank Board considers it desirable to propose amendments to § 545.9–1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.9–1) for the purpose of revising the limitations on Federal association investment in service corporations and revising the debt limitations on service corporations in which Federal associations may invest.

Paragraph (c) of § 545.9–1 sets forth the limitations on investment by a Federal association in service corporations, and subsidiaries and joint ventures thereof. The first sentence of said paragraph (c) requires, among other things, that "all loans, secured and unsecured, to service corporations, or any subsidiaries thereof, and to joint ventures of such service corporations or subsidiaries, whether or not the Federal association is a stockholder in such service corporations" must be included in computing the amount a Federal association has invested in service corporations. The third sentence of said paragraph (c) provides that certain loans made by a Federal association to certain service corporations are not included in computing the amount of the Federal association's investment in service corporations. Such third sentence provides that, "The limitation in the first sentence of this paragraph shall not be applicable to secured loans which are made under authority other than the investment authority contained in this section to any service corporation which qualifies as a service corporation under paragraph (a) of this section or to any service corporation in which the lending association does not have any investment made under the authority of this section".

The Board proposes to revise the third sentence of § 545.9–1(c) so that it will provide that, "The limitation in the first sentence of this paragraph shall not be applicable to secured loans which are made under authority other than the investment authority contained in this section". The effect of this revision is to expand the exception set forth in the third sentence to include a service corporation which qualifies as a service corporation under paragraph (b) of § 545.9–1 and in which the lending association has an investment.

The Board also proposes to revise the limitations on the amount of debt which may be incurred by service corporations in which Federal associations may invest. Such service corporations are commonly categorized by the number of their savings and loan stockholders. The number of savings and loan stockholders which a service corporation has also provides the basis for determining the amount of debt it may incur. Type "a" service corporations (so-called "statewide" service corporations) are those which meet the stock ownership requirements of subparagraphs (1), (2) and (3) of § 545.9–1(a). One of those requirements is that, with certain exceptions, not more than 10 percent of the outstanding capital stock of such service corporation may be owned by any one savings and loan association. Further, the entire capital stock of such service corporation must be available for purchase by, and only by, any and all savings and loans with a home office in the State, District, Commonwealth, territory or possession where the service corporation is incorporated. There are no debt limitations on type "a" service corporations because of the required diverse ownership of their stock.

Type "f–1" service corporations in which a Federal association may invest are those in which 5 or more savings and loan associations (including any Federal association) hold capital stock and no one such association holds more than 40 percent of such stock. The debt limitations for type "b–1" service corporations are set forth in § 545.9–1(b)(3)(i). Because of the diverse ownership of type "b–1" service corporations, the Board proposes to remove the debt limitations on such service corporations.

Type "b–2" service corporations in which a Federal association may invest are those in which less than 5 savings and loan associations (including any Federal association) hold capital stock or one such association holds more than 40 percent of such stock. The debt limitations for type "b–2" service corporations are set forth in § 545.9–1(b)(3)(ii). The Board proposes to revise the debt limitations on type "b–2" service corporations in several respects.

First, if the Board removes the debt limitations on type "b–1" service corporations, then the provisions of subdivision (i) of § 545.9–1(b)(3) would be revoked and subdivisions (ii), (iii) and (iv) would be redesignated as subdivisions (i), (ii) and (iii) respectively.

Second, subdivisions (*a*)(2) and (*b*)(2) of present § 545.9–1(b)(3)(ii) would be revised so that secured and unsecured debt may be a multiple of the entire net worth of the service corporation (rather than only the investment in the capital stock thereof) plus the investment in unsecured debt of such corporation by the holder or holders of its capital stock. The phrase "obligations or other securities * * * excluding secured debt owned by such corporation to such holder or holders" would be changed to "unsecured debt" in order to simplify the provision. No change in substance is intended by this amendment.

Second, subdivision (*b*) of present § 545.9–1(b)(3)(ii) would be revised so that 75 percent of the debt secured by real estate owned by the service corporation or any subsidiary would not be included in the debt limitations applicable to type "b–2" service corporations. This revision would expand the capacity of type "b–2" service corporations to enter into real estate development transactions.

Third, a new subdivision (*c*) would be added to present § 545.9–1(b)(3)(ii) in order to create a new alternative secured debt limitation for type "b–2" service corporations engaged solely in the activities specified in § 545.9–1(a)(4)(i)(*a*). Those activities are originating, purchasing, selling and servicing "loans, and participations in loans, on a prudent basis and secured by real estate, including brokerage and warehousing of such real estate loans". The debt limitation would be 20 times such a service corporation's net worth plus the investment in unsecured debt of such corporation by the holder or holders of its capital stock.

Fourth, the substance of the parenthetical clause "secured debt will be deemed to be unsecured for the purposes of this subparagraph (3) to the extent that such debt exceeds the market value of any security therefor" which appears in present § 545.9–1(b)(3)(i) would be set forth at the end of the new subdivision (*c*) of present § 545.9–1(b)(3)(ii).

Fifth, the words "incur or" would be removed from present § 545.9–1(b)(3)(ii) for the purpose of clarification.

The debt limitations for a type "b–2" service corporation set forth in present § 545.9–1(b)(3)(ii) include the debt of "any subsidiary" of such service corporation. While the term "joint venture" as used in § 545.9–1 is defined in paragraph (k) thereof, the term "subsidiary" as used in § 545.9–1 is not defined therein. In order to clarify the meaning of the term "subsidiary" as used in § 545.9–1, the Board proposes to add a definition thereof in § 545.9–1(k) and to make a conforming change to the definition of "joint venture". The term "subsidiary" would be defined to include any wholly-owned subsidiary and certain "joint ventures" of a service corporation or wholly-owned subsidiary thereof.

Accordingly, the Board hereby proposes to amend said Part 545 by revising paragraphs (b)(3), (c) and (k) of § 545.9–1 thereof to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by February 25, 1974 as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 545.9–1 Service corporations.

* * * * *

(b) *Other service corporations.* In addition to investment in a service corporation which meets the requirements of paragraph (a) of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of the association is located if:

* * * * *

(3) The following limitations are complied with:

(i) If less than 5 savings and loan associations (including any Federal association) hold capital stock in such corporation, or one such association holds more than 40 percent of such stock, such corporation, including any subsidiary, does not have outstanding at any time debt in excess of the following limitations:

(*a*) In the case of unsecured debt, other than to a holder of its capital stock, the lesser of an amount equal to (*1*) 1 percent of the assets of the holder or holders of its capital stock, or (*2*) its net worth plus the investment in unsecured debt of such corporation by the holder or holders of its capital stock;

(*b*) In the case of unsecured debt, except as permitted by paragraph (b)(3)(i)(*c*) of this section, other than to a holder of its capital stock and other than 75 percent of debt secured by real estate owned by such corporation or any subsidiary, the lesser of an amount equal to (*1*) 4 percent of the assets of the holder or holders of its capital stock, or (*2*) 4 times its net worth plus the investment in unsecured debt of such corporation by the holder or holders of its capital stock; and

(*c*) In the case of secured debt, other than to a holder of its capital stock, of such a service corporation engaged, directly and indirectly, solely in the activities specified in paragraph (a)(4)(i)(*a*) of this section, an amount not greater than 20 times its net worth plus the investment in unsecured debt of such corporation by the holder or holders of its capital stock. Secured debt will be deemed to be unsecured for the purposes of this subdivision (i) to the extent that

such debt exceeds the market value of any security therefor.

(ii) In the case of a service corporation of the type described in paragraph (b)(3)(i) of this section, the approval of the Board is required before any activity of such service corporation is performed through one or more joint ventures if a director, officer or controlling person of any savings and loan association owning any of such service corporation's capital stock has a direct or indirect beneficial interest in the joint venture.

(iii) In the case of a service corporation of the type described in paragraph (b)(3)(i) of this section, the approval of the Board is required for any investment

(*a*) By a Federal association in such a service corporation or in a corporation which will become such a service corporation as a result of such investment, and

(*b*) By such a service corporation directly or indirectly through one or more wholly-owned subsidiaries or joint ventures of such service corporation

if the purpose of such investment is to acquire a going business for an amount exceeding the fair market value of the tangible net assets attributable to that business from a director or officer of a Federal association which owns any of the capital stock of such a service corporation or from an entity in which a director or officer of such Federal association has a direct or indirect beneficial interest or is a director, officer, controlling person, partner or trustee.

(c) *Limitations.* A Federal association may not make any investment under this section if its aggregate outstanding investment in the capital stock, obligations, or other securities of service corporations and subsidiaries thereof (including all loans, secured and unsecured, to service corporations, or any subsidiaries thereof, and to joint ventures of such service corporations or subsidiaries, whether or not the Federal association is a stockholder in such service corporations) would thereupon exceed 1 percent of the association's assets. For the purposes of this section, the term "aggregate outstanding investment" means the sum of amounts paid for the acquisition of capital stock or securities and amounts invested in obligations of service corporations less amounts received from the sale of capital stock or securities of service corporations and amounts paid to the Federal association to retire obligations of service corporations. The limitation in the first sentence of this paragraph shall not be applicable to secured loans which are made under authority other than the investment authority contained in this section.

* * * * *

(k) *Definitions.* As used in this section—

(1) The term "joint venture" means any joint undertaking by a service corporation or a wholly-owned subsidiary thereof with one or more persons or legal entities in any form, including a joint tenancy, tenancy in common, or partnership and including investment in a corporation other than a wholly-owned subsidiary.

(2) The term "subsidiary" includes a wholly-owned subsidiary and any joint venture in which a service corporation or wholly-owned subsidiary thereof (i) owns, controls or holds with power to vote more than 25 percent of the capital stock, (ii) is a general partner, or (iii) is a limited partner and has contributed more than 25 percent of the limited partnership's capital.

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

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.74-1747 Filed 1-21-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

[41 CFR Part 25–9]

INVENTIONS MADE WITH FOUNDATION AWARDS

Proposal Regarding Disposition of Rights

This proposed addition to the National Science Foundation Procurement Regulations System prescribes policies, procedures, and clauses with respect to rights in inventions made in the course of or under Foundation awards and certain related matters. After comments on the proposed regulations have been received and analyzed, they will be revised as appropriate, and the new regulations will be issued on or before March 4, 1974.

Interested persons are invited to submit written comments on these regulations to the Director, National Science Foundation, ATTN: Office of General Counsel, Washington, D.C. 20550 by February 20, 1974.

The table of parts is proposed to be revised to add the following entry: 25–9, Patents, Data, and Copyrights.

Part 25–9 is proposed to be added to read as follows:

PART 25–9—PATENTS, DATA, AND COPYRIGHTS

Subpart 25–9.1—Patents

Subpart 25–9.1—Patents

§ 25–9.100 Scope of subpart.

The subpart sets forth policies, procedures, and clauses with respect to rights in inventions made in the course of or under grants, contracts, fellowships, and other arrangements entered into by the National Science Foundation.

§ 25–9.100–50.1 Definitions.

As used in this subpart—

(a) The term "award" includes grants, contracts, and other arrangements entered into by the Foundation which are made for the purpose of supporting experimental, developmental, or research work or which contain a significant element of any such activity. Examples of such awards include scientific research project grants, student originated studies, and research contracts. For the purpose of this subpart, the term "award" does not include grants, contracts or other arrangements which do not require substantial experimental or research work such as facilities and equipment grants, institutional formula grants, grants for the conduct of summer institutes, and travel and conference grants. The term "award" also includes fellowships;

(b) The term "Director" means the Director of the Foundation;

(c) The term "Foundation" means the National Science Foundation;

(d) The term "grantee" means the recipient of an award, and may, as the context requires, include subcontractors of a grantee at any tier;

(e) The term "invention" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country;

(f) The term "to the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public; and

(g) The term "President's Policy" means the President's Statement of Government Patent Policy issued August 23, 1971 (36 FR 16887, Aug. 26, 1971).

§ 25–9.100–50.2 Source of authority.

Section 12(a) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1871(a)) provides as follows:

> Each contract or other arrangement executed pursuant to this Act which relates to scientific research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed; Provided, however, That nothing in this Act shall be construed to authorize the Foundation to enter into any contractual or other arrangement inconsistent with any

provisions of law affecting the issuance or use of patents.

The President's Policy provides guidance as to basic policies to be followed by executive agencies with respect to inventions or discoveries made in the course of their awards. The provisions set forth in this subpart are intended to implement the National Science Foundation Act in accordance with the basic guidelines and philosophy of the President's Policy and, with respect to contracts, in accordance with the provisions of the Federal Procurement Regulations.

§ 25–9.107–4 Procedures for selection of contract clauses.

(a) Except as provided in paragraphs (b) and (c) of this section, all Foundation contracts of the type described in 41 CFR 1–9.107–4(a) shall contain the following clause:

PATENT RIGHTS—OPTION IN THE GOVERNMENT

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Disposition of principal rights.*—(1) *Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are obtained by the Contractor under paragraphs (b) (2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor, or the employee-inventor with authorization of the Contractor, may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1–9.109–6 and 41 CFR 25–9.109–6. A request for a determination whether the contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (e) (2) (i) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 25–9.109–6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the agency.

(c) *Minimum rights granted to the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency), States and domestic municipal governments, unless the agency head determines after the invention has been identified that it would not be in the public interest to acquire the license for States and domestic municipal governments;

(2) Agrees to grant, upon request of the Government, a license on terms that are reasonable under the circumstances to responsible applicants;

(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application or that the invention has been made available for licensing royalty free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(ii) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health or safety needs, or for other public purposes stipulated in this contract;

(3) Shall submit written reports at reasonable intervals, upon request of the Government, during the term of the patent on the Subject Invention regarding

(i) The commercial use that is being made or is intended to be made of such invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing;

(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the invention; and

(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c) (1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information as required by paragraph (c) (3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

(d) *Minimum rights to the Contractor.*

(1) As to each Subject Invention upon which the Government files patent applications, a *revocable*, nonexclusive, paid-up license shall be reserved to the Contractor for the practice of such invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia and in any foreign country where the Government files a patent application. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive license reserved pursuant to paragraph (d) (1) of this clause may be revoked or modified by the agency, either in whole or in part, as to the United States, its territories and possessions, Puerto Rico, and the District of Columbia to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101–4.103–3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101–4.104–3. This license shall not be revoked in the field of use and/or geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d) (1) of this clause may be revoked or modified, either in whole or in part, in the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d) (2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license and the Contractor shall be allowed 30 days after such notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license.

(e) *Invention identification, disclosures and reports.* (1) The Contractor shall establish and maintain active and effective procedures to assure that Subject Inventions are promptly identified. These procedures shall include the maintenance of laboratory notebooks and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of inventions resulting from this contract, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention, within 6 months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor and be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports at least every 12 months from the date of the contract certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period; and

(B) All Subject Inventions have been disclosed or that there are no such inventions; and

(iii) An acceptable final report, within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except clerical and manual labor personnel.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government all rights on any Subject Invention which he fails to report to the Contracting Officer at or prior to the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e)(2)(iii) of this clause, whichever is later; except that the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (i) or (ii) of this paragraph (f), the Contractor:

(A) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or

(B) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(C) Establishes that the failure to disclose did not result from his fault or negligence.

(2) Pending written assignment of the patent applications and patents on a Subject Invention determined (such determination to be a final decision under the Disputes Clause) by the Contracting Officer to be forfeited, the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative shall, until the expiration of 3 years after final payment under this contract, have the right to examine any books, records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause.

(2) The Contracting Officer shall have the right to review all records and documents of the Contractor relating to the conception or first actual reduction of inventions to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e)(1) of this clause; or

(ii) Maintain or follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Withholding of payment.* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding $50,000 or 5% of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish and maintain effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or

(iii) Deliver the interim reports pursuant to paragraph (e)(2)(ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

The reserve or balance shall be retained until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause and the final report required by (e)(2)(iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization the maximum amount that may be withheld under this paragraph shall not exceed $50,000 or 1% of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) The Contractor shall, unless otherwise authorized or directed by the Government Contracting Officer, include this Patent Rights clause, except paragraph (h) of this clause, modified to identify the parties in any subcontract hereunder if a purpose of the subcontract is for the conduct of experimental, developmental or research work. In the event of refusal by a Subcontractor to accept this clause, or if in the opinion of the Contractor this clause is inconsistent with the policy set forth in 41 CFR 1-9.107-3, the Contractor:

(i) Shall promptly submit written notice to the Government Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using such a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments and other information required to be furnished by the Subcontractor to the Government Contracting Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(5) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnished a copy of the subcontract. If there are no subcontracts containing Patent Rights clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(6) The Contractor shall exert his best effort to identify all Subject Inventions of the Subcontractor and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the Subcontractor's obligations for the benfit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government in regard to Subject Inventions.

(b) Except where the contract is (i) for the operation of a Government-owned research facility, or (ii) when paragraph (c) of this section applies, or (iii) where the contractor has an Institutional Patent Agreement pursuant to § 25-9.150-5 of this subpart, all contracts of the type described in 41 CFR 1-9.107-4(a) which are with nonprofit or not-for-profit organizations (including educational institutions) shall contain the following clause:

PATENT RIGHTS—OPTION IN THE GOVERNMENT (SHORT FORM)

(a) *Definitions.* "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(b) *Invention disclosures and reports.* (1) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention, within 6 months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. Such disclosure shall identify the contract and inventor, and be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports at least every 12 months from the date of the contract certifying that all Subject Inventions have been disclosed or that there are no such inventions; and

(iii) An acceptable final report, within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(c) *Disposition of principal rights.* (1) The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject

Invention, except to the extent that rights are obtained by the Contractor under paragraphs (c)(2) and (d) of this clause.

(2) The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1–9.109–6 and 41 CFR 25–9.109–6. A request for a determination of whether the Contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (b)(1) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1–9.109–6 and 41 CFR 25–9.109–6. Each determination of greater rights under this contract shall be subject to the provisions of paragraph (c) "Minimum rights granted to the Government" of the clause in 41 CFR 1–9.107–5(a),[1] and to the reservations and conditions deemed appropriate by the agency.

(d) *Minimum rights to the Contractor.* For each Subject Invention upon which the Government files a patent application, the Government shall, upon request, reserve to the Contractor a revocable, nonexclusive, royalty-free license for the practice of the invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia, and in any foreign country where the Government files a patent application. Revocation shall be in accordance with the procedure of paragraphs (d)(2) and (3) of the clause at 41 CFR 1–9.107–5(a).[2]

(e) *Employee and Subcontractor agreements.* Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract except clerical and manual labor personnel;

(2) Insert in each subcontract, having experimental, developmental, or research work as one of its purposes provisions making this clause applicable to the Subcontractor and his employees; and

(3) Promptly notify the Contracting Officer of the award of any such subcontract by providing him with a copy of such subcontract and any amendments thereto.

(c)(1) At the request of a prospective contractor, special provisions other than those provided in paragraphs (a) and (b) of this section may be negotiated where the award falls within 41 CFR 1–9.107–3(b) or where exceptional circumstances as set forth in 41 CFR 1–9.107–3(a) exist. In accordance with 41 CFR 1–9.107–3(c), such provisions may also be negotiated at the time of award with educational or other nonprofit or not-for-profit institutions having a demonstrated capability for effective patent management; provided that in such cases the provisions shall include the features described in § 25–9.150–5(c) of this subpart.

(2) In negotiating such special provisions, Section 12(a) of the National Science Foundation Act, as amended, and the President's Policy will be followed.

(3) In the case of negotiations involving contracts falling within 41 CFR 1–9.107–3(b), the clause at paragraph (a) of this section shall be used, except that the name of the clause shall be changed to "Patent Rights—Option in the Contractor", paragraph (b) of that clause shall be replaced by the following paragraph (b), and the following paragraphs (j) and (k) shall be added:

(b) *Disposition of principal rights.* (1) The Contractor may retain the entire right, title, and interest throughout the world or in any country thereof in and to each Subject Invention disclosed pursuant to paragraph (e)(2)(i) of this clause, subject to the rights obtained by the Government in paragraph (c) of this clause. The Contractor shall include with each Subject Invention disclosure an election as to whether he will retain the entire right, title, and interest in the invention throughout the world or any country thereof.

(2) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights; or

(ii) Fails to have a United States patent application filed on the invention in accordance with paragraph (j) of this clause, or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.

(3) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire, right, title, and interest in any Subject Invention in any foreign country if the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (k) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. In such event, the Contractor shall notify the Contracting Officer not less than sixty (60) days before the expiration period for any action required by the foreign patent office.

(4) A conveyance, requested pursuant to paragraph (b)(2) or (3) of this clause shall be made by delivering to the Contracting Officer duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest to enable the Government to apply for, prosecute patent applications covering the

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[1] This paragraph shall be deemed to read as follows:

"*Minimum rights granted to the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

"(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency), State and domestic municipal governments, unless the agency head determines after the invention has been identified that it would not be in the public interest to acquire the license for States and domestic municipal governments;

"(2) Agrees to grant to responsible applicants, upon request of the Government, an exclusive or nonexclusive license on terms that are reasonable under the circumstances:

"(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to being the invention to the point of practical application, or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

"(ii) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health or safety needs, or for other public purposes stipulated in this contract;

"(3) Shall submit written reports at reasonable intervals upon request of the Government, for the term of the patent on the Subject Invention, as to:

"(i) The commercial use that is being made or is intended to be made of such invention; and

"(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application, or to make the invention available for licensing;

"(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for such refund in any instrument transferring rights to any party in the invention.

"(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c)(1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by paragraph (c)(2) of this clause, and for the reporting of utilization information as required by paragraph (c)(3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention."

[2] Paragraphs (d)(2) and (3) referenced in paragraph (d) of this clause shall be deemed to read as follows:

"(2) The Contractor's nonexclusive license reserved pursuant to paragraph (d) of this clause may be revoked or modified by the agency, either in whole or in part, as to the United States, its territories and possessions, Puerto Rico, and the District of Columbia to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101–4.103–3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101–4.104–3. This license shall not be revoked in the field of use and/or geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d) of this clause may be revoked or modified, either in whole or in part, in the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in such foreign country.

"(3) Before modification or revocation of the license, pursuant to paragraph (d)(2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license, and the Contractor shall be allowed 30 days after such notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license."

invention in this or the foreign country, respectively, or otherwise establish its ownership in such invention.

(j) *Filing of domestic patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e)(2)(i) of this clause, or such longer period as may be approved by the Contracting Officer for good cause shown in writing by the Contractor. With respect to the invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

(2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

(i) Within 2 months after such filing, or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed including the filing date and serial number;

(ii) Include the following statement in the second paragraph of the specification of the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. _____ (or Grant No. _____) awarded by the National Science Foundation."

(iii) Within 6 months after filing the application or within 6 months after submission of the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly approved, executed and recorded instrument on a form specified by the Government fully confirmatory of all rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application;

(iv) Provide the Contracting Officer with a copy of the patent within 2 months after a patent issues on the application; and

(v) Not less than 30 days before the expiration of the response period for any action required by the Patent Office, notify the agency of any decision not to continue prosecution of the application and deliver to the Contracting Officer executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of such invention which may constitute a statutory bar under 35 USC 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) *Filing of foreign patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain rights in a foreign country pursuant to paragraph (b)(1) of this clause, the Contractor shall have a patent application filed on the invention in such country, in accordance with applicable statutes and regulations, and within one of the following periods:

(i) Eight months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filer, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e)(2)(i) of this clause;

(ii) Six months from the date a license is granted by the Commissioner of Patents to file foreign applications where such filing has been prohibited by security reasons; or

(iii) Such longer period as may be approved by the Contracting Officer.

(2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and, upon written request, shall furnish an English translation of such foreign application without additional compensation.

(4) In all other cases falling within this paragraph (c), the clause prescribed at § 25–9.107–4(a) shall be used with appropriate modifications to paragraphs (b) and (i) of that clause so as to allow the contractor to obtain greater rights than a non-exclusive license as to all or specific inventions. These modification should reflect the requirements of paragraph (c)(1) of this section if applicable, and, in addition, particularly where the contract would fall with 41 CFR 1–9.107–3(a), consideration should be given to including provisions to ensure that research results are made available to the public in accordance with the policy set forth in § 25–9.150–7.

(5) The inclusion of special provisions in a contract in accordance with this section, other modifications of the clauses prescribed by this subpart, or the waiver of any of the requirements of the clauses prescribed by this subpart, shall be approved by the General Counsel. In cases where the General Counsel does not grant such approval, interested Foundation staff may refer the matter to the NSF Patent Policy Review Committee.

§ 25–9.109–6 Greater rights determinations.

(a)(1) Grantees desiring rights in inventions made under or during the course of awards containing provisions giving the Foundation the right to determine the disposition of such inventions should address such request to the General Counsel who has been delegated authority to make such determinations. In all such cases the General Counsel shall seek the recommendations and advice of the Patent Policy Review Committee.

(2) Such requests should contain the following information:

(i) The award number, and subcontract number, if applicable, under which the invention was made;

(ii) A complete invention disclosure or reference to one that has previously been furnished, including any NSF identifying numbers if known;

(iii) The nature and extent of the rights desired;

(iv) A description of the stage of development of the invention, and a description of the development, risk capital and expense, and time required to bring the invention to the point of practical application as defined in the President's Policy;

(v) A statement of the grantee's plans and intentions to bring the invention to the point of practical application including:

(A) If further development is to be conducted by the grantee, a description of the facilities, source of funds, personnel, and marketing outlets available for that purpose and the extent to which such development is to be undertaken by the grantee or others on his behalf and/or

(B) If he intends to license the invention, a brief description of his licensing program;

(vi) A statement of any equities in the invention which the grantee believes it has in the invention which would be appropriate for consideration by the Foundation;

(vii) If other Government agencies have contributed to the cost of making the invention, the identification of such agencies and the approximate share of each;

(viii) A description of the relationship of the invention to the main purpose of the award;

(ix) The grantee's evaluation of the commercial possibilities of the invention both in its original embodiment and in possible adaptations to other uses;

(x) An explanation of why it is believed that rights greater than free public use are needed to bring the invention into use;

(xi) A listing of other countries in which the grantee would be interested in filing applications for patents;

(xii) If publication of the substance of this invention has occurred or there has been a use such as might possibly create a future statutory bar to the patenting of the invention, the name of the journal, the date of publication, a reprint of the article, and/or details regarding the use of the invention.

(xiii) An identification and indication of the ownership of any patents, patent applications, or invention disclosures known to the grantee which would affect the practice of the invention.

(b) [Reserved]

(c) Determinations under this section shall be made on the basis of the guidelines set forth in the President's Policy, this subpart, and, in the case of contracts, 41 CFR 1–9.109–6. In addition, the relationship of the invention to other technology controlled by the grantee shall be considered as discussed in § 25–9.150–7.

(d) [Reserved]

(e) [Reserved]

(f)(1) In cases where principal rights in an invention are left with a grantee which, itself, is not expected to further develop the invention, the Foundation will require the grantee to make reasonable attempts to license inventions on a nonexclusive basis; provided that an exclusive license may be granted if the grantee determines that an exclusive license is necessary as an incentive for development of the invention or because market conditions are such as to require licensing on an exclusive basis in order to bring the invention into use. This determination shall be required to be in writing and supplied to the Foundation at or before the time an exclusive license is granted. Any such exclusive license granted under a domestic patent or patent application will normally be

limited to a period of three years from first commercial sale or eight years from the inception of the license agreement, whichever occurs first. Thereafter, additional licenses will be made available on a nonexclusive basis unless the original exclusive license period is extended with the approval of the Foundation.

(2) In addition to the requirements of paragraph (f) (1) of this section, any determination under this section shall reserve to the Government the rights set forth in § 25–9.150–6. In addition, if he has not already done so, the grantee shall be required to have a domestic patent application filed on the invention within 6 months from the date of the determination, or such longer period as may be authorized by the Foundation for good cause shown by the grantee. Each determination shall also include provisions to effectuate the requirements of 41 CFR 1–9.109–6(f) (2) and, in cases where foreign rights are granted, 41 CFR 1–9.109–6 (g) (2). The determination may also include such other provisions as are considered appropriate.

(3) Whenever the clause at § 25–9.150–1(b) has been used or an Institutional Patent Agreement is applicable and neither the grantee, the Foundation, nor any other Government agency wishes to take principal rights in the invention, it shall normally be dedicated to the public through publication. However, principal rights may be left in the inventor(s) if he (they) so request upon a demonstration of an intention to exploit the invention and a description satisfactory to the Foundation of the means by which this will be accomplished. All such requests will be made and processed in accordance with the procedures set forth in this section and determinations thereon shall contain the requirements of paragraphs (f) (1) and (2) of this secton.

§ 25–9.150–1 Procedures for selection of clauses in awards other than contracts.

(a) The clause at paragraph (b) of this section shall be used in every award other than a contract except (1) where § 25–9.150–2 of this subpart is applicable, or (2) where the award is for a fellowship as provided in § 25–9.150–3 of this Option B Engineering Research Initiation Grant as provided in § 25–9.150–4 of this subpart, or (4) where the award is subject to an Institutional Patent Agreement entered into pursuant to § 25–9.150–5 of this subpart.

(b) The following clause shall be included in Foundation awards other than contracts in accordance with paragraph (a) of this section:

RIGHTS IN INVENTIONS

(a) Whenever any invention which is, or may be, patentable is conceived or first actually reduced to practice in the course of or under this _____,[1] the _____[2] shall furnish the Foundation with complete information thereon; and the Foundation shall have the right to determine whether or not and where a patent application shall be filed, and to determine the disposition of the invention and title to and rights under any patent application or patent that may result. The Foundation, in making such a determination, shall take into account the public interest and the equities of the grantee. In any case, the Foundation may arrange to have the invention described in a printed publication.

(b) The _____,[1] for itself and for its employees, agrees that all documents will be executed and all other actions taken necessary or proper to carry out the determination of the Foundation.

(c) Except as otherwise authorized in writing by the Grants Officer, the _____[2] will insert in each subcontract having experimental, developmental, or research work as one of its purposes, provisions making this article applicable to the subcontractor and its employees and any lower-tier subcontractors and their employees.

[1] Insert "grant," or other applicable term as the case may be.

[2] Insert "grantee," or other applicable term as the case may be.

§ 25–9.150–2 Requests For Greater Rights At Time Of Award (Awards Other Than Contracts).

(a) At the request of a prospective grantee, special provisions other than the clause at § 25–9.150–1(b) of this subpart may be negotiated where the award falls within section 1(b) of the President's Policy or where exceptional circumstances, as set forth in section 1(a) of the President's Policy, exist. In accordance with section 1(c) of the President's Policy such provisions may also be negotiated at the time of award with educational or other nonprofit or not-for-profit institutions having a demonstrated capability for effective patent management.

(b) In negotiating such provisions the procedures, requirements, and limitations of, and the clauses prescribed by § 25–9.107–4(c) shall be applicable.

§ 25–9.150–3 Fellowships.

Each fellowship awarded by the Foundation shall include the following provision:

RIGHTS IN INVENTIONS

(a) Whenever any invention which is, or may be, patentable is conceived or first actually reduced to practice in the course of the fellowship, and a patent application is filed thereon, the Fellow shall furnish the Foundation with complete information thereon and a copy of the patent application with date of filing and serial number. Title to and rights in any such invention shall remain in the Fellow, provided, however, that the Fellow hereby grants (and agrees to execute upon request a confirmatory license) a nonexclusive, nontransferable, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments, unless the Director determines that it would not be in the public interest to acquire the license for State and domestic municipal governments. The Fellow further agrees that unless the Fellow, his licensee, or his assignee has taken effective steps within three years after a patent issues on any such invention to bring the invention to the point of practical application or has made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the Government, acting through the Director of the National Science Foundation or his delegee(s), shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable in the circumstances. It is also agreed that the Government, acting through the Director of the National Science Foundation or his delegee(s), shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable in the circumstances (i) to the extent that the invention is determined to be required for public use by governmental regulations or (ii) is determined to be necessary to fulfill health or safety needs.

(b) As used herein the term "to the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(c) As requested by the Foundation, the Fellow shall make periodic written reports on the commercial use that is being made or is intended to be made of any such inventions.

(d) The Fellow agrees that the following statement will be included in the second paragraph of the specification of the patent application and any patent:

"The Government has rights in this invention pursuant to a fellowship awarded by the National Science Foundation."

(e) Nothing herein shall affect or limit the rights that the Government may have in any invention pursuant to the terms of any other award to any other party.

§ 25–9.150–4 Engineering Research Initiation Grants.

Engineering Research Initiation Grants, except those with institutions holding Institutional Patent Agreements, shall normally include the patent clause at § 25–9.150–1(b). However, where the grant is an "Option B" type that clause shall be amended by adding the following paragraph (d):

(d) Notwithstanding the provisions of paragraph (a), if the invention is in a field of technology related to the ongoing research activities or product lines of an industrial organization at which the principal investigator is performing research under this grant, it is agreed that, at a minimum, the Foundation's determination of the disposition of the invention will provide the grantee the right to transfer to the industrial organization, either by way of assignment or license, the entire right, title, and interest in the invention throughout the world or in any country thereof; provided that the provisions of 41 CFR 25–9.109–6(f) shall be applicable to any such determination.

§ 25–9.150–5 Institutional patent agreements.

(a) The Foundation has determined that the public interest in the availability of inventions will normally best be served by allowing educational and other nonprofit institutions having a technology transfer program meeting the criteria set forth in paragraph (b) of this section, the right to a first option to ownership in inventions made in the course of or under awards, subject to the limitations described in paragraph (c) of this section. This right will be embodied in an Institutional Patent Agreement which

will generally apply to all awards made to the Institution, other than contracts to operate a National Research Center or similar facility. The Foundation reserves the right to and may deny a request for an Institutional Patent Agreement from an otherwise qualified institution in cases where the institution's past record of invention disclosures to the Foundation or other factors, such as a low level of Foundation support to the institution, appear to minimize the advantages of issuing a Institutional Patent Agreement in comparison with the administrative burdens that would be created.

(b) Among the criteria which will be considered in determining whether an institution has a satisfactory technology transfer program are the following:

(1) The institution has a formal patent policy which is administered on a continuous basis by an officer or organization responsible to the institution.

(2) The institution can give assurance that employees are legally obligated to assign to the institution any inventions made by them in the course of or under awards.

(3) The institution has an effective invention disclosure system.

(4) The institution has an active promotional program for the licensing and marketing of inventions which is consistent with the objectives of the President's Policy.

(c) Institutional Patent Agreements shall reserve to the Government the rights specified in § 25–9.150–6; require the institution or its patent management organization normally to license inventions on a nonexclusive basis and failing this normally to limit exclusive licenses granted under domestic patents to a period of three years from first commercial sale or eight years from the date of the inception of the license agreement, whichever occurs first; provide that after the period specified above for the duration of exclusive licenses, additional licenses will be made available on a nonexclusive basis unless otherwise approved by the Foundation; limit the use of patent management organizations to those specified in the Institutional Patent Agreement or approved by the Foundation; provide that the institution use any net royalty income retained by it for the support of education or scientific research; provide that the Foundation may exempt specific awards from the application of the Agreement; and include such other terms and conditions as are considered necessary.

(d) Institutions desiring to enter into such agreements should contact the Office of General Counsel for additional information. The General Counsel has been given authority to negotiate such agreements on behalf of the Foundation subject to approval and execution by the Grants and Contracts Officer. Approval of an institution's qualifications for patent management by the NSF Patent Policy Review Committee is also required. This is a committee composed of Foundation personnel that has been established for this and certain other purposes in connection with the administration of these regulations.

(e) Except as provided in § 25–9.150–6(e), the General Counsel, or his designee, is authorized to act on behalf of the Foundation in connection with agency decisions and actions which may be required under Institutional Patent Agreements (such as the granting of time extensions, required approvals, or other administrative actions).

(f) In cases where NSF Program Managers receive proposals from any institution holding an Institutional Patent Agreement, they shall identify and refer to the NSF Patent Policy Review Committee any potential awards which, because they fall within section 1(a) of the President's Policy or for other reasons, might be considered for exclusion from the coverage of the Institutional Patent Agreement.

§ 25–9.150–6. Minimum government rights.

In all cases where the grantee or any other person or entity has been allowed to retain or obtain principal rights in an invention, whether at the time of award or after an invention has been identified, the Foundation shall reserve the following minimum rights, if not otherwise required by or inconsistent with any other provision of this subpart:

(a) A nonexclusive, nontransferable, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments, unless the Director determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.

(b) The right to sublicense any foreign government pursuant to any existing or future treaty or agreement, but only if the Director determines it would be in the national interest to acquire this right.

(c) The principal or exclusive rights to the invention in any country in which the contractor does not elect to secure a patent.

(d) The right to require written reports at reasonable intervals on the commercial use that is being made or is intended to be made of the invention.

(e) The right to require the granting of a nonexclusive or exclusive license to a responsible applicant (1) unless it is determined that effective steps have been taken within three years after a patent issues on the invention to bring the invention to the point of practical application, or that the invention has been made available for licensing royalty-free or on terms that are reasonable under the circumstances, or unless cause can be shown why the Foundation should not exercise this right for some further period of time; (2) to the extent the invention is determined to be necessary to fulfill health or safety needs; or (3) to the extent the invention is determined to be needed for other public purposes stipulated in the award. Determinations and other actions taken pursuant to this paragraph (e) shall be by the Director or by such person(s) as he may designate.

(f) The right to approve any license covering the invention proposed to be granted to any of the following persons or organizations:

(1) Any person who participated as an employee of the grantee in the research leading to the conception and/or actual reduction to practice of the invention;

(2) An organization of which a person described in subsection (f)(1) of this section was an active promoter or organizer or in which such a person is an officer, director or holds a substantial interest;

(3) An organization of which the grantee was an active promoter, organizer, or financer.

Approval of such a license shall be given only if the grantee can show that a bona fide effort was made without success to interest other organizations known to be interested in the subject matter of the invention in becoming licensees, or can otherwise show why the public interest will best be served by the proposed licensing arrangement.

§ 25–9.150–7 Availability of inventions to the public.

(a) A major objective of the Foundation is to encourage the use of inventions arising out of activities supported by the Foundation. It is important that any useful product or process developed or improved under an award is made available to the public on reasonable terms. In some cases, to ensure such availability it may be necessary, either at the time of award or in connection with the disposition of rights under § 25–9.109–6 of this subpart, to require the grantee to furnish to responsible applicants technical data or rights in other inventions to the extent necessary to practice the invention made or product or process developed or improved under the award.

(b) Each program manager shall refer to the Patent Policy Review Committee proposals for research which relate to preexisting proprietary technology (such as "proprietary data," "trade secrets," patents, or patent applications) controlled by the proposer or his proposed subcontractors. Such proposals shall be forwarded to the Committee whether or not the proposer has requested special provisions pursuant to § 25–9.107–4(c) or § 25–9.150–2: *Provided*, That proposals which are rejected during initial staff screening should not be referred to the Committee. The General Counsel, when acting on cases pursuant to § 25–9.109–6, shall also refer cases in which preexisting proprietary technology is involved to the Committee.

(c) The Committee shall review proposals or cases referred to it pursuant to paragraph (b) of this section and make recommendations whether or not special provisions, as contemplated by paragraph (a) of this section should be included in the award or as a condition to the disposition of rights.

§ 25–9.150–8 Delegations.

The General Counsel is authorized to make any determinations required by these regulations or Subpart 1–9.1 of the Federal Procurement Regulations to be made by the Director, including determinations required by the President's Policy to be made by the head of the agency, except those specified in § 25–9.150–6(e) of this subpart.

Dated: January 16, 1974.

H. GUYFORD STEVER,
Director.

[FR Doc.74–1748 Filed 1–21–74;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 THE TREASURY

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Notice of Meetings

Notice is hereby given, pursuant to section 10 of Public Law 92-463, that meetings will be held in Washington on January 29 and 30, 1974, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee.
Securities Industry Association, Government Securities and Federal Agencies Committee.

The agenda for the meetings will include briefings for the advisory committees by Treasury staff on current debt management problems on January 29, separate deliberations by the two committees on January 29, and separate reports to the Secretary of the Treasury and Treasury staff on the morning of January 30.

A determination as required by section 10(d) of the Act has been made that these meetings are concerned with matters listed in section 552(b) of Title 5 of the United States Code, and that the meetings will not be open to the public.

[SEAL] EDWARD M. ROOB,
Special Assistat to the Secretary for Debt Management.

[FR Doc.74-1864 Filed 1-21-74;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

HONOKOHAU STUDY ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Honokohau Study Advisory Commission will be held from 9 a.m. to 4 p.m., January 26, at the Conference Room, Second Floor, Gold Bond Building, 677 Ala Moana Boulevard, Honolulu, Hawaii.

The purpose of the Honokohau Study Advisory Commission is to provide advice to the Secretary of the Interior on matters relating to the making of a study of the feasibility and desirability of establishing as a part of the National Park System an area comprising the site of Honokohau National Historic Site.

The members of the Commission are as follows:

Col. Arthur Chun (Chairman), Kailua-Kona
Henry Boshard, Kailua-Kona
Nani Bowman, Honolulu
Fred Cachola, Waianae
Alika Cooper, Hilo
Kenneth Emory, Honolulu
Homer Hayes, Honolulu
Kwai Wah Lee, Hilo
Iolani Luahine, Kailua-Kona
George Naope, Hilo
Abbie Napeahi, Hilo
George Pinehaka, Captain Cook-Kona
David Roy, Kailua-Kona
Pilipo Springer, Holualoa-Kona
Emily Thomas, Honolulu

The purpose of the meeting is to continue efforts to refine the report relating to the study.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to file written statements, or who want further information concerning the meeting, may contact Robert Barrel, State Director, Hawaii, National Park Service, 677 Ala Moana Boulevard, Suite 512, Honolulu, Hawaii 96813.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of the State Director, Hawaii, and the Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102.

Dated: January 9, 1974.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc.74-1721 Filed 1-21-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

WICKENBURG WATERSHED PROJECT, ARIZONA

Notice of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and Part 1500.6e of the Council on Environmental Quality Guidelines issued on August 1, 1973, the Soil Conservation Service, U.S. Department of Agriculture, gives notice that the environmental statement is not being prepared for the Wickenburg Watershed Project, Maricopa and Yavapai Counties, Arizona.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings the State Conservationist, Soil Conservation Service (responsible federal official) has determined that the preparation and review of an environmental statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by two floodwater retarding structures and about 1.7 miles of concrete outlet pipelines.

The environmental assessment file is available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, 230 North 1st Avenue, 6029 Federal Building, Phoenix, Arizona 85025.

Comments concerning this proposed action or requests for additional information should be addressed to Mr. George C. Marks, State Conservationist, Soil Conservation Service, USDA 230 North 1st Avenue, 6029 Federal Building, Phoenix, Arizona 85025. To receive consideration, comments should be submitted on or before February 6, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: January 15, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-1744 Filed 1-21-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Production Equipment Subgroup of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held Thursday, February 14, 1974, at 9:00 a.m. at Texas Instruments Co., 13500 North Central Expressway, Dallas, Texas.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export con-

trols applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Continued review of work program for production equipment.
4. Executive session:
a. Continued review of work program for production equipment.
b. Formulation of recommendations.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1–3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subgroup. Interested persons are also invited to file written statements with the subgroup.

With respect to agenda item 4, "Executive session," the Assistant Secretary of Commerce for Administration, on December 20, 1973, determined, pursuant to Section 10(d) of Public Law 92–463, that this agenda item should be exempt from the provisions of Sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 USC 552(b)(1).

Further information may be obtained from Howard Steenbergen, Chairman of the subgroup, Wright-Patterson Air Force Base, Ohio 45433 (A/C 513+255–3802).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: January 17, 1974.

LEWIS W. BOWDEN,
Deputy Assistant Secretary for East-West Trade (Acting), U.S. Department of Commerce.

[FR Doc.74–1772 Filed 1–21–74;8:45 am]

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Test Equipment Subgroup of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held Wednesday, January 30, 1974, at 9 a.m. at Avionics Laboratory, Wright-Patterson Air Force Base, Dayton, Ohio.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Continued review of work program for test equipment.
4. Executive session:
a. Continued review of work program for test equipment.
b. Formulation of recommendations.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1–3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subgroup. Interested persons are also invited to file written statements with the subgroup.

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Further information may be obtained from Frederick Van Veen, Chairman of the subgroup, Teredyne, Inc., 183 Essex St., Boston, Mass. 02111 (A/C 617–482–2700).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: January 17, 1974.

LEWIS W. BOWDEN,
Deputy Assistant Secretary for East-West Trade (Acting), U.S. Department of Commerce.

[FR Doc.74–1773 Filed 1–21–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Notice of Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on January 30–31, 1974 in Dallas, Texas. Except as noted below, the sessions will be held at the Holiday Inn-Central, 4070 N. Central Expressway, Dallas, TX 75204.

The National Council on Educational Research is established under section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

The Chairman of the Council is Patrick Haggerty, Chairman of the Board, Texas Instruments, Incorporated, Dallas, Texas.

The sessions on January 30 and on the morning of January 31 will be open to the public. The proposed agenda for these sessions includes:

January 30, 9 a.m.
Presentation by the Director, and discussion, about the Institute's program, budget, and organization.
Discussion on Council policy on opening of meetings to the public.
January 30, 1 p.m.
Visit to Dunbar Community Learning Center, 4200 Metropolitan Avenue, Dallas, Texas 75120 and initial discussion of issues involved in the development of state and local problem-solving capability in educational systems.
January 31, 9 a.m.
Discussion of draft of Council's annual report required under 20 U.S.C. 1221e(c)(F).
Visit to Southern Methodist University, Institute of Technology, 3145 Dyer Street, Dallas, Texas for presentation and discussions on educational technology and continuing education.
January 31, 1 p.m.
Closed session at the offices of Texas Instruments, Inc., 13500 N. Central Expressway, Dallas, Texas 75222.

Members of the public are invited to attend the open sessions, including the site visits. In order to assure adequate seating arrangements, or to obtain summaries of this meeting and copies of any resolutions adopted by the Council at this meeting, interested persons are requested to contact Mrs. Caroline Phillips, Executive Secretary, at 202–254–7900.

THOMAS K. GLENNAN, Jr.,
Director.

[FR Doc.74–1944 Filed 1–21–74;11:18 am]

Office of Education

ADVISORY COMMITTEE ON THE EDUCATION OF BILINGUAL CHILDREN

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) that a meeting of the Advisory Committee on the Education of Bilingual Children will be held from 10 a.m. Wednesday, January 30, 1974, through 4:30 p.m., Thursday, January 31, 1974, in Room 3008, Federal Office Building #6, 400 Maryland

Avenue SW., Washington, D.C. 20202.

The Advisory Committee on the Education of Bilingual Children is established pursuant to section 708 of the Bilingual Education Act (20 U.S.C. 880b–5) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning the preparation of general regulations for and with respect to policy matters arising in the administration of the Bilingual Education Act.

The above-described meeting shall be open to the public. The proposed agenda for the Committee includes a discussion of application processing procedures and other policy matters arising in the administration of the Bilingual Education Act (Title VII of the Elementary and Secondary Education Act of 1965, as amended).

Records shall be kept of all proceedings, and shall be available for public inspection at Room 3045, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on January 15, 1974.

JAMES B. ROBERTS,
Executive Officer, DCSS.

[FR Doc.74–1769 Filed 1–21–74;8:45 am]

Social and Rehabilitation Service

FEDERAL ALLOTMENT TO STATES FOR SOCIAL SERVICES EXPENDITURES

Amendment of Promulgation for Fiscal Year 1974; Notice of Promulgation for Fiscal Year 1975

This notice amends the Federal Allotment to States for Social Services Expenditures—Promulgation for Fiscal Year 1974 published at 37 FR 26748, December 15, 1972 and corrected at 37 FR 28916, December 30, 1972 by including in paragraph two of the corrected promulgation, 37 FR 28916, after the enumeration of titles I, X, XIV and XVI, the parenthetical phrase * * * "(title VI is to be substituted for these titles effective January 1, 1974)" * * *.

Promulgation is made of the Federal allotment for fiscal year 1975 for purposes of grants to States under Part A of title IV, and title VI of the Social Security Act pursuant to section 1130(b) of the Act (42 U.S.C. 1330b(b)) which provides that the Federal allotment shall be determined and promulgated in accordance with said section and section 601 of the Act (42 U.S.C. 801) which provides for appropriations for title VI subject to the limitations in section 1130. This information was made available to the 50 States and the District of Columbia on August 15, 1973 by AA/M–OFM–IM–74–1 which was amended by AA/M–OFM–IM–74–2, dated October 19, 1973.

It having been determined that the Bureau of the Census population statistics contained in its publication "Current Population Reports" (series P–25, No. 488, September 1972) were the most recent satisfactory data available from the Department of Commerce at that time as to the population of each State and of all of the States, the allotment limits for the fiscal year 1975 are set forth below:

FEDERAL ALLOTMENT FOR FISCAL YEAR 1975

Total	$2,500,000,000
Alabama	42,140,000
Alaska	3,901,750
Arizona	23,351,250
Arkansas	23,747,250
California	245,733,250
Colorado	28,297,500
Connecticut	37,001,750
Delaware	6,783,250
District of Columbia	8,980,250
Florida	87,149,500
Georgia	56,667,000
Hawaii	9,712,500
Idaho	9,076,250
Illinois	135,076,500
Indiana	63,522,250
Iowa	34,612,500
Kansas	27,109,000
Kentucky	39,607,000
Louisiana	44,661,250
Maine	12,354,000
Maryland	48,695,250
Massachusetts	69,477,000
Michigan	109,036,000
Minnesota	46,774,250
Mississippi	27,169,000
Missouri	57,063,250
Montana	8,632,000
Nebraska	18,308,750
Nevada	6,827,000
New Hampshire	9,256,500
New Jersey	88,446,250
New Mexico	12,786,000
New York	220,497,250
North Carolina	62,597,750
North Dakota	7,587,500
Ohio	129,457,750
Oklahoma	31,623,000
Oregon	26,196,500
Pennsylvania	143,180,250
Rhode Island	11,621,500
South Carolina	31,995,250
South Dakota	8,152,000
Tennessee	48,395,000
Texas	139,854,750
Utah	13,518,500
Vermont	5,546,750
Virginia	57,195,250
Washington	41,335,750
West Virginia	21,382,250
Wisconsin	54,265,750
Wyoming	4,142,000

(Catalog of Federal Domestic Assistance Program No. 13.754, Public Assistance—Social Services.)

Dated: January 16, 1974.

JAMES S. DWIGHT, Jr.,
Administrator,
Social and Rehabilitation Service.

[FR Doc.74–1760 Filed 1–21–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSI–2]

SAFETY OF THE NEW YORK CITY SUBWAY SYSTEM

Notice of Public Hearing

Notice is hereby given that the Federal Railroad Administration (FRA) will hold a public hearing concerning safety of operations of the New York City subway system. The hearing will commence at 9:30 a.m. on Wednesday, February 13, 1974, in the Schimmel Center for the Arts, Pace University, One Park Plaza, New York, New York.

This hearing is being conducted in order to assist the FRA in carrying out its safety functions provided by the Federal Railroad Safety Act of 1970 (45 U.S.C. 421, 431–441). The purpose of the hearing is to provide FRA with information concerning the safety of the New York City subway system to assist FRA in the exercise of its safety regulatory functions. The hearing will not concern itself with such items as comfort and convenience that are not within the jurisdiction of the FRA.

Interested persons are invited to attend and participate in this hearing. The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their initial oral statements. Additional procedures for conducting hearings will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Persons who wish to make oral statements at the hearing must notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, before February 7, 1974, stating the amount of time required for the initial statement. Due to the nature and anticipated number of persons who will desire to speak, the FRA will require advance notification from all those who desire to present their views. In order to accommodate as many persons as possible, it is requested that written statements be prepared to be made a part of the record and that oral statements be limited to brief summaries of the written statement.

This notice is issued under the authority of Section 208, 84 Stat. 974, 45 U.S.C. 437; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 C.F.R. 1.49(n).

Issued in Washington, D.C. on January 17, 1974.

JOHN W. INGRAM,
Administrator.

[FR Doc.74–1790 Filed 1–21–74;8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

ESTABLISHMENT OF AGENCY AND CONTINUATION OF REGULATIONS

Pursuant to Public Law 93–179, signed by the President on December 11, 1973, the American Revolution Bicentennial Administration (ARBA) was established effective January 10, 1974, as a successor organization to the American Revolution Bicentennial Commission (ARBC) which was abolished.

All notices and rules and regulations published in the FEDERAL REGISTER by the American Revolution Bicentennial Commission are hereby adopted by the American Revolution Bicentennial Administration and remain in effect with respect thereto.

Dated: January 11, 1974.

HUGH A. HALL,
Acting Administrator.

[FR Doc.74-1758 Filed 1-21-74;8:45 am]

ATOMIC ENERGY COMMISSION

U.S. NUCLEAR DATA COMMITTEE—BASIC SCIENCE SUBCOMMITTEE

Notice of Meeting

JANUARY 17, 1974.

The Basic Science Subcommittee of the Atomic Energy Commission's U.S. Nuclear Data Committee (USNDC) has scheduled a meeting to be held at the Palmer House Hotel, Parlor F on the 6th Floor, Chicago, Illinois, on February 3, 1974. The sessions will begin at 2 p.m. and continue through the evening until business is completed.

The preliminary agenda for the meeting is as follows:

SUNDAY, FEBRUARY 3, 1974

2-3 pm—Adoption of terms of reference for Basic Sciences Subcommittee.
3-4:30 pm—Adoption of a statement of goals.
4:30-5:30 pm—Determine relationship to other USNDC subcommittees, i.e., Neutron Data, Standards, Isotope and CTR.
5:30-6 pm—Discussion of proposed symposium on Applications of Nuclear Models for Pittsburgh meeting of Division of Nuclear Physics.
6-8 pm—Dinner break.
8-8:30 pm—Role and place of status reports for Basic Sciences Subcommittee activity.
8:30-9 pm—Discussion of roles of Berkeley compilation program and Oak Ridge Data Project.
9-10 pm—Establishment of one or two action objectives for the committee in the next year.

Practical consideration may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items listed above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than January 21, 1974, to Professor David A. Lind, Chairman, USNDC Basic Science Subcommittee, Department of Physics & Astrophysics, University of Colorado, Boulder, Colorado 80302. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman, between the hours of 4 p.m. and 6 p.m. on February 3, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time alloted, can be obtained by a prepaid telephone call to the Office of the Chairman of the Basic Science Subcommittee (D. A. Lind), telephone: 303-443-2211, extension 7483.

(e) Questions may be asked only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come first-served basis.

(g) Copies of minutes of public sessions will be made available for copying, in accordance with the Federal Advisory Committee Act, on or after March 4, 1974, at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., upon payment of all charges required by law.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-1774 Filed 1-21-74;8:45 am]

U.S. NUCLEAR DATA COMMITTEE—NEUTRON DATA APPLICATIONS SUBCOMMITTEE

Notice of Meeting

JANUARY 17, 1974.

The Neutron Data Applications Subcommittee of the Atomic Energy Commission's U.S. Nuclear Data Committee (USNDC) will hold a meeting at the Argonne National Laboratory, Building 208—Conference Room D, Argonne, Illinois, on February 8, 1974. The meeting will begin at 9 a.m. and end at approximately 5:15 p.m., and will be open to the public.

The preliminary agenda for the meeting is as follows:

FRIDAY, FEBRUARY 8, 1974

9-9:15 am—*Administrative Topics*
1. Introductions
2. Agenda
3. Terms of Reference
4. Formal approval of file

9:15-9:30 am—*Samples*
1. Elemental
2. Isotopic

9:30-9:45 am—*Review of Compilation of Requests for Nuclear Data*
1. Brief Status Report

9:45-12—*Complete Review of Discrepancy List*

1-2 pm—*Complete Review of Discrepancy List* (continued)

2-3 pm—*Possible Program for APS-USNDC Topical Session*

3-3:20 pm—*Program for Conference on Nuclear Cross Sections and Technology*

3:20-3:45 pm—*New Applications*
1. "Show and Tell"

3:45-4:15 pm—*Nuclear Data and the "Energy Crisis"*
1. Report to the President
2. Cornell Workshop
3. Data Impact

4:15-4:45 pm—*Publication Policies and Practices*
1. Journals
2. Review Papers

4:45-5:15 pm—*Cooperative Studies*
1. Measurements
2. Calculations
3. Evaluations

Practical consideration may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items listed above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than January 25, 1974, to the Chairman, Neutron Data Applications Subcommittee, USNDC, (Dr. Alan B. Smith) Applied Physics Division, Argonne National Laboratory, Argonne, Illinois 60439. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman, between the hours of 10 a.m. and 12:00 noon on February 8, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of this Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time alloted, can be obtained by a prepaid telephone call to the office of the Chairman of the Neutron Data Applications Subcommittee (Dr. Smith), telephone: 312-739-2286.

(e) Questions may be asked only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) Copies of minutes of public sessions will be made available for copying, in accordance with the Federal Advisory Committee Act, on or after March 22, 1974, at the Atomic Energy Commission's Public Document Room, 1717 H Street,

NW., Washington, D.C., upon payment of all charges required by law.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-1775 Filed 1-21-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 25761]

HAWAIIAN AIRLINES, INC., AND ALOHA AIRLINES, INC.

Notice of Postponement of Hearing

Notice is hereby given that, upon motion of the Bureau of Enforcement, hearing in the above-entitled proceeding, previously assigned to be held on January 29, 1974 (39 FR 1876, January 15, 1974), is postponed indefinitely.

Dated at Washington, D.C., January 17, 1974.

[SEAL] GREER M. MURPHY,
Administrative Law Judge.

[FR Doc.74-1797 Filed 1-21-74;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on January 24, 1974. The meeting will be open to the public on a first-come, first-served basis at 10 a.m., in Conference Room 8202, 2025 M Street NW., Washington, D.C.

The agenda will consist of a discussion of policy questions involving food industry wage matters and, if circumstances permit, of food industry wage cases pending before the Cost of Living Council.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Issued in Washington, D.C., on January 18, 1974.

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.74-1937 Filed 1-21-74;9:09 am]

DELAWARE RIVER BASIN COMMISSION

UPPER GWYNEDD-TOWAMENCIN MUNICIPAL AUTHORITY AND AUDUBON WATER CO.

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Thursday, January 24, 1974, in the South Auditorium of the ASTM Building, 1916 Race Street, Philadelphia, Pa., beginning at 2 p.m. The subject of the hearing will be a proposal to amend the Commission's Comprehensive Plan so as to include therein the following projects:

1. *Upper Gwynedd-Towamencin Municipal Authority.* Modification of the Authority's existing sewage treatment plant in Towamencin Township, Montgomery County, Pa. The capacity of the plant will be rerated from 1 to 1.5 million gallons per day on an interim basis pending expansion of the present facility to a capacity of 6.5 million gallons per day. Removal of about 85 percent of BOD_5 an 90 percent of suspended solids will be provided. Treated effluent will discharge into Towamencin Creek.

2. *Audubon Water Co.* Development of four existing well water supplies of the company at its facility in Lower Providence Township, Montgomery County, Pa. Designated as Well Nos. 7, 8, 9 and 10, the four wells will produce a combined yield of about 576,000 gallons per day.

Documents relating to the above projects may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,
Secretary.

JANUARY 11, 1974.

[FR Doc.74-1759 Filed 1-21-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

RUSSELL CHEMICAL CO.

Application for Registration of Pesticides Containing DDT

On December 14, 1972, the Environmental Protection Agency received two applications to register pesticides containing DDT. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973). The applicant, products, and intended uses are:

Russell Chemical Company, Pomona, California 91769, *DDT 75-WP* (Application No. 11159-E), for use on katydids, fruit tree leaf roller, western tussock moth, cutworms, thrips, cabbage looper, anise swallowtail butterfly, citrus cutworm, and beet army worm.

Russell Chemical Company, Pomona, California 91769, *Toxaphene DDT 4-E* (Application No. 11159-G), for use on California citrus and thrips cutworms.

This notice is issued pursuant to section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 980), and does not indicate a decision by this Agency on the applications.

Any Federal agency or other interested party may comment in writing on these applications. Address comments to Federal Register Section, Technical Services Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Mail Code HM-569, Washington, D.C. 20460, on or before February 21, 1974. Comments should include the date of this notice and application number.

Dated: January 17, 1974.

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

[FR Doc.74-1805 Filed 1-21-74;8:45 am]

WOOD INDUSTRIES, INC.

Application for Registration of Pesticides Containing DDT

On December 20, 1973, the Environmental Protection Agency received an application to register a pesticide containing DDT. Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973). The applicant, product, and intended uses are:

Woods Industries, Inc., DBA Crop King Chemical, Yakima, Washington 98907, *Crop King Colloidal DDT 400* (Application No. 33602-R), for use on caneberries, blueberries, strawberries, ornamentals, cranberries, stone fruits, grapes, dry peas, mint, hops, and pome fruits.

This notice is issued pursuant to section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 980), and does not indicate a decision by this Agency on the application.

Any Federal Agency or other interested party may comment in writing on this application. Address comments to Federal Register Section, Technical Services Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Mail Code HM-569, Washington, D.C. 20460, on or before February 30, 1974. Comments should include the date of this notice and application number.

Dated: January 17, 1974.

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

[FR Doc.74-1804 Filed 1-21-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-11893, et al.]

MOBIL OIL CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JANUARY 3, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, peti-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

tions 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.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-11893 ..... D 12-17-73	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Northern Natural Gas Co., Eunice Area, Lea County, N. Mex.	(2)	.....
CI61-1265 ..... C 12-10-73	Southern Union Production Co., Suite 1700, Campbell Centre, 8350 North Central Expressway, Dallas, Tex. 75206.	El Paso Natural Gas Co., Fruitland and Pictured Cliffs formations, San Juan County, N. Mex.	[3] 24.48	15.025
CI66-1059 ..... E 12-5-73	American Petrofina Co. of Texas (Operator) et al. (successor to River Corp.), P.O. Box 2159, Dallas, Tex. 75221.	Southern Natural Gas Co., East Golden Meadow and King's Ridge Fields, Lafourche Parish, La.	[3] 23.75	15.025
CI73-46 ..... C 12-12-73	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Blanco Pictured Cliffs Field, Rio Arriba County, N. Mex.	[4] 28.0	15.025
CI73-836 ..... (CS72-876) F 8-17-73 [5]	Texaco, Inc. (successor to D. Thomason Production Co., Inc., et al.), P.O. Box 430, Bellaire, Tex. 77401.	United Gas Pipe Line Co., Bethany Field, Panola County, Tex.	[6] 23.5	14.65
CI74-339 ..... B 11-30-73	Cass & Stephens, 2001 Bryan Tower, Suite 2929, Dallas, Tex. 75201.	Phillips Petroleum Co., Spraberry and Calvin Dean Fields, Upton and Reagan Counties, Tex.	Depleted	.....
CI74-343 ..... (G-17401) B 12-6-73	Mobil Oil Corp.	Texas Gas Transmission Corp., East Cameron Block 4 Field, Cameron Parish, offshore Louisiana.	Depleted	.....
CI74-346 ..... 11-30-73 [7]	Coastal States Gas Producing Co. (Operator) et al., P.O. Drawer 521, Corpus Christi, Tex. 78403.	Arkansas Louisiana Gas Co., South Woodward Area, Woodward County, Okla.	[8] 35.0	14.73
CI74-347 ..... (G-4579) F 12-4-73	Petroleum, Inc. (successor to Cities Service Oil Co. (Operator) et al.), 300 West Douglas, Wichita, Kans. 67202.	Northern Natural Gas Co., acreage in Seward County, Kans.	[8] 20.0	14.65
CI74-348 ..... (G-5379) F 12-10-73	J. L. Burkhart (successor to Skelly Oil Co.), 2121 S. Columbia, Tulsa, Okla. 74114.	El Paso Natural Gas Co., acreage in Lea County, N. Mex.	11.0	14.65
CI74-349 ..... (G-4483) F 12-14-73	Millard Deck Oil Co., (Operator) et al. (successor to Amerada Hess Corp.), P.O. Box 1047, Eunice, N. Mex. 88231.	El Paso Natural Gas Co., Eumont Field, Lea County, N. Mex.	[9] 17.96228	14.65
CI74-350 ..... (G-20132) B 12-13-73	Texaco, Inc., P.O. Box 2100, Denver, Colo. 80201.	Kansas-Nebraska Natural Gas Co., Inc., Surveyor Creek Field, Washington County, Colo.	Nonproductive	.....

[1] Acreage assigned to John H. Hendrix.
[2] Subject to upward and downward B.t.u. adjustment; estimated upward adjustment is 2.56 cents per Mcf.
[3] Subject to downward B.t.u. adjustment.
[4] Applicant is willing to accept a certificate at an initial rate of 24 cents per Mcf, subject to upward and downward B.t.u. adjustment; however, the contract price is 28 cents per Mcf, subject to upward and downward B.t.u. adjustment. Estimated initial upward B.t.u. adjustment is 2.4 cents per Mcf.
[5] Amendment to a pending application.
[6] Subject to upward and downward B.t.u. adjustment.
[7] Long term continuation of limited term sale certificated in Docket No. CI73-469.
[8] Applicant is willing to accept a certificate conditioned to the Commission's applicable area rates of 21 cents per Mcf for gas-well gas and 19.5 cents per Mcf for casinghead gas.
[9] Subject to upward B.t.u. adjustment, estimated adjustment is 1 cent per Mcf.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[FR Doc.74-1527 Filed 1-18-74;8:45 am]

[Docket Nos. RI74-5, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JANUARY 11, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets No.
									Rate in effect	Proposed increased rate	
RI74-5	Atlantic Richfield Co	492	[2] 27	El Paso Natural Gas Co. (Jalmat et al, Fields, Lea County, N. Mex.) (Permian Basin).	$21,900	12-13-73		12-14-73	[1] 23.0	35.0	
RI74-8	do		[2] 28	do	30,660	12-13-73		12-15-73	[1] 23.0	35.0	
RI74-121	Felmont Oil Corp	20	[3] 2	Transwestern Pipeline Co. (Atoka Field, Eddy County, N. Mex.) (Permian Basin).	123,120	12-18-73		6-18-74	[4] 21.1016	[4] 38.14	
RI74-122	Skelly Oil Co	159	11	West Texas Gathering Co. (Emperor (Deep) Field, Winkler County, Tex.) (Permian Basin).	49,625	12-12-73		6-12-74	28.0	[4] 29.0	RI73-232.
RI73-245	Cities Service Oil Co	124	15	West Texas Gathering Co. (Emperor Devonian Field, Winkler County, Tex.) (Permain Basin)	30,545	12-14-73		(11)	[1] 23.0	29.109	
RI74-123	Skelly Oil Co	269	6	El Paso Natural Gas Co. (East Vealmoor Plant, Howard County, Tex.) (Permian Basin).	3,420	12-18-73		6-18-74	[1] 36.5	[7] 37.5	
RI74-25	Signal Oil and Gas Co	19	1 to 4	Transwestern Pipeline Co. (Bell Lake Field, Lea County, N. Mex.) (Permian Basin).	755	12-13-73		2-1-74	[8] 23.5	24.0243	
RI74-124	Skelly Oil Co	187	[9] 15	El Paso Natural Gas Co. (West Jal Field, Lea County, N. Mex.) (Permian Basin).	6,440	12-20-73		6-20-74	[1] 35.0	36.0	
	do	262	4	Northern Natural Gas Co. (Eunice Plant, Lea County, N. Mex.) (Permian Basin).	168	12-20-73		6-20-74	[1] [7] 36.5	[7] 37.0	
	do	263	4	El Paso Natural Gas Co. (Eunice Plant, Lea County, N. Mex.) (Permian Basin).	504	12-20-73		6-20-74	[1] [7] 36.5	[7] 37.5	
	do	265	4	El Paso Natural Gas Co. (Cedar Canyon Unit. Eddy County, N. Mex.) (Permian Basin).	28,800	12-20-73		6-20-74	36.0	37.0	RI73-229.
RI73-241	Atlantic Richfield Co	508	10	El Paso Natural Gas Co. (Vinegarone Field, Val Verde County, Tex.) (Permian Basin).	6,802	12-20-73		12-21-73	[1] 23.0	24.09	
RI74-125	do	608	[10] 8	Natural Gas Pipeline Co. of America (Worsham Bayer Field, Reeves County, Tex.) (Permian Basin).	13,018	12-20-73		6-20-74	[1] 23.0	28.105	

*Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Subject to quality adjustments and gathering allowance, if applicable, pursuant to Opinion No. 662.
[2] Applicable only to production pursuant to Supplement No. 19.
[3] Applicable only to production pursuant to Supplement No. 21.
[4] Includes B.t.u. adjustment.
[5] Applicable to production attributable to SW¼ Sec. 11, T. 18 S., R. 26 E.
[6] Subject to B.t.u. adjustment.
[7] Includes 1.56 per Mcf gathering allowance.
[8] Suspended in Docket No. RI74-25.
[9] Applicable to gas produced from formations deeper than the Strawn Formation only.
[10] Applicable only to production from the Wahlenmaler-State No. 2 well.
[11] The proposed rate increase is accepted as of Dec. 15, 1973, insofar as it does not exceed the Opinion No. 658 ceiling and is suspended until June 14, 1974, insofar as it exceeds the Opinion No. 658 ceiling rate.

Prior to the issuance of Opinion No. 662, Cities Service Oil Company filed for an increase to 28.0¢ per Mcf which was suspended until August 28, 1973. Cities Service has now filed for an increase from the applicable area ceiling rate of 23.5¢ per Mcf up to 29.109¢ per Mcf. That portion of the proposed rate not exceeding 28.0¢ per Mcf is suspended for one day from the date of filing subject to the existing related suspension proceeding and the portion from 28.0¢ to 29.109¢ per Mcf is suspended for five months from the expiration of statutory notice period.

The proposed increased rates of Atlantic Richfield Company under its FPC Gas Rate Schedule Nos. 492 and 508 exceed the ceilings prescribed in Opinion No. 662 and are to the same levels that were under suspension at the time of issuance of that opinion. They are suspended subject to the existing suspension proceedings to be effective one day after filing or on the expiration date of the prior suspension periods, whichever is later.

The proposed increase of Signal Oil and Gas Company reflects tax reimbursement that was omitted from a prior increase that was suspended for five months. The increase is suspended subject to the existing suspension proceeding to be effective on the date the prior increase becomes effective subject to refund.

The other proposed rates involved here exceed the ceiling prescribed in Opinion No. 662 and they are suspended for five months.

[FR Doc.74-1601 Filed 1-21-74;8:45 am]

[Docket No. RI74-128]

CONTINENTAL OIL CO.

Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JANUARY 11, 1974.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI74-128..	Continental Oil Co	108	[1] 7	Mountain Fuel Supply Co. (Salt Wells Unit, Sweetwater County Wyo.) (Rocky Mountain Area).		12-13-73	1-13-74	[5]			
	do		8	do	$18,433	12-13-73		[5]	[4] 15.3	[3] 24.48	

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Contract amendment dated Oct. 1, 1973.
[2] Subject to B.t.u. adjustment above 1,050 B.t.u. and below 1,000 B.t.u.
[3] The amendment is accepted as of the date set forth in the "Effective Date Unless Suspended" column.
[4] Not used.
[5] The proposed rate increase is accepted as of Jan. 13, 1974 insofar as it does not exceed the Order No. 435 ceiling and is suspended until Feb. 13, 1974 insofar as it exceeds the Order No. 435 ceiling rate.

Inasmuch as the primary term of the subject contract has expired and a new agreement has been filed, the ceiling established in Order No. 435 is applicable under the vintaging concepts set forth in Opinion No. 639 to Continental's sale. The proposed rate increase is accepted insofar as it does not exceed the applicable area ceiling rate established by Order No. 435 and is suspended for one day insofar as it exceeds that ceiling.

[FR Doc.74-1599 Filed 1-21-74;8:45 am]

[Docket No. RP72-6]

EL PASO NATURAL GAS CO.

Order Granting Temporary Relief, Setting Hearing Date and Prescribing Procedure

JANUARY 15, 1974.

On January 4, 1974, the Community Public Service Company (Community) of Fort Worth, Texas, filed a petition for extraordinary relief from the impact of the interim curtailment plan in effect on the Southern Division system of El Paso Natural Gas Company (El Paso) in Docket No. RP72-6.

Petitioner, who presently operates an electric generating plant at Lordsburg, New Mexico, requests exemption from the above referenced curtailment plan for their Lordsburg facilities.

Community states that at the present time it is in the process of installing alternate fuel capability on two generating units at Lordsburg but that one unit is not scheduled for conversion until March of 1974 and, therefore, is not capable of oil firing and that the second unit is also not completed but Community is attempting to use oil for a portion of this unit's fuel.

On January 3, 1974, Community received notice of curtailments of its gas supply. Community alleges that because of the short notice of the curtailments it could not notify its customers to curtail use of electricity without property damage and danger to personnel involved. Community further alleges that 60 percent of its service is to residential and commercial customers and cannot be curtailed.

Community finally states that it needs 389 Mcf of gas per hour to prevent damage to property and hazards to health until El Paso's priority three gas is restored or until Community is able to procure power from other sources.

In view of the absence of emergency exemption provisions in El Paso's interim plan and based upon the allegations made by Community, we find it necessary and proper in the public interest to grant temporary emergency relief pending formal hearing. Such relief shall be provided solely to the extent necessary to avoid the shedding of firm electric load.

We believe the petition warrants a full evidentiary hearing at which time it will be incumbent upon Community to show, among other things, that: (1) it faces an emergency situation wherein it will be required to shed firm electric load unless an exemption from curtailment is granted in an amount which would avoid shedding of such load; (2) it has no alternate fuel capability; (3) it has exhausted all purchased power opportunities; (4) it has utilized all alternate sources of power; and (5) it would accept reduced deliveries, as soon as possible, hereafter, to offset the volumes taken during the emergency exemption from curtailment.

The Commission finds: (1) It is desirable and in the public interest to grant temporary emergency relief pending formal hearing.

(2) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders: (A) Community is hereby granted temporary emergency relief through exemption from the interim curtailment plan in effect on the Southern Division system of El Paso in Docket No. RP72-6 for its electric generating plant at Lordsburg, New Mexico.

(B) All parties granted intervention in *El Paso Natural Gas Company*, Docket No. RP72-6, are hereby permitted to become intervenors, subject to the rules and regulations of the Commission: *Provided, however,* That intervenors desiring to record objections must file formal protests to the noticed petitions stating with particularity the nature of their objections: *And, provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(C) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on January 30, 1974, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commis-

sion, 825 North Capitol Street, N.E., Washington, D.C. 20426. An Administrative Law Judge to be designated by the Chief Administrative Law Judge shall preside at, and control, this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(D) On or before January 24, 1974, all parties shall file with the Commission and serve upon all parties including Commission Staff their testimony and exhibits in support of their position.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-1750 Filed 1-21-74;8:45 am]

[Docket No. CP74-178]

FLORIDA GAS TRANSMISSION CO. AND SOUTHERN NATURAL GAS CO.

Notice of Application

JANUARY 14, 1974.

Take notice that on December 27, 1973, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32789, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP74-178 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of interconnecting facilities and the exchange and transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to exchange gas pursuant to the terms of a Permanent Interconnection, Exchange and Gas Transportation Agreement between them dated October 17, 1973. Under the terms of said agreement Applicants propose to engage in: (1) The simultaneous exchange of equivalent quantities of gas to be received by Southern at a proposed point of interconnection near White Castle, Iberville Parish, Louisiana, and redelivered to Florida Gas at an existing point of interconnection in Washington Parish, Louisiana; (2) the transportation by Southern of up to 25,000 Mcf of natural gas per day from the point of receipt to the redelivery point; and (3) the construction and operation of a line tap and a measuring and regulating station and appurtenances by Florida Gas to enable Southern to receive gas in Iberville Parish, Louisiana.

The application states further that under said agreement Florida Gas agrees to pay Southern a transportation charge of three cents per Mcf of gas delivered to Southern at the delivery point and redelivered to Florida Gas at the redelivery point. Applicants state that they commenced exchanging natural gas on October 17, 1973, pursuant to the authority of § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22), because of an emergency arising from limitation of capacity on Florida Gas' supply lateral facilities.

The application states that Florida Gas has been able to secure certain quantities of natural gas produced in the Chacahoula, Louisiana, area which, when combined with previously committed quantities of gas in this area, result in greater volumes of gas available to Florida Gas than its existing transmission capability. To meet this need for additional transmission capacity without additional construction of facilities by Florida Gas, Southern has agreed to transport up to 25,000 Mcf of said gas per day in its existing 20-inch pipeline near White Castle to the existing exchange station near Franklinton, Louisiana. Florida Gas will simultaneously redeliver equivalent quantities of gas to Southern in Washington Parish, Louisiana.

Applicants request that, in the event that Florida Gas should construct additional transmission facilities in the future thereby eliminating the need for continued use of the proposed exchange point, such facility should continue to be available for Applicants' use as an emergency exchange point in the event Florida Gas loses its existing mainline crossing of the Mississippi River.

The estimated cost of the proposed facilities is $73,000 which cost has been paid by Florida Gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 30, 1974, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-1755 Filed 1-21-74;8:45 am]

[Docket No. E-8446]

PENNSYLVANIA ELECTRIC CO.

Notice of Compliance Filing

JANUARY 15, 1974.

Take notice that Pennsylvania Power Company on January 2, 1974, tendered for filing a revised fuel adjustment clause pursuant to a Suspension Order issued December 11, 1973, in the above referenced docket. According to the Company, the revised fuel clause, designated Second Revised Sheet No. 15, supersedes the original fuel clause which was contrary to § 35.14 of the Commission's rules and regulations. The Company states that service has been made on the appropriate parties.

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, N.E., 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 January 21, 1974. 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 for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-1752 Filed 1-21-74;8:45 am]

[Docket No. RI74-126]

TENNECO OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject To Refund

JANUARY 11, 1974.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commisison's Rules of Practice and Procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Re-

spondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI74-126	Tenneco Oil Co	1	[1] 8	El Paso Natural Gas Co. (San Juan Basin Area, San Juan County, N. Mex.) (Rocky Mountain Area).	$393	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	17	[1] 9	do	251	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	21	[1] 9	do	262	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	26	[1] 8	do	333	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	[3] 36	[1] 8	do	202	12-13-73		2-13-74	[2] 26.1797	[2] 26.7251	
	do	37	[1] 9	do	136	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	38	[1] 8	El Paso Natural Gas Co. (San Juan Basin Area, Rio Arriba County, N. Mex.) (Rocky Mountain Area).	327	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	39	[1] 9	do	485	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	45	[1] 11	El Paso Natural Gas Co. (San Juan Basin Area, San Juan County, N. Mex.) (Rocky Mountain Area).	9,544	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	47	[1] 9	do	98	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	50	[5] 11	El Paso Natural Gas Co. (San Juan Basin Area, Rio Arriba County, N. Mex.) (Rocky Mountain Area).	300	12-13-73		2-13-74	[4] 24.0	24.5	
	do	51	[1] 9	do	82	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	[3] 87	8	do	305	12-13-73		2-13-74	[2] 26.1797	[2] 26.7251	
	do	120	10	El Paso Natural Gas Co. (San Juan County, N. Mex.) (Rocky Mountain Area).	5	12-13-73		6-13-74	[2] [6] 26.1797	[6] 26.7251	
	do	121	9	do	3,000	12-13-73		6-13-74	[2] [6] 26.1797	[6] 26.7251	
	do	124	10	do	3,163	12-13-73		6-13-74	[6] 26.1797	[6] 26.7251	
	do	126	8	do	125	12-13-73		6-13-74	[6] 26.1797	[6] 26.7251	
	do	144	11	do	196	12-13-73		6-13-74	[6] 26.1797	[6] 26.7251	
	do	151	9	El Paso Natural Gas Co. (Rio Arriba County, N. Mex.) (Rocky Mountain Area).	22	12-13-73		6-13-74	[6] 26.1797	[6] 26.7251	
	do	152	9	do	442	12-13-73		6-13-74	[2] [6] 26.1797	[6] 26.7251	
	do	[3] 157	11	do	5	12-13-73		2-13-74	[6] 26.1797	[6] 26.7251	
	do	[3] 158	12	El Paso Natural Gas Co. (San Juan and Rio Arriba Counties, N. Mex.) (Rocky Mountain Area).	5	12-13-73		2-13-74	[6] 26.1797	[6] 26.7251	
	do	161	14	El Paso Natural Gas Co. (San Juan County, N. Mex.) (Rocky Mountain Area).	14	12-13-73		6-13-74	[6] 26.1797	[6] 26.7251	
	do	[3] 162	11	do	5	12-13-73		2-13-74	[6] 26.1797	[6] 26.7251	
	do	163	10	do	5	12-13-73		6-13-74	[6] 26.1797	[6] 26.7251	
	do	164	9	El Paso Natural Gas Co. (La Plata County, Colo.) (Rocky Mountain Area).	92	12-13-73		6-13-74	[6] 25.5052	[6] 25.0157	
	do	172	[1] 6	El Paso Natural Gas Co., (San Juan Basin Area of N. Mex.) (Rocky Mountain Area).	49	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	176	[1] [7] 24	do	375	12-13-73		2-13-74	[4] [10] 24.0	[10] 24.5	
	do	180	[1] 7	do	136	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	198	[1] 6	do	5,236	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	203	[1] 6	do	82	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	223	[1] [11] 12	do	500	12-13-73		2-13-74	[4] [10] 24.0	[10] 24.5	
	do	225	[1] 6	do	425	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	228	[1] 6	do	202	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	230	[1] 8	do	355	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	257	[1] 9	do	82	12-13-73		6-13-74	[2] 26.1797	[2] 26.7251	
	do	[3] 260	[1] 5	do	1,200	12-13-73		([13])	[10] 22.5	[10] 24.5	
	do	[12] 282	[1] 3	do	300	12-13-73		([13])	[10] 22.5	[10] 24.5	
	do	196	[1] 9	El Paso Natural Gas Co. (San Juan Basin Area of Colorado) (Rocky Mountain Area).	38	12-13-73		6-13-74	[2] 24.5052	[2] 25.0157	

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.

[1] Applicable to wells completed prior to June 1, 1970.

[2] Includes tax and is subject to B.t.u. adjustment down from 1,000 B.t.u. and up from 1,050 B.t.u.

[3] Considered "new gas" pursuant to Opinion No. 639.

[4] Filing erroneously reflects rate of 22.5 cents. Rate of 24 cents accepted by letter of May 31, 1973.

[5] Applicable only to Supplement Nos. 4 and 6 which add acreage and are dated after Oct. 1, 1968.

[6] Rate subject to B.t.u. adjustment down from 1,000 B.t.u. and up from 1,050 B.t.u.

[7] Not used.

[8] Inclusive of tax.

[9] For acreage added by Supplement Nos. 17 and 18 only, dated after Oct. 1, 1968.

[10] Subject to B.t.u. adjustment above or below 1,000 B.t.u. per cubic foot.

[11] For acreage added by Supplement Nos. 3, 5, 6, and 9 only, dated after Oct. 1, 1968.

[12] Contract dated after Oct. 1, 1968.

[13] The proposed rate increase is accepted as of Jan. 13, 1974, insofar as it does not exceed the Order No. 435 ceiling and is suspended until Feb. 13, 1974 insofar as it exceeds the Order No. 435 ceiling rate.

The proposed rate increases which exceed the applicable area ceiling rate established by Opinion No. 658 are suspended for five months and the proposed rate increases which exceed the applicable area ceiling rate in Order No. 435 are suspended for one day.

[FR Doc.74-1603 Filed 1-21-74;8:45 am]

[Docket No. CP74-175]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND UNITED GAS PIPE LINE CO.

Notice of Application

JANUARY 15, 1974.

Take notice that on December 21, 1973, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and United Gas Pipe Line Company (United), 1525 Fairfield Avenue, Shreveport, Louisiana 71101, filed in Docket No. CP74-175 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to exchange natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that pursuant to an exchange agreement between Applicants dated November 9, 1973, Transco will deliver or cause to be delivered up to 3,000 Mcf of natural gas per day at 14.73 psia into United's facilities in the Lafourche Crossing Field, Lafourche Parish, Louisiana. United will return, contemporaneously, equal volumes of gas to Transco at any mutually agreeable authorized exchange point between the two Applicants.

The application states that United's facilities are located in the immediate area of Transco's gas supply sources in the Lafourche Crossing Field while Transco lacks such facilities. Applicants state that the proposed exchange arrangement will eliminate the need for construction of facilities by Transco.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 1, 1974, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1751 Filed 1-21-74;8:45 am]

[Docket No. CP74-175]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND UNITED GAS PIPE LINE CO.

Notice of Application

JANUARY 15, 1974.

Take notice that on December 21, 1973, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and United Gas Pipe Line Company (United), 1525 Fairfield Avenue, Shreveport, Louisiana 71101, filed in Docket No. CP74-175 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to exchange natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that pursuant to an exchange agreement between Applicants dated November 9, 1973, Transco will deliver or cause to be delivered up to 3,000 Mcf of natural gas per day at 14.73 psia into United's facilities in the Lafourche Crossing Field, Lafourche Parish, Louisiana. United will return, contemporaneously, equal volumes of gas to Transco at any mutually agreeable authorized exchange point between the two Applicants.

The application states that United's facilities are located in the immediate area of Transco's gas supply sources in the Lafourche Crossing Field while Transco lacks such facilities. Applicants state that the proposed exchange arrangement will eliminate the need for construction of facilities by Transco.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 1, 1974, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1753 Filed 1-21-74;8:45 am]

[Docket No. RP74-52]

TRANSWESTERN PIPELINE CO.

Notice of Proposed Changes in FPC Gas Tariff

JANUARY 14, 1974.

Take notice that Transwestern Pipeline Company (Transwestern), on December 28, 1973, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The proposed changes would increase revenues from jurisdictional sales by approximately $28,500,000 based on the 12 months ended September 30, 1973, as adjusted.

Transwestern states that the principal reasons for the proposed rate increase are: (1) Increased cost of labor, supplies, expenses, plant facilities, and working capital requirements; (2) the need for an increased rate of return of 9.75 percent; (3) the need for an overall rate of depreciation of 5.5 percent; and (4) increased taxes, including income taxes associated with the increased return.

In addition, in accordance with Order No. 483 issued April 30, 1973 by the Federal Power Commission in Docket No. R-462, Transwestern states that it is filing new tariff sheets containing procedures to track research and development expenditures.

Transwestern also states that it has included in revisions to First Revised, Volume No. 1 to consolidate the rates under the various rate schedules on one tariff sheet to simplify future rate changes and to include the SG and RW rate schedules in its Purchased Gas Cost Adjustment Provision, section 19 of the General Terms and Conditions.

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, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1974. 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.74-1756 Filed 1-21-74;8:45 am]

[Docket No. CP74-177]

WASHINGTON NATURAL GAS CO.

Notice of Application

JANUARY 14, 1974.

Take notice that on December 21, 1973, Washington Natural Gas Company, as Project Operator (Applicant), 815 Mercer Street, Seattle, Washington 98111, filed in Docket No. CP74-177 an application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(d) of the regulations thereunder (18 CFR 157.7(d)) for a certificate of public convenience and necessity authorizing the construction over a three-year period commencing January 1, 1974, and operation of certain natural gas facilities, including pipelines, wells and compression units for the testing and development of a deeper storage zone in the Jackson Prairie Storage Project (storage project) located in Lewis County, Washington, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the storage project is an acquifer-type structure and gas stored in said facility is used to provide a special winter peaking service rendered by El Paso Natural Gas Company (El Paso) to its Northwest Division customers.[1] Applicant states that under existing authorizations the storage project is capable of delivering up to 240,000 Mcf of gas daily and up to 7,600,000 Mcf of gas during a seasonal period commencing October 16 and extending through the succeeding April 15th.

Applicant requests budget-type authorization to further test and develop Zone 9 of the storage project over a three-year period. Applicant states that evaluation of initial data on Zone 9 from testing undertaken under amended certificate authorization in Docket No. CP71-7, issued December 12, 1972, indicates a storage potential in excess of 36.6 million Mcf for this zone.

[1] Applicant states that the storage project is owned equally by El Paso, Washington Water Power Company, and Applicant, who is the project operator under certificate authorization issued in Docket Nos. CP71-6, *et al.* (44 FPC 1322), as amended.

Applicant states that the proposed testing and development program will involve the drilling of up to ten additional wells in the Zone 9 structure for observations, water withdrawal and gas injection and withdrawal, the reworking of certain existing wells, and the installation of field lines and cathodic protection.

Applicant states further that test gas injections will be limited to two million Mcf of gas and expenditures in any one year will be less than $1,000,000. Total expenditures over the 3-year period are estimated at $2,281,000, exclusive of the cost of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1754 Filed 1-21-74;8:45 am]

[Docket No. CI74-355]

YALE OIL ASSOCIATION, INC.

Notice of Application

JANUARY 14, 1974.

Take notice that on December 26, 1973, Yale Oil Association, Inc. (Applicant), 2309 First National Center, Oklahoma City, Oklahoma 73102, filed in Docket No. CI74-355 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas to Champlin Petroleum Company (Champlin) from the West Edmond Field, Logan County, Oklahoma, 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 has been selling natural gas to Champlin from two wells in the aforesaid field pursuant to a February 1, 1965, contract, at a rate of 12.0 cents per Mcf. Applicant indicates that Champlin sells this gas in interstate commerce, although Applicant only recently learned of this fact. Applicant proposes to abandon this sale of gas for the following reasons:

1. At no time did Applicant apply to the FPC for approval for this sale of gas to be made in interstate commerce because it did not believe it was under FPC control; and if this gas was under such control, it was done without Applicant's consent or approval. Only recently was Applicant advised that some of this gas was involved in interstate commerce.

2. Pursuant to its basic contract with Champlin, Applicant has the right to cancel such contract at the end of each contract year, after an initial period of five years, by written notification to Champlin at least thirty days prior to the date of termination. Applicant notified Champlin of its intention to cancel such contract on December 21, 1972.

3. Champlin has offered Applicant a new contract for the purchase of this gas at 20.0 cents per Mcf with no adjustments for Btu content nor any share in the liquids extracted from such gas. Applicant regards these terms as unrealistic.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1757 Filed 1-21-74;8:45 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of October 16, 1973

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on October 16, 1973.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services in the fourth quarter is likely to remain at about the moderate rate indicated for the third quarter. In recent months manufacturing employment has leveled off and total nonfarm employment has expanded less rapidly than earlier; the unemployment rate has remained at 4.8 percent. The advance in wage rates has been somewhat faster than earlier. In September wholesale prices of industrial commodities rose appreciably; farm and food prices declined, but by far less than they had risen in August. The U.S. merchandise trade balance weakened slightly in August. Net foreign purchases of U.S. stocks continued large, however, and the balance of payments on an official settlements basis was in surplus in both August and September. Exchange rates for the dollar against most foreign currencies have changed little since mid-August.

The narrowly defined money stock, which has risen sharply during the second quarter, declined in September for the second successive month. The more broadly defined money stock expanded slightly in September as a result of net inflows at banks of consumer-type time deposits. The deposit experience at nonbank thrift institutions improved somewhat in September following a period of sizable outflows. Bank credit—which had been expanding rapidly—increased little as business loan growth slowed markedly, and after mid-September the outstanding volume of large-denomination CD's declined substantially. Short-term market interest rates fell sharply from mid-September to early October, partly as a result of a shift in market expectations regarding monetary policy, and rates on long-term market securities declined moderately further.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to abatement of inflationary pressures, a sustainable rate of advance in economic activity, and continued progress toward equilibrium in the country's balance of payments.

To implement this policy, while taking account of the forthcoming Treasury financing and of international and domestic financial market developments, the Committee seeks to achieve bank reserve and money market conditions consistent with moderate growth in monetary aggregates over the months ahead.

[1] The Record of Policy Actions of the Committee for the meeting of October 16, 1973, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

By order of the Federal Open Market Committee, January 14, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-1743 Filed 1-21-74;8:45 am]

THE CHASE MANHATTAN CORP.

Order Approving Acquisition of Bank

The Chase Manhattan Corporation, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under seition 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Chase Manhattan Bank of the Southern Tier (National Association), Binghamton, New York ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in New York in terms of domestic deposits, controls eight banks with aggregate domestic deposits of approximately $16.9 billion, representing 15.9 percent of total commercial bank deposits in New York.[1] The proposed acquisition represents Applicant's initial entry into the Seventh Banking District of New York State. Inasmuch as Bank is a proposed new bank, no existing competition would be eliminated.

Bank would be competing in the Binghamton banking market, which consists of Broome and Tioga Counties plus the Town of Greene in Chenango County, all three countries being in New York, and the northern half of Susquehanna County in Pennsylvania. Applicant is not presently represented in the Binghamton market, and, under the State's banking laws, its existing subsidiaries are not permitted to branch into the Seventh Banking District until 1976. At the present time, the market's four largest banks, all of which are holding company subsidiaries, hold 78.4 percent of market deposits; a new competitor can be expected to strengthen competition and contribute to a deconcentration of deposits held by those banks. Accordingly, it is concluded that consummation of the proposed acquisition would not have an adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources of Applicant and its subsidiary banks are satisfactory. Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant are good and are consistent with approval. Considerations relating to the convenience and needs of the area to be served lend some weight toward approval, since Bank will constitute an additional source of full banking services.

It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

Applicant owns two nonbanking subsidiaries which are subject to the ten year grandfather clause in section 4(a)(2) of the Act. Berkely Service Corporation, Boston, Massachusetts, is a service agency for the Shapiro Factors Division of The Chase Manhattan Bank. Dovenmuehle, Inc., Chicago, Illinois, is a mortgage service company. These companies were acquired on June 4, 1969, and December 19, 1969, respectively.

In making its determination herein, the Board has relied upon a finding that the combination of an additional subsidiary bank with Applicant's existing nonbanking subsidiaries is unlikely to have an adverse effect upon the public interest at the present time. However, Applicant's banking and nonbanking activities remain subject to Board review and the Board retains the authority to require Applicant to modify or terminate its nonbanking activities or holdings if the Board at any time determines that the combination of Applicant's banking and nonbanking activities is likely to have adverse effects on the public interest.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day folowing the effective date of this Order or (b) later than three months after that date, and (c) Chase Manhattan Bank of the Southern Tier, Binghamton, New York, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[2] effective January 14, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-1738 Filed 1-21-74;8:45 am]

[1] Deposit data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through November 5, 1973.

FRAMINGHAM FINANCIAL CORP.

Formation of Bank Holding Company

Framingham Financial Corporation, Framingham, Massachusetts, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Framingham Trust

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

Company, Framingham, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than February 7, 1974.

Board of Governors of the Federal Reserve System, January 11, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1732 Filed 1-21-74;8:45 am]

GRAETTINGER BANCORPORATION

Acquisition of Bank

Graettinger Bancorporation, Graettinger, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 94.7 per cent of the voting shares of Graettinger State Bank, Graettinger, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than February 7, 1974.

Board of Governors of the Federal Reserve System, January 11, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1733 Filed 1-21-74;8:45 am]

HAMILTON BANCSHARES, INC.

Acquisition of Bank

Hamilton Bancshares, Inc., Chattanooga, Tennessee, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Citizens State Bank, McMinnville, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than the February 10, 1974.

Board of Governors of the Federal Reserve System, January 14, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1735 Filed 1-21-74;8:45 am]

HASTINGS CITY NATIONAL CO.

Formation of Bank Holding Company

Hastings City National Co., Lincoln, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of more than 80 percent of the voting shares of City National Bank, Hastings, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than February 2, 1974.

Board of Governors of the Federal Reserve System, January 11, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1730 Filed 1-21-74;8:45 am]

PITTSBURGH NATIONAL CORP.

Proposed Acquisition of Central Mortgage & Investment Company

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire indirectly, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio, voting shares of Central Mortgage & Investment Company, Colorado Springs, Colorado. Notices of the application were published in newspapers of general circulation in the communities to be served.

Applicant states that the proposed subsidiary would engage in the activities of originating and servicing mortgage loans for its own account or the accounts of others. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 10, 1974.

Board of Governors of the Federal Reserve System, January 14, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1740 Filed 1-21-74;8:45 am]

SOUTHEAST BANKING CORP.

Acquisition of Bank

Southeast Banking Corporation, Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The First National Bank of Homestead, Homestead, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 7, 1974.

Board of Governors of the Federal Reserve System, January 11, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1731 Filed 1-21-74;8:45 am]

SOUTHWEST BANCSHARES, INC.

Order Approving Transfer of Assets of Mortgage Banking Division of Bank of the Southwest

Southwest Bancshares, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to transfer certain mortgage banking assets of the mortgage banking division of its wholly-owned banking subsidiary Bank of the Southwest National Association, Houston, Texas ("Bank"), to a new wholly-owned subsidiary, Southwest Bancshares Mortgage Company, Houston, Texas ("Southwest Mortgage"), and thereby to continue to engage in the activity of mortgage banking. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 31565). The time for filing comments and views has expired, and none has been timely received.

Applicant is the fifth largest banking organization in Texas, and controls fourteen banks with aggregate deposits of

$1.3 billion, representing 3.6 per cent of the total deposits in commercial banks in that State.[1] Bank has deposits of $741 million and is the third largest bank in the Houston SMSA banking market controlling 9 per cent of commercial bank deposits in that market.

Applicant seeks permission through this application to acquire certain of the mortgage banking assets of Bank and to transfer the loan servicing contracts of Bank to Southwest Mortgage, a de novo mortgage banking subsidiary.[2] As a result of the establishment of Southwest Mortgage, operating under the broader authority contained in section 4(c)(8) of the Act, Applicant can indirectly make loans at places other than the premises of subsidiary banks.

Bank acquired the mortgage banking assets of W. M. Wright Company ("Company") in 1962. In 1962, Company originated only $1.8 million in 1–4 family residential mortgages, or less than 1 per cent of all mortgages recorded in the Houston mortgage market. For the same period, Bank's volume of conventional real estate loans secured by residential properties of all types amounted to $2.7 million, around 1 per cent of all mortgages recorded in the relevant market. After the acquisition, Bank's share of the originations in the Houston mortgage banking market increased slightly without any discernible effect on competition in that market. Nor is there anything in the record to indicate that the acquisition led to an undue concentration of resources, conflicts of interests or unsound banking practices. During 1972, Bank originated $4.7 million of mortgages for 1–4 family residential properties, representing 0.5 per cent of such mortgages originated in the Houston SMSA. In addition to other commercial banks, Bank competes for mortgage originations with 106 mortgage companies and 10 savings and loan associations in the market. The Board concludes that the proposed transfer would have no adverse effects on existing or potential competition.

The proposed transfer of certain of the mortgage banking assets of Bank into an operating subsidiary of Applicant would leave unchanged the present competitive situation in the Houston mortgage market. As a consequence of the transfer, the mortgage banking function of Applicant could be conducted on a more competitive basis with other mortgage companies. In addition, the new subsidiary, Southwest Mortgage, will be able to open additional full service offices both within and outside Texas. The Board concludes that these measures would be procompetitive, and that transfer of certain of the functions of the mortgage banking division of Bank to Southwest Mortgage would be in the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas.

By order of the Board of Governors,[3] effective January 14, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-1737 Filed 1-21-74;8:45 am]

SOUTHWEST BANCSHARES, INC.

Order Approving Acquisition of Bank

Southwest Bancshares, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of Citizens Bank, Irving, Texas.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest multi-bank holding company in Texas, controls 14 banks with aggregate deposits of $1,255 million, representing 3.6 percent of total deposits of commercial banks in the State. (All banking data are as of June 30, 1973, and reflect holding company formations and acquisitions approved through December 31, 1973.) Acquisition of Bank ($6.3 million in deposits) would not significantly increase Applicant's share of State deposits and its ranking among banking organizations in the State would be unchanged.

Bank, the 83rd largest of 99 banking organizations in the relevant market, which is the Dallas RMA banking market, controls less than one percent of total deposits of commercial banks in the market. Applicant has two banking subsidiaries located in the Dallas RMA, First Denton County National Bank of Denton, Texas ("First Denton") ($38.1 million of deposits) and Arlington Bank of Commerce, Arlington, Tex. ("Arlington Bank") ($12 million of deposits). Upon consummation of the proposed acquisition, Applicant's share of deposits in the Dallas RMA banking market would increase insignificantly from .64 to .71 percent, and Applicant's ranking among commercial banks in the market would remain unchanged.

Bank is located approximately 12 miles from Arlington Bank and 36 miles from First Denton, and the service area of Bank does not overlap with that of First Denton or of Arlington Bank. Approval of the proposed acquisition would have no significant adverse effect on existing competition in the Dallas RMA banking market. Furthermore, in view of Bank's small size and the presence of a large number of banks located in the intervening areas between Bank and Arlington Bank and First Denton, it does not appear that any significant competition would develop in the future between Bank and Applicant's subsidiary banks. The Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Considerations relating to the financial and managerial resources and prospects of Applicant and its subsidaries are regarded as satisfactory and consistent with approval of the application in view of Applicant's commitment to inject additional equity capital into one of its present subsidiary banks. Financial and managerial resources and prospects of Bank are also satisfactory and consistent with approval. While there is no evidence that banking needs of the community are not presently being met, affiliation with Applicant would enable Bank to expand its range of services and, thus, provide an additional source of full banking services in the Dallas area. Considerations relating to the convenience and needs of the community to be served are regarded as consistent with approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[4] effective January 14, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-1734 Filed 1-21-74;8:45 am]

[1] All banking data are as of June 30, 1973, and reflect bank holding company formations and acquisitions approved by the Board through December 31, 1973.

[2] Established through approval of the Federal Reserve Bank of Dallas on September 24, 1973, pursuant to delegated authority (12 CFR 265.2(f)(20)(i)).

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

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

STATE STREET BOSTON FINANCIAL CORP.

Order Approving Acquisition of Kentucky Mortgage Company, Inc.

State Street Boston Financial Corporation, Boston, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Kentucky Mortgage Company, Incorporated, Lexington, Kentucky ("KMC"). KMC engages in the activities of originating, purchasing, selling, and servicing real estate mortgage loans and acting as insurance agent in the sale of credit life, and credit accident and health insurance related to the extensions of credit serviced by KMC and acting as an advisor to a real estate investment trust. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (3), (5), and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 30581). The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant controls two banks with aggregate deposits of $1.18 billion, representing about 9 percent of total deposits in commercial banks in Massachusetts.[1]

Applicant's banking subsidiaries make mortgage loans but they are confined, in general, to the Massachusetts area. Applicant also has a nonbanking subsidiary, SSB Mortgage Company, Inc., which was organized de novo in August, 1973, and was formed primarily to make mortgage loans that KMC could not finance due to the latter's lack of funds.

KMC (assets of approximately $10 million as of April 30, 1973), maintains a main office in Lexington, Kentucky, with branch offices in Cincinnati, Ohio, and Louisville, Kentucky. KMC's market area generally covers the States of Tennessee, Kentucky, and the southern portions of Indiana and Ohio. During the fiscal year ending April 30, 1973, KMC originated $123.5 million in mortgage loans and as of the end of the fiscal year was servicing some $257.8 million in mortgages. On the basis of servicing volume, KMC ranked as approximately the hundredth largest mortgage banking concern in the United States.

Applicant's subsidiary banks and KMC operate in widely separated geographic markets. There is no existing competition between these banking subsidiaries and KMC in the market for mortgages on 1–4 family housing, nor do they appear to compete directly with one another in the product markets for construction loans and mortgages on income-producing property. Though applicant appears to have the financial resources to enter KMC's geographic area de novo, elimination of Applicant as a potential competitor would not appear to have substantially adverse effects on future competition in view of the large number of potential competitors and the generally unconcentrated nature of the markets involved. Moreover, KMC does not appear to have a dominant position in any of its local markets. The acquisition of KMC by Applicant and its subsequent merger with SSB should add approximately $3.5 million (or almost seven times the present capital of KMC) to KMC's capital accounts. This should enable KMC to expand its area of operations and become a more vigorous competitor. There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest.

Applicant is not presently engaged in acting as an investment advisor to a real estate investment trust. Its entry into this field should provide significant benefits by enabling KMC to expand this activity. KMC also sells credit life and credit accident and health insurance in connection with mortgage loans it services. Due to the limited nature of these insurance activities, it does not appear that Applicant's acquisition of KMC's insurance activities would have any significant effect on existing or future competition.

In its consideration of this application, the Board has examined covenants not to compete contained in employment agreements with the two principal executives of KMC. The Board finds that the provisions of these covenants, which are limited to the mortgage banking business for a 2-year period, and to an area within a 50-mile radius of Lexington, Kentucky, are reasonable in scope, duration, and geographic area and are consistent with the public interest.

Based upon the foregoing and other considerations reflected in the record,[2] the Board has determined that the balance of the public interest factors the Board is required to consider under Section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order unless such period is extended for good cause by the Board of Governors or by the Federal Reserve Bank of Boston.

By order of the Board of Governors,[3] effective January 11, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-1729 Filed 1-21-74;8:45 am]

[1] All banking data are as of June 30, 1973, and represent bank holding company formations and acquisitions approved by the Board through November 30, 1973.

[2] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Boston.

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

UNITED BANKS OF COLORADO, INC.

Order Approving Acquisition of Bank

United Banks of Colorado, Inc., Denver, Colorado, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First State Bank of Fountain, Fountain, Colorado ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Colorado, controls 15 banks with aggregate deposits of approximately $908 million,[1] representing 14.9 percent of the commercial bank deposits in the State. Acquisition of Bank would increase Applicant's share of State deposits only slightly, and Applicant's ranking among State banking organizations would remain unchanged.

Bank ($4.4 million in deposits) is the 19th largest of 20 commercial banks in the Colorado Springs banking market (approximated by El Paso County) and holds approximately 0.9 percent of the deposits in commercial banks in the market. Applicant's banking subsidiary closest to Bank, United Bank of Colorado Springs ("United Bank"), is located within the relevant market, 11 miles distant from Bank. United Bank holds deposits of $23.7 million, representing approximately 4.8 perecnt of total market deposits and thereby ranks as as the fifth largest banking organization in the market. Bank derives approximately 9 percent of its deposits and 11 percent of its loans from the primary service area of United Bank. Consequently, it appears that consummation of the proposal would eliminate a slight degree of existing competition between Bank and United Bank. Applicant would control approximately 5.6 percent of

[1] All banking data are as of June 30, 1973, and reflect bank holding company formations and acquisitions approved by the Board through November 30, 1973.

total market deposits, not a dominant share of the banking resources in the market, and less than half the market share of the fourth largest banking organization in the market. Consummation would not preclude the possibility of other holding companies entering the market.

The financial condition and managerial resources of Applicant, its subsidiary banks and Bank are considered satisfactory, and prospects for each appear favorable, particularly in light of Applicant's commitment to increase Bank's equity capital by $150,000. Applicant also intends to provide an experienced loan officer to Bank, for operating or training purposes. Thus, the banking factors weigh in favor of approval of the application.

Although there is no evidence that the major banking needs of the residents of the relevant market are not currently being met, the proposed affiliation should benefit the area through the increased capitalization and strengthened managerial resources of Bank deriving from the affiliation. Thus, considerations relating to the convenience and needs of the community to be served also lend weight to approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the applicant should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2] effective January 10, 1974.

CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-1727 Filed 1-21-74;8:45 am]

UNITED FIRST FLORIDA BANKS, INC.

Order Approving Acquisition of Bank

United First Florida Banks, Inc., Tampa, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 per cent or more of the voting shares of The Peoples Bank of Tallahassee, Tallahassee, Florida ("Peoples Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in Florida, controls 38 banks (including 6 bank acquisitions approved but not consummated) with total deposits of $1,226.7 million, representing 6.2 per cent of total deposits of commercial banks in the State. (Banking data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through November 1, 1973.) The acquisition of Peoples Bank, with deposits of $21.5 million, would increase Applicant's share of Florida bank deposits by one-tenth of 1 per cent and would not change Applicant's rank as a banking organization in the State. The proposed transaction would not result in a significant increase in the concentration of banking resources in Florida.

By means of this application, Applicant is seeking to make its initial entry into the Tallahassee-Leon County market, the relevant banking market, which is located in the northern part of Florida. The ten banks located in Leon County hold $255.4 million in deposits. Applicant, in acquiring Peoples Bank, the fourth largest bank in the market with 8.4 per cent of market deposits, will not be gaining a dominant position in this market.

Applicaint's closest subsidiary bank is in Jacksonville, Florida, 170 miles east of Tallahassee. Applicant's subsidiary banks do not compete with Peoples Bank, and it is not likely that significant future competition would develop between them because of the distance involved and Florida's restrictive branching laws. The acquisition would have no significant adverse competitive effects in any relevant area.

The financial and managerial resources and prospects of Applicant, its subsidiaries, and the bank to be acquired are satisfactory in light of Applicant's commitments to increase capital in some of its subsidiary banks. There is no evidence in the record that the banking needs of the community to be served are not being met; however, Applicant states that it will provide trust and expanded mortgage lending services to Peoples Bank as well as management training, and it will be a source for loan participations and technical advice. Considerations relating to convenience and needs of the community to be served thus lend some weight toward approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective January 10, 1974.

CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-1728 Filed 1-21-74;8:45 am]

VALLEY OF VIRGINIA BANKSHARES, INC.

Acquisition of Bank

Valley of Virginia Bankshares, Inc., Harrisonburg, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to Western Frederick Bank, Gore, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than February 10, 1974.

Board of Governors of the Federal Reserve System, January 14, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1739 Filed 1-21-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ENVIRONMENTAL BIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Environmental Biology to be held at 9 a.m. on February 7 and 8, 1974, in Room 642 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92-463.

T. E. JENKINS,
Assistant Director for Administration.

JANUARY 11, 1974.

[FR Doc.74-1742 Filed 1-21-74;8:45 am]

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

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

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Notice of Public Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of an ad hoc panel of the Business Advisory Council on Federal Reports to be held in Room 2010, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., on Wednesday, January 30, 1974 at 9:30 a.m.

The purpose of the meeting is to obtain advice on reporting problems involved in a proposed revision and consolidation of reporting requirements to the Cost of Living Council on form CLC–22, "Prenotification Report, or Record of Prices, Costs, and Profits" including Schedules C, R, T, and F. The meeting will be open to public observation and participation.

Further information regarding the meeting may be obtained from the Statistical Policy Division, Office of Management and Budget, Room 10208, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395–4730.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74–1771 Filed 1–21–74;8:45 am]

TARIFF COMMISSION

[22–37]

CERTAIN COTTON, COTTON WASTE, AND COTTON PRODUCTS

Notice of Hearing Rescheduling

The United States Tariff Commission has rescheduled from January 21, 1974, to February 7, 1974, the hearing in connection with the investigation instituted on November 5, 1973, under subsection (d) of section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), to determine whether the annual import quotas for the articles described in items 955.01 through 955.06 may be suspended without rendering or tending to render ineffective, or materially interfering with, the programs for cotton now conducted by the Department of Agriculture, or reducing substantially the amount of products processed in the United States from domestic cotton.

The hearing will be held Thursday, February 7, 1974, at 10 a.m., e.d.t., in the Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C. Requests for appearances at the hearing should be received by the Secretary of the Tariff Commission, in writing, at his office in Washington, D.C., not later than noon, Friday, February 1, 1974.

Issued: January 17, 1974.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74–1792 Filed 1–21–74;8:45 am]

[AA1921–138]

HAND-OPERATED, PLASTIC PISTOL-GRIP TYPE LIQUID SPRAYERS FROM JAPAN

Notice of Investigation and Hearing

Having received advice from the Treasury Department on January 14, 1974, that hand-operated, plastic pistol-grip type liquid sprayers from Japan are being, or are likely to be, sold at less than fair value, the United States Tariff Commission on January 16, 1974, instituted investigation No. AA1921–138 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.d.s.t., on Tuesday, Feb. 26, 1974. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon, Thursday, February 21, 1974.

Issued: January 17, 1974.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74–1793 Filed 1–21–74;8:45 am]

FEDERAL ENERGY OFFICE

NATIONAL SUPPLY/CAPACITY RATIO AND REFINERS BUY-SELL LIST

Crude Oil Allocation Notice

Pursuant to the authority of the Emergency Petroleum Allocation Act of the 1973, Pub. L. 93–159, and E.O. 11748, 38 FR 33575, the Federal Energy Office (FEO) has established a mandatory allocation program for crude oil (Subpart C of Part 211, Title 10, Code of Federal Regulations). In accordance with the provisions of 10 CFR 211.63, and 10 CFR 211.66(f), the first national refiner supply/capacity ratio and the list of refiner-sellers and refiner-buyers are hereby published.

The supply/capacity ratio and the buy-sell list are set forth as an appendix to this notice, and are applicable through the period February 1, 1974–April 30, 1974. The provisions of 10 CFR, Part 211, Subpart C apply to transactions under the buy-sell list.

The listing in the Appendix covers PAD districts I through V, and the amounts shown in columns 3 and 4 of the list are in barrels of 42 gallons each, for the specified period. Column 1 lists the name of the refiner. A refiner listed with an amount in Column 3 is required, pursuant to 10 CFR 211.65(h), to offer that volume of crude oil to a refiner listed with an amount in Column 4. Refiners with amounts so listed in Column 4 have the opportunity to purchase crude oil pursuant to 10 CFR 211.65(i). Column 2 lists the supply capacity ratio as reported by each refiner.

The procedures of Title 10 CFR applicable to transactions under the buy-sell list provide that if a sale is not agreed upon within 15 days of this date of publication, the refiners which are entitled to purchase crude oil but have not done so, may request the National Office, FEO, to order a sale. Refiner-buyers making such requests must provide the FEO with the following information:

1. Name of the refiner and of person authorized to act for the refiner in buy-sell transactions.

2. Name and location of the refineries for which crude oil is sought, the amount of crude oil sought for that refinery, and the technical specification range of crude oil which can be processed in that refinery.

3. Names and locations of all refiners from whom crude oil has been sought under this program and the volume and specification of the crude oil sought from each.

4. Statement of any restrictions, limitations or constraints made in the purchase requests with particular repsect to manner or time of deliveries and price.

5. The response of each refiner with whom a request to purchase crude oil has been placed, and the name and telephone number of the contact in each selling refinery.

6. Such other pertinent information as the FEO may request.

Issued in Washington, D.C., January 18, 1974.

JOHN C. SAWHILL,
Deputy Administrator, Federal Energy Office.

APPENDIX

1. The National refiner supply/capacity ratio for the period February 1, 1974 through April 30, 1974 is 0.7631.

2. The list of refiner-buyers and refiner-sellers for the period February 1, 1974 through April 30, 1974 is as follows:

CRUDE OIL ALLOCATION PROGRAM

SUPPLY AND CAPACITY RATIOS AND ELIGIBLE TRANSACTIONS

FEBRUARY TO APRIL 1974

Refiner name	Supply and capacity ratio	Eligible sales (barrels)	Eligible purchases (barrels)
Texas Fuel & Asphalt	1.0498	5,893	0
Road Oil Sales	1.0418	13,642	0
Union Texas	1.0005	198,554	0
Cross Oil of Arkansas	.9791	67,278	0
Hunt Oil	.9781	287,095	0
Skelly Oil	.9692	1,311,787	0
Bay Refining/DOW	.9535	190,024	0
Conoco	.9485	5,648,558	0
Amerada-Hess	.9315	8,030,462	0
Clark Oil & Refining	.9268	1,559,112	0
Gulf Oil	.9135	11,900,268	0
Diamond Shamrock	.8987	559,937	0
Oriental Refining	.8936	14,529	0
Plateau	.8924	59,817	0
Apco Oil	.8843	399,000	0
Phillips	.8751	4,054,371	0
Champlin	.8688	1,317,559	0
Delta Refining	.8618	241,530	0
Famariss Oil	.8607	43,399	0
La Gloria	.8517	186,013	0
Cities Service Oil	.8507	2,089,729	0
Dorchester Gas	.8426	7,072	0
Shell	.8372	7,167,126	0
Tenneco	.8234	545,104	0
Amoco	.8194	5,085,994	0
Mobil	.8145	4,387,819	0
Indiana Farm Bureau	.8137	56,215	0
Beacon Oil	.8096	50,078	0
Kerr-McGee	.8088	215,264	0
Fletcher	.8075	59,220	0
Navajo	.8074	82,450	0
Osceola Refining	.8031	33,769	0
Canal Refining	.8023	11,158	0
Koch	.7991	351,921	0
Allied Materials	.7922	11,092	0
American Petrofina	.7900	443,423	0
Young Oil	.7888	5,702	0
Socal	.7797	1,497,967	0
Sound	.7745	3,448	0
Exxon	.7675	452,708	0
Pasco	.7646	5,237	0
Union oil	.7644	51,922	0
Alabama refining	.7640	1,133	0
Fed Ratio	.7631		
Oil Shale	.7620	0	7,049
Husky	.7516	0	47,168
Texaco	.7511	0	1,266,079
Vickers	.7472	0	42,570
Lunday-Thagard	.7449	0	4,860
Calumet	.7413	0	4,666
Cra-Farmland Industries	.7410	0	118,133
Sun Oil	.7390	0	1,200,466
Caribou Four Corners	.7350	0	18,019
Total Leonard	.7336	0	110,958
Crystal Oil & Gas	.7315	0	41,554
National Coop	.7244	0	186,811
Quacker State	.7236	0	86,174
Mid-America Refining	.7228	0	10,760
Murphy Oil	.7217	0	308,626
Little America	.7191	0	86,218
Arco	.7035	0	4,071,034
United Refining	.6944	0	254,285
Rock Island	.6932	0	183,612
Marathon	.6907	0	1,945,206
The Refinery Corp	.6823	0	118,665
Thunderbird Resources	.6736	0	126,648
Tesoro	.6699	0	549,136
Winston Refining	.6690	0	0
Newhall Refining	.6662	0	73,313
Charter Oil	.6586	0	769,653
Sohio	.6445	0	3,894,294
Pennzoil	.6389	0	574,654
Semiole Asphalt	.6367	0	50,632
Farmers Union Central Exchange	.6353	0	483,554
Ashland	.6347	0	4,054,453
Powerine	.6334	0	329,150
South Western Refining	.6233	0	2,367
Eddy Refining	.6223	0	11,250
Southland Oil	.6189	0	269,511
Mohawk	.6160	0	340,806
Lakeside Refining	.6123	0	53,679
Vulcan	.5884	0	54,430
Tonkawa	.5798	0	81,601
Gladieux Refinery	.5762	0	91,504
Warrier Asphalt	.5392	0	59,781
Claiborne Gas	.5376	0	130,480
Laketon Asphalt Refining	.5366	0	128,418
Coastal States	.5365	0	2,403,046
Bayou State	.5339	0	71,411
M. T. Richards	.5206	0	1,360
Hawaiian Independent	.5163	0	878,729
Texas City	.5098	0	1,603,043
Flint Chemical	.5056	0	27,506
Kentucky Oil	.5036	0	11,549
Golden Eagle Refining	.5000	0	304,446
Evangeline	.4940	0	95,803
Southwestern O & R	.4925	0	2,388,528
MacMillan	.4907	0	385,533
Somerset Refining	.4794	0	75,757
Three Rivers	.4715	0	7,503
Pride Refining	.4677	0	100,125
Witco Chemical	.4628	0	721,711
O K C	.4579	0	0
Edgington Oil	.4493	0	824,064
Sunland	.4130	0	0
Getty Oil	.4005	0	3,421,409
Edgington Oxnard	.3918	0	82,613
Commonwealth	.3770	0	7,939,266
Crystal Refining	.3661	0	219,094
San Joaquin Oil	.3595	0	969,915
Crown Central Petroleum	.3399	0	3,006,541
South Hampton	.3304	0	41,616
U.S. Oil	.3195	0	631,708
Thriftway	.3154	0	156,146
Dingman Oil & Refining	.3101	0	100,796
Midland Coop	.2592	0	491,725
North America Petrol	.2079	0	810,469
Jet Fuel Refining	.2049	0	22,358
West Coast Oil	.2048	0	645,948
Arizona Fuels	.1865	0	266,003
Sage Creek	.1616	0	44,002
Good Hope Refining	.1615	0	1,039,992
Yetter	.1124	0	57,915
Howell	.0840	0	1,175,503
Wireback	.0399	0	77,240
J&W Refining	0.0000	0	575,002
Mountaineer Refining	0.0000	0	0
Wood County	0.0000	0	203,757
Gary Western	0.0000	0	427,200
Guam	0.0000	0	2,003,608
Ingot Oil & Refining	0.0000	0	2,003,608

[FR Doc. 74-1935 Filed 1-18-74;5:30 pm]

INTERSTATE COMMERCE COMMISSION

[Notice No. 428]

ASSIGNMENT OF HEARINGS

JANUARY 17, 1974.

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 January 22, 1974.

MC-115331 Sub 347, Truck Transport Incorporated, now being assigned hearing February 21, 1974 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC-106644 Sub 147, Superior Trucking Company, Inc., now assigned January 21, 1974, at Atlanta, Ga., is cancelled and the application dismissed.

MC-126102 Sub 18, Anderson Motor Lines, Inc., now assigned January 21, 1974, at Boston, Mass., is cancelled and application dismissed.

MC-129529 Sub 5, Thruway Messenger Service, Inc., now assigned February 6, 1974, will be held in Rm. E-2222, 26 Federal Plaza, New York, N.Y.

MC-111476 Sub 3, John S. Wisneski, now assigned February 25, 1974, will be held in Room E-2222, Federal Plaza, New York, N.Y.

MC-C-8041, Garrett Freight Lines, Inc., Et Al. v. Puget Sound Truck Lines, Inc., now asigned February 5, 1974, at Olympia, Wash., is postponed indefinitely.

MC-133316 sub 365, Frozen Food Express, Inc., now assigned January 28, 1974, at Milwaukee, Wis., is cancelled and the application is dismissed.

MC-42011 sub 10, D. Q. Wise & Co., Inc., now assigned January 23, 1974, at Kansas City, Mo., is cancelled and the application is dismissed.

W-81 Sub 3, McAllister Lighterage Line, Inc., now assigned February 4, 1974, will be held in Room E-2222, Federal Plaza, New York, N.Y.

W-457 Sub, McAllister Brothers, Inc., now assigned February 4, 1974, will be held in Room E-2222, Federal Plaza, New York, N.Y.

No. 35659, Miller Oil Purchasing Company v. Amerada-Hess Corporation, Et Al., now assigned January 17, 1974, at Washington, D.C., continued pre-hearing conference is postponed to February 8, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-124211 Sub 232, Hilt Truck Line, Inc., now being assigned February 11, 1974 (1 week), at Chicago Ill., in Room 1614, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC-F-11893, Overnite Transportation Company—Purchase—Spade Continental Express, Inc., now assigned March 4, 1974, at Columbus, Ohio is cancelled and reassigned to Stouffer's Cincinnati Inn, 150 West Fifth St., Cincinnati, Ohio.

MC 139087 Sub-1, P K Delivery Co., Inc., application dismissed.

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

[FR Doc.74-1800 Filed 1-21-74;8:45 am]

[Notice No. 5]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 14, 1974.

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), pub-

lished 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 2780 (Sub-No. 4 TA), filed January 4, 1974. Applicant: HORN'S MOTOR EXPRESS, INC., 2020 Lincoln Way East, Chambersburg, Pa. 17201. Applicant's representative: John M. Musselman, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value and except high explosives, household goods when transported as a separate and distinct service in connection with so-called "household movings", commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving York, Pa., and Newberrytown, Pa., and points in the commercial zones thereof, as off-route points in connection with applicant's authorized service regular route, between Harrisburg, Pa., and Baltimore, Md., for the purpose of interlining with authorized motor carriers at the indicated points, and traversing Interstate Highway 83 between Harrisburg Pa., and Baltimore, Md. for operating convenience, for 180 days.

NOTE.—Applicant proposed to interline at York, Pa., and Newberrytown, Pa., and points in the commercial zones thereof.

SUPPORTING SHIPPERS: M & M Transportation Co., 728 State Street, York, Pa. 17400; Pilot Freight Carriers, Inc., 5200 Ilchester Road, Ellicott City, Md. 21043; Branch Motor Express Company, 600 North State St., York, Pa. 17400; Mercury Motor Express, Inc., R.D. #1, Etters, Pa. 17400; and IML Freight, Inc., R.D. #1, Etters, Pa. 17319. SEND PROTESTS TO: Robert P. Amerine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 22254 (Sub-No. 71 TA), filed January 4, 1974. Applicant: TRANS-AMERICAN VAN SERVICE, INC., 12301 West Freeway, P.O. Box 12608 Fort Worth, Tex. 76116. Applicant's representative: Elliott Bunce, Suite 618 Perpetual Bldg., 111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated electric motorcycles, and electric motorcycle parts and accessories thereof*, from the plant site and facilities of Auranthetic Corporation, 828 North Lake Street, Burbank, Calif., on the one hand, to points in the United States (excluding Alaska and Hawaii) on the other, for 180 days. SUPPORTING SHIPPER: Auranthetic Corporation, 828 N. Lake St., Burbank, Calif. 91502. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 50069 (Sub-No. 473 TA), filed January 3, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel*, in bulk, in tank vehicles, from Ft. Wayne, Ind., to Little Rock, Ark., and Memphis, Tenn., for 180 days. SUPPORTING SHIPPER: The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201. SEND PROTESTS TO: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 50069 (Sub-No. 474 TA), filed January 3, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel*, in bulk, between Huron, Ohio, and Atlanta, Ga.; Charleston, W. Va.; Dallas, Tex.; Detroit, Mich.; Ft. Wayne, Ind.; Grand Rapids, Mich.; Houston, Tex.; Indianapolis, Ind.; Little Rock, Ark.; Louisville, Ky.; Memphis, Tenn.; Nashville, Tenn.; Peoria, Ill.; Roanoke, Va.; and St. Louis, Mo., for 180 days. SUPPORTING SHIPPER: The Kroger Co., 1014 Vine St., Cincinnati, Ohio 45201. SEND PROTESTS TO: District Supervisor Keith D. Warner, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 51146 (Sub-No. 348 TA), filed January 2, 1974. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 S. Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated fibreboard or pulpboard products*, from the plant site of Hoerner Waldorf Corporation located near Channahon, Ill., to Crawfordsville, Ind.; Warsaw, Ind.; and Willard, Ohio, for 180 days. SUPPORTING SHIPPER: Hoerner Waldorf Corporation, 2250 Wabash Ave., St. Paul, Minn. 55165 (R. C. Nelson, Transportation Manager). SEND PROTESTS TO: John E. Ryden, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 52704 (Sub-No. 110 TA), filed January 3, 1974. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", Opelika Highway, LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers, corrugated cartons and fillers, and those materials and supplies* used in the manufacture of glass containers, except in bulk, between the plant site of Midland Glass Company, Inc., at or near Warner Robins, Ga., on the one hand, and, on the other, Jacksonville and Tampa, Fla., for 180 days. SUPPORTING SHIPPER: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 52704 (Sub-No. 11 TA), filed January 3, 1974. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", Opelika Highway, LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, except in bulk, and *lighter fluid* (naptha distillate), *hickory chips, fireplace logs, and vermiculite, other than crude*, except in bulk, when moving in mixed shipments with charcoal, from the plant site of Kingsford Company at or near Burnside, Ky., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, Mississippi, South Carolina, Tennessee, and Virginia, for 180 days. SUPPORTING SHIPPER: Kingsford Company, 940 Commonwealth Building, Louisville, Ky. 40201. SEND PROTESTS TO: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 58828 (Sub-No. 8 TA), filed January 4, 1974. Applicant: SOUTHEASTERN MOTOR FREIGHT, INC., 4320 Hessmer Avenue, P.O. Box 786, Metairie, La. 70002. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, La. 70130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk liquid commodities*, in shipper owned and/or steamship company owned containers, between points in Orleans, Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Helena, St. Tammany, and Washington Parishes, La., on the one hand, and, on the other hand, New Or-

leans, La., limited to traffic moving to and from the Port of New Orleans by water, for 180 days. SUPPORTING SHIPPERS: There are approximately 7 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 99780 (Sub-No. 34 TA), filed January 2, 1974. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 N.E. Bond Street, P.O. Box 1345 (Box zip 61601), Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and/or cold storage facilities utilized by Wilson and Co., Inc., at Cedar Rapids, Iowa, to St. Louis, Mo., and points in Missouri located in the St. Louis commercial zone, restricted to traffic originating at the above specified plant site and/or cold storage facilities and destined to the above specified destinations, for 180 days. SUPPORTING SHIPPER: A. N. Brent, Manager, Transportation, Wilson & Co., Inc., 4545 N. Lincoln Blvd., Oklahoma City, Okla. 73105. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 105984 (Sub-No. 14 TA), filed January 2, 1974. Applicant: JOHN B. BARBOUR, doing business as JOHN B. BARBOUR TRUCKING COMPANY, 402 E. Highway, Iowa Park, Tex. 76367. Applicant's representative: John B. Barbour, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreglass/Epoxy Pipe*, from Burkburnett, Tex., to Madison, Ind., Brooklyn, N.Y., Charleroi, Pa., and Bradford, Pa., for 180 days. SUPPORTING SHIPPER: CIBA-Geigy Corporation 1004 Ciba Road, Burkburnett, Tex. 76354. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No MC 107002 (Sub-No 447 TA), filed January 4, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible lard*, in bulk, in tank vehicles, from Tupelo, Miss., to Houston, Tex., for 180 days. SUPPORTING SHIPPER: Mid-South Packers, Inc., P.O. Drawer 829, Tupelo, Miss. 38801. 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 107403 (Sub-No. 873 TA), filed January 3, 1974. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *No. 2 Fuel Oil*, in bulk, in tank vehicles, from High Spire, Pa., to Auburn, N.Y., for 180 days. SUPPORTING SHIPPER: R. D. Green, Regional Distribution Director, Phillips Petroleum Company, Box 4833, Atlanta, Ga. 30302. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 874 TA), filed January 3, 1974. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel*, in bulk, in tank vehicles, between Huron, Ohio, and Atlanta, Ga., Charleston, W. Va.; Dallas, Tex.; Detroit, Mich.; Fort Wayne, Ind.; Grand Rapids, Mich.; Houston, Tex.; Indianapolis, Ind.; Little Rock, Ark.; Louisville, Ky.; Memphis, Tenn.; Nashville, Tenn.; Peoria, Ill.; Roanoke, Va.; and St. Louis, Mo., for 180 days. SUPPORTING SHIPPER: James A. Shearer, Manager-Freight Pricing, The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201. SEND PROTESTS TO: District Supervisor Ross A. Davis, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 924 TA), filed January 3, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855, Des Moines, Iowa 50304. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar and blends thereof*, in bulk, from Grimes, Iowa, to points in Kansas, Nebraska, and Missouri, for 150 days. SUPPORTING SHIPPER: The Amalgamated Sugar Company, First Security Bank Building, 2404 Washington Blvd., Ogden, Utah 84401. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 925 TA), filed January 3, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855, Des Moines, Iowa 50304. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid feed ingredients*, in bulk, from Walcott, Iowa, to points in Kansas and Nebraska, and (2) *liquid feed and liquid feed supplements*, in bulk, (A) from Osage City, Kans., to points in Oklahoma and (B) from Madison, Wis., to points in Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, De Kalb, Lee, and Whiteside Counties, Ill., for 150 days. SUPPORTING SHIPPERS: International Multifoods Corporation, 1200 Multifoods Building, Minneapolis, Minn. 55402, and Supersweet Operations, International Multifoods Corporation, 1200 Multifoods Building, Minneapolis, Minn. 55407. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 926 TA), filed January 3, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855, Des Moines, Iowa 50304. Applicant's representative: E Check (same address as applicant). Authority sought to operate as a *commin carrier*, by motor vehicle, over irregular routes, transporting: *Paint products*, in bulk, in tank vehicles, from Ft. Madison, Iowa, to Tampa, Fla., for 150 days. SUPPORTING SHIPPER: E. I. du Pont de Nemours & Company, 10th & Market Streets, Wilmington, Del. 19898. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 109649 (Sub-No. 19 TA), filed January 2, 1974. Applicant: L. P. TRANSPORTATION, INC., Cross & Main Streets, Chester, N.Y. 10918. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied natural gases*, in bulk, in tank vehicles, from Chattanooga, Tenn.; Roanoke, Va.; and Everett, Mass., to McKee City, N.J., for 180 days. SUPPORTING SHIPPER: South Jersey Gas Co., 1 So. Jersey Plaza, Folsom, N.J. 08037. SEND PROTESTS TO: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Bldg., Albany, N.Y. 12207.

No. MC 113627 (Sub-No. 10 TA), filed December 20, 1973. Applicant: COLUMBIA MOTOR FREIGHT, INC., 85 Kendall Street, New Haven, Conn. 06512. Applicant's representative: John E. Fay, 630 Oakwood Avenue, Elmwood, Conn. 06110. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precast*

concrete slabs, from Meriden, Conn., to Worcester, Mass., under contract with C.R.W. Systems, Inc., Meriden, Conn., for 180 days. SUPPORTING SHIPPER: C.R.W. Systems, Inc., 61 Hicks Ave., Meriden, Conn. 06450. SEND PROTESTS TO: David J. Kiernan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 High Street, Room 324, Hartford, Conn. 06101.

No. MC 115331 (Sub-No. 354 TA), filed January 2, 1974. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dichlorethyl ether*, in bulk, in tank vehicles from Cadet, Mo., to Memphis, Tenn., for 180 days. SUPPORTING SHIPPER: Buckman Laboratories, Inc., 1256 N. McLean Boulevard, Memphis, Tenn. 38108. 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 116073 (Sub-No. 29 TA), filed January 2, 1974. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 4th Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete or in sections, from the plantsite of Chardon Mobile/Modular, in Phoenix, Ariz., to point in New Mexico, for 180 days. SUPPORTING SHIPPER: Chardon Mobile/Modular, 2502 W. Durango, Phoenix, Ariz. 85009. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 117416 (Sub-No. 42 TA), filed January 3, 1974. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Boulevard, NW., Knoxville, Tenn. 37921. Applicant's representative: William A. Popejoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juices and fruit flavored drinks*, in containers, from the plantsite of Boden Products, Inc., at or near Norris, Tenn., to points in Alabama, Georgia, Kentucky, Indiana, Ohio, and West Virginia; and on return, *juices and fruit flavored drinks*, in containers, and *fruit concentrate* in containers and glass and plastic containers, from Franklin Park and Streator, Ill., Lapel and Indianapolis, Ind., Montgomery, Ala., and Atlanta, Ga., to the plantsite of Boden Products, Inc., at or near Norris, Tenn., for 180 days. SUPPORTING SHIPPER: John F. Bergstrom, Boden Products, Inc., 3333 North Mt. Prospect Road, Franklin Park, Ill. 60131. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 118142 (Sub-No. 58 TA), filed January 3, 1974. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture and carpeting*, from the plant and warehouse of Coleman Furniture Co., Pulaski, Va., to points in Missouri, Kansas, and Colorado, for 180 days. SUPPORTING SHIPPER: Coleman Furniture Co., P.O. Drawer 908, Pulaski, Va. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 118142 (Sub-No. 59 TA), filed January 3, 1974. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages*, in containers, and *related advertising material*, from the plant site of Schlitz Brewery Company at Memphis, Tenn., to Kansas City, Lawrence, Topeka, Hutchinson, and Emporia, Kans., for 180 days. SUPPORTING SHIPPERS: Swafford Sales, Inc., 218 Constitution, Emporia, Kans.; Richard R. Blick, doing business as Blick Sales, 526 West First, Hutchinson, Kans. 67501; and Cooke Sales, Inc., 1444 Kansas Avenue, Kansas City, Kans. 66119. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 118431 (Sub-No. 16 TA), filed January 4, 1974. Applicant: DENVER SOUTHWEST EXPRESS, INC., 8716 "L" Street, Omaha, Nebr. 68127. Applicant's representative: David R. Parker, 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: *Wire, cable, and reels*, (1) From Hot Springs, Ark., St. Louis, Mo., and Bonham, Tex., to points in California; (2) From Colusa and Lindsay, Calif., to points in Arkansas, Indiana, Nebraska, and Texas; (3) From Bonham, Tex., to points in Nebraska and Missouri; (4) From Lincoln, Nebr., to points in Arkansas, Missouri, and Texas; and (5) Between Hot Springs, Ark., and Carrollton, Tex., for 180 days. RESTRICTION: Restricted to traffic originating at or destined to the plantsite and facilities utilized by General Cable Corporation. SUPPORTING SHIPPER: General Cable Corporation, 26 Washington Street, Perth Amboy, N.J. 08862. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 119789 (Sub-No. 190 TA), filed January 2, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 East Irving Blvd., Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational equipment and sporting goods*, from Old Forge, Pa., to points in Arkansas (except points in Benton, Washington, Crawford, and Sebastion Counties) and Louisiana (except points in the New Orleans Commercial Zone, La.), for 180 days. SUPPORTING SHIPPER: J. Roberts Division, Gabriel Industries, Inc., 1 Maxson Drive, Old Forge, Pa. 18518. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 121318 (Sub-No. 11 TA), filed January 2, 1974. Applicant: YOURGA TRUCKING, INC., 104 Church Street, Wheatland, Pa. 16161. Applicant's representative: John H. Yourga (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plant site of Bethlehem Steel Corporation at Lackawanna, N.Y., to points in Ohio, for 180 days. SUPPORTING SHIPPER: Bethlehem Steel Corporation, Bethlehem, Pa. 18016. SEND PROTESTS TO: District Supervisor John J. England, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 123392 (Sub-No. 60 TA), filed January 2, 1974. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive, Route 1, Box 400, Amarillo, Tex. 79106. Applicant's representative: Weldon M. Teague (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cryogenic liquids*, in cryogenic tank trailers, between points in Michigan, Indiana, and Ohio with tacking privileges into area served by application in Sub 31, for 180 days.

NOTE.—Applicant does intend to tack with MC 123392, Sub 31, in Indiana and Ohio.

SUPPORTING SHIPPER: Robert Bryant, Manager Distribution, Liquid Air, Inc., One Embarcadero Center, San Francisco, Calif. 94111. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 124078 (Sub-No. 573 TA), filed January 3, 1974. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nickel pellets*, in bulk, from the International Boundary line at Buffalo, N.Y., Detroit, Mich., and Port Hu-

ron, Mich., to Kokomo, Ind., Baltimore, Md., Detroit and Muskegon, Mich., Dover, Florham Park, and Harrison, N.J., Albuquerque, N. Mex., Lockport and New Hartford, N.Y., Monroe, N.C., Minerva, Ohio, Beaver Falls, Latrobe, Reading, and Titusville, Pa., Cypress, Tex., Huntington, W. Va., and Waukesha, Wis., for 180 days. SUPPORTING SHIPPER: International Nickel Co., Inc., One New York Plaza, New York, N.Y. 10004 (John J. Begley, Traffic Manager). SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 125701 (Sub-No. 4 TA), filed January 2, 1974. Applicant: CAYUGA BULK SERVICE, INC., Chappell Road, Cayuga, N.Y. 13034. Applicant's representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, N.Y. 13501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and animal and poultry feed ingredients*, from Cayuga, N.Y., to points in Addison, Bennington, Orange, Rutland, Washington, Windham, and Windsor Counties, Vt., and the Town of Richmond, Vt., for 180 days. SUPPORTING SHIPPER: Mr. Alem Smith, Executive V. P., Beacon Milling Company, Inc., Cayuga, N.Y. 13034. SEND PROTESTS TO: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Erie Blvd. W., Room 104, O'Donnell Bldg., Syracuse, N.Y. 13202.

No. MC 125808 (Sub-No. 6 TA), filed January 2, 1974. Applicant: AAACON AUTO TRANSPORT, INC., 230 West 41st Street, New York, N.Y. 10036. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks*, in secondary operations, in driveaway service and *trailers* transported on said trucks or being towed by said trucks, from points in Florida, Texas, New Mexico, Arizona, Colorado, California, Oregon, and Washington, to points in Minnesota, Iowa, Missouri, Wisconsin, Illinois, Indiana, Kentucky, Ohio, West Virginia, Michigan, Virginia, Maryland, District of Columbia, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine, for 180 days. SUPPORTING SHIPPER: EZ Haul Division, National Car Rental System, Inc., 5501 Green Valley Drive, Minneapolis, Minn. 55437. SEND PROTESTS TO: Stephen P. Tomany, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 126149 (Sub-No. 16 TA), filed December 28, 1973. Applicant: DENNY MOTOR FREIGHT, INC., 617 Indiana Avenue, New Albany, Ind. 47150. Applicant's representative: David R. Parker, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feed, dry animal and poultry mineral mixtures, animal and poultry tonics, insecticides* (other than agricultural), *livestock and poultry feeders and equipment*, and *premiums and advertising matters relating to such products*, from Quincy, Ill., to points in Kentucky and Tennessee and (2) *Commodities* used in the manufacture, sale, or distribution of the commodities in (1) above, from points in Kentucky and Tennessee, to Quincy, Ill., for 180 days. RESTRICTIONS: All shipments to either originate or destined to the plantsites and facilities of Moorman Manufacturing Company. Restricted against the movement of bulk, in liquid, in tank vehicles. SUPPORTING SHIPPER: Moorman Manufacturing Company, 1000 North 30th Street, Quincy, Ill. 62301. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 128153 (Sub-No. 3 TA), filed December 27, 1973. Applicant: VICTORY VAN CORPORATION, 950 South Pickett Street, Alexandria, Va. 22304. Applicant's representative: Carlyle C. Ring, Jr., 710 Ring Building, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* having a prior or subsequent movement by rail, motor, air, or water, in containers, between points in Anne Arundel and Charles Counties, Md.; Alexandria and Falls Church, Va.; and points in Arlington, Fairfax, Loudoun, and Prince William Counties, Va.; points in Montgomery and Prince George Counties, Md.; and points in the District of Columbia and Baltimore, Md., for 180 days.

NOTE.—Applicant does intend to tack with MC 128153 Sub 1.

SUPPORTING SHIPPER: Curtis L. Wagner, Jr., c/o The Department of Defense, Office of the Judge Advocate General, Washington, D.C. 20310. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street & Constitution Avenue, N.W., Washington, D.C. 20423.

No. MC 133065 (Sub-No. 27 TA), filed January 3, 1974. Applicant: ECKLEY TRUCKING AND LEASING, INC., P.O. Box 156, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air handling units, make-up air systems, heating and ventilating units, gas unit heaters and cooling and heating systems, and equipment, materials, and supplies* used in the manufacture and production thereof, from Hastings, Nebr., to points in Delaware, Maine, Massachusetts, Montana, New Hampshire, New Mexico, Nevada, North Dakota, Rhode Island, South Carolina, South Dakota, Vermont, Washington, D.C., and West Virginia, under continuing contract with Hastings Industries, Inc., for 180 days. SUPPORTING SHIPPER: Hastings Industries, Inc., 108 South Colorado Avenue, Hastings, Nebr. 68901. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 110 North 14th Street, Suite 620, Union Pacific Plaza Building, Omaha, Nebr. 68102.

No. MC 133119 (Sub-No. 39 TA), filed January 3, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pizza*, from Minneapolis, Minn., to points in Texas, and Albuquerque, N. Mex., Shreveport, Monroe, and Alexandria, La., for 180 days. SUPPORTING SHIPPER: Totino's Finer Foods, Inc., Emmett Keenan, Distribution Mgr., 7350 Commerce Lane, Fridley (Minneapolis), Minn. 55432. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 North 14 Street, Omaha, Nebr. 68102.

No. MC 133119 (Sub-No. 40 TA), filed January 3, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulations under Section 203(b)(6) of the Interstate Commerce Act, when transported in mixed shipments with bananas, from Tampa, Fla., to ports of entry on the International Boundary line between the United States and Canada located in Minnesota and North Dakota, for 180 days. SUPPORTING SHIPPER: Del Monte Bananas Co., Ben Klein, Vice Pres-Marketing, 1210 Brickell, P.O. Box 1940, Miami, Fla. 33101. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 No. 14 St., Omaha, Nebr. 68102.

No. MC 135549 (Sub-No. 3 TA), filed January 3, 1974. Applicant: STANLEY L. VERVEN, 117 Fairview Drive, South Sioux City, Nebr. 68776. Applicant's representative: Steward A. Huff, 314 Security Bank Building, Sioux City, Iowa 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed supplements*, in bulk and in bag or in combination, (1) from the plantsites of O. A. Cooper Company in or near

Beatrice, Humboldt, and Cozad, Nebr., to points in Kansas, and (2) from Abilene, Kans., to points in Nebraska with no return movement, except exempt commodities, for 180 days. SUPPORTING SHIPPER: O. A. Cooper Company, South Sioux City, Nebr. 68776. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 133655 (Sub-No. 64 TA), filed January 3, 1974. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, from the plantsite of Packerland Packing Co. at or near Pampa, Tex., to points in Oregon, Washington, California, Nevada, New Mexico, Idaho, Utah, Arizona, Colorado, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Louisiana, Mississippi, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Michigan, Illinois, Ohio, Indiana, Kentucky, Pittsburgh, Pa., and Memphis, Tenn., for 180 days. SUPPORTING SHIPPER: Lynes D. Wobken, Secretary-Treasurer, Packerland Packing Co., Inc., Packerland Packing Co. of Texas, Inc., P.O. Box 1184, Green Bay, Wis. 54305. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 134182 (Sub-No. 16 TA), filed January 2, 1974. Applicant: MILK PRODUCERS MARKETING COMPANY, doing business as ALL-STAR TRANSPORTATION, Second and West Turnpike Road, P.O. Box 505, Lawrence, Kans. 66044. Applicant's representative: Lucy Kennard Bell, Suite 910 Fairfax Bldg., 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the packinghouse facilities of Seitz Foods, Incorporated, at or near St. Joseph, Mo., to Central Islip, N.Y., for 180 days. SUPPORTING SHIPPER: Seitz Foods, Incorporated, P.O. Box 247, St. Joseph, Mo. 64502. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 134182 (Sub-No. 17 TA), filed January 2, 1974. Applicant: MILK PRODUCERS MARKETING COMPANY, doing business as ALL-STAR TRANSPORTATION, Second and West Turnpike Road, P.O. Box 505, Lawrence, Kans. 66044. Applicant's representative: Lucy Kennard Bell, Suite 910 Fairfax Bldg., 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dodge City, Kans., to Canton, Cleveland, Cincinnati, and Toledo, Ohio; Canonsburg, Harrisburg, Johnstown, Philadelphia, Pittsburgh, and Scranton, Pa., Baltimore, Md.; Clifton, Jersey City, Elizabeth, Newark, Passaic, Paterson, and Woodbridge, N.J.; Lansing and Detroit, Mich.; points in the commercial zone of Boston, Mass., as defined by the Commission; Albany, Henrietta, Rochester, Schenectady, Syracuse, and points within Suffolk County, N.Y.; and points in the commercial zones of New York, N.Y.; Westchester County, N.Y.; and Nassau County, N.Y., all as defined by the Commission, for 180 days. SUPPORTING SHIPPER: Hyplains Dressed Beef, Inc., P.O. Box 539, Fort Dodge Road, Dodge City, Kans. 67801. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 134194 (Sub-No. 5 TA), filed December 26, 1973. Applicant: NORMAN C. EMERSON, P.O. Box 161, Springfield, Vt. 05156. Applicant's representative: J. G. Dail, Jr., 1111 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Films and articles* associated with the exhibition of motion pictures as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) between Boston, Mass., on the one hand, and, on the other, Waitsfield, Vt., and (2) between Waitsfield, Vt., West Lebanon, N.H., Norton, Newport, South Londonderry, Springfield, Ludlow, Colchester, Northfield, Stowe, Fairlee, Randolph, Bethel, and Burlington, Vt., for 180 days. SUPPORTING SHIPPER: Edison's Studio, RFD, Waitsfield, Vt. 05673. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 134806 (Sub-No. 18 TA), filed January 3, 1974. Applicant: B–D–R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 1100 Seventeenth Street, NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Oils and greases, finishing compounds, supplies* for tanning leather, from points in Massachusetts, Exeter, N.H., Newark, N.J., and Brattleboro, Vt., to points in San Francisco, Alameda, Napa, Solano, San Mateo, and Santa Cruz Counties, Calif., for 180 days. SUPPORTING SHIPPER: West Coast Tanners Production Club, P.O. Box 1120, Santa Cruz, Calif. 95060. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 135632 (Sub-No. 3 TA), filed January 4, 1974. Applicant: FRANCIS D. BROWN & SON, INC., 3121 Crosby Street, Klamath Falls, Oreg. 97601. Applicant's representative: Robert R. Hollis, 400 Pacific Building, Portland, Oreg. 97204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood waste products*, from points in Shasta County, Calif., to points in Klamath County, Oreg., for 180 days. SUPPORTING SHIPPER: Weyerhaeuser Company, P.O. Box 9, Klamath Falls, Oreg. 97601. SEND PROTESTS TO: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Bldg., 319 S.W. Pine Street, Portland, Oreg. 97204.

No. MC 135725 (Sub-No. 12 TA), filed January 2, 1974. Applicant: FRY TRUCKING, INC., 507 W. 5th Street, Wilton, Iowa 52778. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal, Poultry, fish, and pet food*, from the plantsite of Doane Products at Muscatine, Iowa, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Doane Products Company, P.O. Box 879, Joplin, Mo. 64801. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 138635 (Sub-No. 9 TA), filed January 7, 1974. Applicant: CAROLINA WESTERN EXPRESS, INC., 650 Eastwood Drive, P.O. Box 3961, Gastonia, N.C. 28052. Applicant's representative: John R. Sims, Jr., Suite 600, 1707 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric heat*, in panels and/or strips, *circuit breakers, panels, switches, controllers, transformers* weighing less than 1,000 pounds each and *parts thereof*, from points in York County, S.C., to points in California and Denver, Colo., restricted to traffic moving in logistic trailers, for 180 days. SUPPORTING SHIPPER: Federal Pacific Electric Company, Manager of Distribution, 1820 Statesville Avenue, Bldg. No. 5, Charlotte, N.C. 28206. SEND PROTESTS TO: District Supervisor Terrell Price, Bureau of Operations, Interstate Commerce Commission, 800 Briar Creek Road-CC516, Charlotte, N.C. 28205.

No. MC 139120 (Sub-No. 1 TA), filed December 20, 1973. Applicant: P & M TRANSPORT, INC., 13835 N.E. 205th, Woodinville, Wash. 98072. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Distillate heating oil, fuel and gasoline*, between points in Washington, Oregon, and Idaho, for 180 days. SUPPORTING SHIPPER: Fletcher Oil Company, 709 Alexander Avenue, Tacoma, Wash. 98401. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Bldg., Seattle, Wash. 98104.

By the Commission.

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

[FR Doc.74-1799 Filed 1-21-74;8:45 am]

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PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Low Rent Public Housing

■

HOUSING ASSISTANCE PAYMENT PROGRAM—NEW CONSTRUCTION AND EXISTING HOUSING

Proposed Procedures and Provisions

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Low Rent Public Housing

[24 CFR Part 1272]

[Docket No. R-74-248]

HOUSING ASSISTANCE PAYMENT PROGRAM—NEW CONSTRUCTION

Proposed Procedures and Provisions

Notice is hereby given that the Department of Housing and Urban Development proposes to amend 24 CFR by adding a new Part 1272 to Chapter VIII. The proposed amendment sets forth the essential elements of the Section 23 Housing Assistance Payments Program—New Construction and includes, among other things, the roles and responsibilities of the Department, the local housing authority, the developer or owner, and the eligible low-income family; the steps in applying for the Section 23 Housing Assistance Payments Program; the basis for determining the amount of housing assistance payments; and the prescribed forms of contracts, lease provisions and other documents.

Interested parties are invited to submit written comments, suggestions and objections regarding the proposed amendment by February 21, 1974, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

It is therefore proposed to amend 24 CFR by adding the provision set forth below.

PART 1272—SECTION 23 HOUSING ASSISTANCE PAYMENT PROGRAM—NEW CONSTRUCTION

Subpart A—Applicability, Scope, and Basic Policies

Sec.

Subpart B—Project Development

AUTHORITY: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); section 10(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1410(b)); and section 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1421(b)).

Subpart A—Applicability, Scope, and Basic Policies

§ 1272.1 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of housing assistance payments on behalf of eligible low-income families leasing newly constructed housing developed under the new construction method pursuant to the provisions of section 23 of the U.S. Housing Act of 1937.

(b) For the purposes of this part, "new construction" shall mean newly constructed housing for which, prior to the start of construction: (1) An Annual Contributions Contract is executed between the Department of Housing and Urban Development (HUD) and the Local Housing Authority (LHA); and (2) an Agreement to Enter Into Housing Assistance Payments Contract (Agreement) is executed between the LHA and the owner. Unless specific approval is obtained from HUD, the policies and procedures contained herein shall apply to all new construction projects for which agreements to lease have not yet been entered into. With respect to projects for which agreements to lease have been entered into prior to the effective date of this part, HUD may apply these standards to the extent it determines it is practicable to do so.

(c) This part (1) covers policies and procedures relating to the roles and responsibilities of HUD, the LHA and the owner/developer; the application process; the project development format; the determination of the amount of annual contributions; and invitation, evaluation and selection of developer's proposals; and (2) contains prescribed contracts, agreements and other documents.

§ 1272.2 Definitions.

(a) *Fair market rent and gross rent.* Fair market rent is the gross rent (including utilities, ranges and refrigerators, and all maintenance and management services) for dwelling units of varying size (number of bedrooms) and structure type, which, as determined at least annually by HUD, would be required to be paid in each housing market area in order to obtain privately developed and owned, newly constructed rental housing of modest (nonluxury) nature. Gross rent includes all utilities (except telephone) whether or not paid directly to the utility company by the family.

(b) *Gross family contribution.* The portion of the rent to owner payable by a family plus the allowance established by the LHA for any utilities (except telephone) payable directly by the family.

(c) *Annual contributions contract.* A wrtten agreement between HUD and an LHA to provide annual contributions to the LHA for participation in the Housing Assistance Payments Program. (See Appendix III.)

(d) *Agreement to Enter into Housing Assistance Payments Contract (Agreement).* A written agreement between an LHA and an owner/developer that upon satisfactory completion of the housing by the owner/developer pursuant to agreed upon plans, specifications and other requirements as set forth upon plans, specfications and other requirements as set forth in the Agreement, the LHA will enter into a Housing Assistance Payments Contract with the owner. (See Appendix IV.)

(e) *Housing Assistance Payments Contract (Contract).* A HUD-approved written Contract between an LHA and an owner for the purpose of providing housing assistance payments on behalf of eligible familes. (See Appendix V.)

(f) *Eligible families.* Those families determined by the LHA to meet the requirements for admission into and continued occupancy of housing assisted hereunder.

(g) *Certificate of family eligibility.* The certificate issued by an LHA to an applicant family declaring it to be eligible and stating the terms and conditions of such eligibility. (See Appendix VI.)

(h) *Owner's offer to lease dwelling unit.* A written offer by an Owner to lease a dwelling unit to an eligible family under the Housing Assistance Payments Program. (See Appendix VII.)

(i) *Lease.* An LHA-approved written agreement between a private owner and an eligible family for the leasing of an existing, decent, safe, and sanitary dwelling unit. The lease shall contain the required provisions specified in the Contract.

§ 1272.3 Basic policies.

(a) *Limitation on use of newly constructed housing.* New construction projects shall be permitted: (1) In those localities where HUD determines that there is not and there is not likely soon to be an adequate supply of existing housing which, with the housing assistance payments provided by HUD, can meet the housing needs of low-income families, or (2) in certain areas in which the proposed housing is required and such projects are specifically approved by HUD in accordance with priorities established from time to time by the Secretary.

(b) *Development process.* Any owner (defined to include a developer) who has a site, a site option or other evidence of site control may submit a proposal to provide housing opportunities for low-income families in newly constructed

housing. Such proposals shall be in response to an Invitation for Proposals (see Appendix I) published by the LHA. If the proposal is acceptable to HUD and the LHA, the LHA will send the developer a Notification of Developer Selection (see Appendix II) and will enter into an Agreement with him.

(c) *Annual contributions.* The maximum total annual contribution that may be contracted for in the Annual Contributions Contract for a project shall be: (1) The total of the HUD approved maximum rents to owner (see § 1272.3(e)) for all the units in the project plus (2) an allowance for the cost of administration. The allowance for the preliminary costs of administration and for security and utility deposits (see § 1272.5) shall be payable out of this total.

(d) *Housing assistance payments.* (1) The housing assistance payments will pay the owner the difference between the rent chargeable by the owner as specified in the Contract and that portion of said rent payable by the family. Families shall not be eligible for such Federal financial assistance when the LHA determines that 25 percent of adjusted family income equals or exceeds the gross rent for the unit leased.

(2) Housing assistance payments shall be paid to owners only for those units under lease by eligible families. If a family vacates its unit in violation of the provisions of its lease, the owner may continue to receive housing assistance payments with respect to such unit in accordance with the terms of the Contract, not beyond the termination of the lease (in accordance with its terms), but only if the owner (i) has promptly (within 30 days) notified the LHA of the vacancy and (ii) has not rejected, except for good cause acceptable to the LHA, any substitute family provided by the LHA.

(e) *Maximum rents to owners.* The rents to owners that may be contracted for pursuant to the HUD-approved Housing Assistance Payments Contract (Contract) between the LHA and the owner shall not exceed the HUD-established fair market rents for newly constructed rental housing for the locality or localities in which the units are located, less any allowance for utilities payable directly by families. These fair market rents may be exceeded by up to 10 percent in establishing the initial Contract rents for a project if HUD determines that higher rents are justified and necessary.

(f) *Term of Housing Assistance Payments Contract.* The LHA and owner may enter into a Contract for a maximum initial term of five years, with an option in the owner to renew for an additional term(s) of not more than five years each, provided that the total Contract term, including renewals, shall not exceed twenty years. However, the LHA may notify the owner that it will not agree to renew if it determines that the owner is in default under the terms of the Contract.

(g) *Rent adjustments.* The payment of increased housing assistance payments as a result of rent adjustments under this paragraph shall be subject to the provisions contained in paragraph (g)(3) of this section.

(1) *Automatic annual adjustments.*—(i) The monthly rents to the owner as set forth in the Contract shall be adjusted automatically on the date of execution of the Contract and on each annual anniversary date of the Contract. The adjustment(s) shall be based upon the HUD-determined adjustment factor, as defined in paragraph (g)(1)(ii) of this section.

(ii) The adjustment factor shall be the HUD-determined percentage change in the fair market rent for existing housing for the market area in which the project is located.

(iii) The amount of each automatic annual adjustment shall be computed by applying the adjustment factor in effect at the time of the adjustment (provided that the adjustment factor determination is not more than one year old) to the latest rents shown in the Contract.

(IV) In no case may an annual adjustment result in Contract rents which, together with any allowance for utilities payable directly by families, would exceed the fair market rents in effect for the market area at the time of adjustments the fair market rents shall be those which apply to newly constructed housing plus the percentage, if any, by which the original Schedule "A" Contract rents exceeded the then applicable fair market rents as approved pursuant to paragraph (e) of this section. For all subsequent adjustments, the fair market rents shall be those which apply to existing housing.

(V) Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted rents be less than the original rents set forth in the Contract.

(2) *Renegotiations.* The rents contained in the Contract may be renegotiated to become effective at the beginning of the sixth, eleventh, and sixteenth years of the Contract (if the Contract is renewed for that length of time), whether or not such effective date of renegotiation coincides with the beginning of a renewal term. However, such renegotiations may not result in rents in excess of the fair market rents for existing housing for the housing market area in effect at the time of renegotiation.

(3) *Limitation.* The LHA will make housing assistance payments in increased amounts commensurate with rent adjustments under this section, but only to the extent possible within the limits of the maximum total amount of annual contributions payable under the Annual Contributions Contract in respect to the project. No commitment is made by the LHA or HUD that the maximum total amount of annual contributions payable in respect to the project, as specified in the Annual Contributions Contract, will be increased by reason of any such rent adjustments. Accordingly, to enable the owner to receive sufficient income from rents, the owner shall have the right to select, and the LHA shall be obligated to approve as promptly as possible, families whose average rent payments will result in receipts commensurate with the adjusted rents.

(h) *Eligible agencies.*—(1) All legally constituted local housing authorities created pursuant to State housing authorities laws are eligible to participate in a section 23 new construction program. In addition, under the terms of the U.S. Housing Act, a "public housing agency" may include any State, county, municipality or other governmental entity or public body which is authorized by State law to engage in the development or administration of low-income housing or slum clearance and may, therefore, be eligible to participate in the new construction program. The abbreviations "LHA" or "LHAs" as used herein include any governmental entity or public body as described in this paragraph.

(2) LHAs may, by agreement, cooperate with each other in carrying out their respective functions, and State laws typically provide that a locality which has no LHA can invite another LHA within the State to function within its borders. In addition to the few states that have created statewide LHAs, many more have state departments or agencies authorized to administer housing and urban development legislation which qualifies them as public housing agencies under the U.S. Housing Act and authorizes them to carry out this function or to act through LHAs or other entities.

(i) *Local governing body approval.* HUD cannot approve an application for a section 23 new construction project unless the governing body of the locality in which the units are to be located has, by resolution, approved the application of the provisions of section 23 to the locality. Once such a resolution has been enacted, it may satisfy this approval requirement for all subsequent section 23 leasing projects, including new construction projects. The terms of the resolution as enacted must be examined by the LHA and HUD to determine whether it contains any restrictive language (e.g., limits the number of dwelling units, limits the program to locations which would have the effect of denying equal housing opportunities, or authorizes only the leasing of existing housing) which would require that a new resolution be passed to enable HUD to approve the proposed project.

(j) *Types of housing to be developed.* The LHA may utilize newly constructed (including manufactured) single-family houses, row houses, or multifamily structures. In addition, congregate housing may be developed for elderly or handicapped families and individuals. Single room occupant (SRO) housing planned specifically as a relocation resource for single persons (who qualify for low-rent public housing) may also be developed under the new construction program. (See HUD requirements applicable to congregate and SRO housing.) High-

rise elevator projects for families with children may not be used in the new construction program unless HUD determines there is no practical alternative. Mobile homes may not be utilized in the new construction program.

(k) *Limitation on number of units in single structure.*—(1) Section 23(c) of the U.S. Housing Act provides that no more than 10 percent of the units in any single structure shall be assisted unless the LHA, because of the limited number of units in the structure or for any other reason, determines that such limit should not be applied. Where the LHA determines that the 10 percent limitation should not be applied, a record of its determination shall be maintained in the LHA's permanent file, and the LHA shall notify HUD of its action.

(2) However, in approving applications for housing assistance programs involving multifamily (five or more units) structures, HUD will give priority to those applications which would provide for assistance for 20 percent or less of the units in a single multifamily structure or complex.

(l) *Relocation requirements.* No Agreement shall be executed for housing which is to be constructed on a site which has occupants unless the owner voluntarily undertakes liability for and provides for the funding of all relocation costs. (See section 6 of the Agreement.)

(m) *Equal opportunity and other requirements.* Participation in the Section 23 Housing Assistance Payments Program—New Construction requires compliance by all participants with (1) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, Section 3 of the Housing and Urban Development Act of 1968 and the National Environmental Policy Act; and (2) all rules, regulations, and requirements issued pursuant thereto.

(n) *Methods of finance.* Section 23 new construction projects may be financed by means of a conventional loan from a commercial bank, savings bank, savings and loan association, pension fund, insurance company or other financial institution. Financing by State Housing Finance Agencies and by market rate FHA insured mortgage loans under sections 221(d)(4), 207, and 231 may also be utilized.

(o) *Availability of funds for security and utility deposits.* In hardship cases where families are unable to obtain funds from community agencies or other sources for payment of security deposits to landlords or utility companies (except telephone), the LHA may pay the owner and/or the utility companies the funds necessary, not to exceed one month's rent plus utility deposits (excluding telephone). This amount shall be recovered by the LHA from the family over a one-year period.

(p) *Responsibilities of the owner.* The owner shall be responsible for the complete and total management, maintenance and operation of the project. These responsibilities shall include but not be limited to the payment of utilities (unless paid directly by the family), insurance and taxes; the performance of all ordinary and extraordinary maintenance; performance of all management functions including the taking of applications and selection of families (with the exception of determination and verification of eligibility for the particular dwelling unit involved, which shall be the function of the LHA); collection of rents; risk of loss from vacancies and nonpayment of rent by tenant families; and preparation of and furnishing of information required by the LHA under the Contract. This does not preclude the owner from contracting with the LHA for the management of the project under a separate contract, for a prescribed fee, upon a determination by HUD that such services are not otherwise available in the locality, provided, however, that such contract shall not shift to the LHA any of the owner's responsibilities and obligations. Any such contract shall be approved by HUD.

(q) *Responsibilities of the LHA.* The LHA shall be responsible for review of applications submitted by families to determine eligibility for assistance; determination of amounts of housing assistance payments; issuance of Certificates of Family Eligibility to eligible families and approval of Owner's Offers to Lease Dwelling Units and related leases in accordance with the procedures for such actions contained in Part 1274, Subpart B, section 23 Housing Assistance Payments Program—Existing Housing Regulation; making of housing assistance payments on behalf of eligible families; reexamination of family eligibility as prescribed by HUD regulations; inspections prior to leasing and inspections at least annually to determine that the units are maintained in decent, safe, and sanitary condition (failure to do so shall constitute a Substantial Default by the LHA under the Annual Contributions Contract); and authorization of evictions. The LHA may provide advice and guidance to eligible families in finding suitable housing, including advice and guidance to families experiencing discrimination.

(r) *Responsibilities of the family.* A family receiving housing assistance under this program shall be responsible for fulfilling all its obligations under both the lease with the owner and the Certificate of Family Eligibility issued to it by the LHA.

§ 1272.4 Separate project requirements.

A section 23 new construction project may not include any other type of leasing, shall be processed with a separate Annual Contributions Contract List and shall be assigned a separate project number. All new construction units to be placed under a single Housing Assistance Payments Contract shall comprise a separate project. However, HUD may designate as a single, separate project the units to be covered by two or more such Contracts for new construction projects where:

(a) The units are placed under Annual Contributions Contract on the same date; and

(b) Such consolidation is necessary in the interest of administrative efficiency.

§ 1272.5 Allowance for preliminary costs of administration and for security and utility deposits.

An allowance may be provided for the preliminary costs of administration incurred by the LHA in conducting surveys, listings and inspections prior to the execution of the Annual Contributions Contract, and for security and utility deposits. An estimate of these costs should be included by the LHA in its first Operating Budget which is to be submitted for approval when the Annual Contributions Contract is executed.

Subpart B—Project Development

§ 1272.101 Preapplication.

(a) The LHA shall determine whether there is a need for housing assistance for low-income families within its operating jurisdiction. If it determines that there is such a need, the LHA shall survey the housing market of the locality to determine whether there is a sufficient supply of units that are suitable or may be made suitable to meet all or part of this need. In determining the adequacy of the housing supply, the LHA shall estimate realistically the number and size (number of bedrooms) of units that may be available, the condition of such units, and the rents at which the units may be leased.

(b) An LHA may apply for a new construction project:

(1) If there is not, and there is not likely soon to be, an adequate supply of existing housing which, with the aid of housing assistance payments provided by HUD, can meet the housing needs for low-income families; or

(2) In certain areas in which the proposed housing is required and the project is specifically approved by HUD in accordance with priorities established from time to time by the Secretary.

§ 1272.102 Submission of application.

(a) *Submission of application.*—(1) An application for a new construction project to be submitted by the LHA to HUD, shall be in a form prescribed by HUD and shall:

(i) Describe the results of the LHA's survey of the housing market in terms of the number, size (number of bedrooms), condition and rents of units which may be available;

(ii) Substantiate the existence of the necessary condition prescribed in § 1272.101(b)(1) for the approval of an application for a new construction project;

(iii) Document the need for housing assistance in terms of family incomes, housing conditions, and rental payments as proportion of income;

(iv) Indicate the type of housing (e.g., row, walkup, semi-detached, detached) that is preferred, the bedroom distribution (i.e., number of one-bedroom units, two-bedroom units, etc.) proposed, and the number of units (if any) to be specifically designed for elderly or handicapped occupancy;

(v) Include an estimate of the cost of administration attributable to the pro-

posed project, and provide a basis for all estimates;

(vi) Provide an estimate of the average gross family contribution to be paid by families (not to exceed 25 percent of estimated adjusted family income);

(vii) Indicate whether the LHA intends to meet the unit limitation described in § 1272.3(k)(2).

(viii) Indicate whether the LHA has adopted and implemented an approved tenant selection and assignment plan in compliance with Title VI of the Civil Rights Act of 1964.

(2) The LHA shall submit an Affirmative Marketing Plan with regard to invitations of applications for and issuance of Certificates of Family Eligibility.

(3) HUD Regulation, Project Selection Criteria (24 CFR 200.700), is not applicable; however, see § 1272.108 for required site and neighborhood standards.

(4) Advice and assistance in the preparation of the application are available from HUD.

(b) *Income limits and rent schedules.*—(1) LHAs not having previously approved income limits and rent schedules shall submit income limits and rent schedules, in accordance with HUD requirements for approval with their applications for a new construction project.

(2) It is the incomes from families to be housed under the proposed Housing Assistance Payments Program, not the income limits, that is more significant in enabling HUD to determine assistance requirements. The LHA shall, therefore, provide accurate estimates of anticipated family income and achievable per unit rents to be paid by the families expected to be assisted. In making this estimate, the LHA shall utilize such information as incomes, after deductions and exemptions, of families on updated current waiting lists, and rents being paid by tenants in other leased and non-leased units operated by the LHA, as well as incomes of families expected to be housed under the income limits established for the Housing Assistance Payments Program.

§ 1272.103 HUD review and approval of application.

(a) *Review of application.* HUD shall review the application to determine that: There is need for assistance for the number of units applied for; the necessary conditions for approval of a new construction project are met: the estimate of the cost of administration is realistic and allowable by HUD; the reasonably anticipated average gross family contribution is realistic; and the LHA is in compliance with all Equal Opportunity requirements. If deemed appropriate, HUD shall make adjustments in size of program, bedroom distribution, the allowance for the cost of administration, or tenant rents. Such adjustments shall be accepted by the LHA in order to receive application approval. Where the LHA is found to be in noncompliance with any Equal Opportunity requirements, appropriate action to effectuate compliance shall be taken. In determining whether or not to approve an application, HUD shall give priority to those applications meeting the unit limitation described in § 1272.3(k)(2).

(b) *Approval or disapproval of application.* Upon completion of its review, HUD shall notify the LHA by letter that the application is approved, can be approved if the LHA adopts, within 30 days, the changes required by HUD, or is disapproved. If the application is disapproved, the letter shall indicate in detail the reasons for disapproval of the application. If the application is approved, the letter shall be in a form approved by HUD. This letter shall indicate the amount of annual contributions reserved for the project and instruct the LHA to prepare a Developer's Packet.

§ 1272.104 Preparation and contents of developer's packet.

HUD shall assist the LHA in preparing the Developer's Packet and shall provide the LHA with copies of all HUD standards, regulations and forms which are to be included in the Packet. The Developer's Packet, which shall be approved by HUD, shall be available for distribution at the time of the first publication of the Invitation for Proposals. The Developer's Packet shall:

(a) Include a copy of the HUD section 23 New Construction Handbook.

(b) Include the following information as to the housing required:

(1) The number of units and bedrooms per unit;

(2) The number of units for elderly and non-elderly occupancy;

(3) The fact that each unit must include a range and refrigerator;

(4) Community space requirements;

(5) Parking and outdoor recreational facilities required;

(6) The type of housing (row house, elevator apartment, detached, etc.);

(7) The preferred density of projects and type of location desired with reference to physical environment and accessibility to public and commercial facilities (see § 1272.108);

(8) The necessity to comply with all site selection and neighborhood standards set forth in this part.

(c) Include statements as to:

(1) Initial term of the Contract, including any options to renew;

(2) The fact that management, ordinary and extraordinary maintenance, utilities (except where paid directly by tenants), taxes, and insurance are to be the responsibility of the owner;

(3) Maximum gross rents (including all utilities, ranges and refrigerators), by number of bedrooms per unit, that the LHA will consider, and a statement to the effect that, if families are to pay directly for some or all utilities, the maximum rents will be adjusted downward by a utility allowance covering such utilities;

(4) The fact that the LHA shall be responsible only for its portion of the rent payable to the owner and only for those units under lease by eligible families.

(d) Call attention to and supply detailed information concerning:

(1) Any limitation on the number of units in a single structure for which housing assistance payments may be made;

(2) Applicability of "Minimum Property Standards for Multifamily Housing" (FHA 2600) supplemented, where appropriate, by the "Minimum Property Standards for One and Two Living Units" (FHA 300), and "Minimum Property Standards of Elderly with Special Consideration for the Handicapped" (HUD–PG–46). (These standards specify minimum acceptability and constitute a floor for design and planning. They do not prohibit utilizing higher standards. Proposed construction should also comply with special requirements due to local climatic, topographic or environmental conditions);

(3) Applicability of HUD planning and design criteria for accessibility by the physically handicapped;

(4) Relocation requirements set forth in appropriate HUD issuances;

(5) Equal Opportunity requirements, which include the submission of an Affirmative Marketing Plan, and compliance with Title VI of the Civil Rights Act of 1964 and Executive Order 11063, Title VIII of the Civil Rights Act of 1968, including regulations and guidelines pursuant thereto, and Executive Order 11246;

(6) HUD regulations implementing the requirements of section 3 of the Housing and Urban Development Act of 1968 that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project. Under these regulations, the developer is required to submit an affirmative action plan for utilization of project area businesses;

(7) National Environmental Policy Act requirements as set forth in appropriate HUD issuances;

(8) The prescribed form of Agreement to Enter Into Housing Assistance Payments Contract and the prescribed form of such Contract (see Appendices IV and V, respectively);

(9) The number of copies of the proposal to be submitted to the LHA and HUD;

(10) The latest date by which proposals must be received by the LHA and HUD and the fact that there exists no obligation to select any of the proposals received.

§ 1272.105 Invitation for proposals.

(a) *Authorization to publish.* Upon its approval of the Developer's Packet, HUD shall transmit to the LHA an invitation for Proposals which shall conform to Appendix I. The LHA shall be authorized to publish the Invitation for Proposals immediately upon receipt.

(b) *Publication of invitation for proposals.* The LHA shall publish the Invitation for Proposals at least weekly for two consecutive weeks in a newspaper of general circulation within the locality.

The LHA shall also notify appropriate business concerns included in HUD's registry of section 3 businesses for the applicable political jurisdiction. To the extent feasible, the LHA should use other media, publish the Invitation in trade association journals, local minority group newspapers and/or send copies of the Invitation to active developers and builders.

(c) *Deadline date for receipt of proposals.* The deadline date for receipt of proposals by the LHA shall be no earlier than 28 days after the date of the last publication in the newspaper of general circulation. Any proposals received after the deadline date shall not be accepted by the LHA.

(d) *Copies of published invitation.* Prior to the deadline date for receipt of proposals, the LHA shall provide HUD with two certified copies of each published Invitation and a statement of other publicity methods used. One copy of the Invitation shall be available in the LHA's office for public inspection.

(e) *Nondisclosure of information.* In order to provide all interested developers with an equal opportunity to prepare proposals, the contents of the Invitation for Proposals or requirements to be included in the Developer's Packet shall not be disclosed prior to publication.

§ 1272.106 Submission of proposals.

(a) Owners and/or developers shall be required to submit sealed copies of their complete proposals to the LHA before the published deadline, and simultaneously submit copies to HUD, in the number of copies specified in the Developer's Packet. Proposal documents shall be sealed in an envelope or package which shall be clearly marked with a label contained in the Developer's Packet. The label shall be clearly and distinctively marked "Section 23 Housing Assistance Payments Program—New Construction Proposal", shall show the name of the LHA and the project designation, and shall be addressed to the LHA or HUD, respectively. The label on the inner envelope shall be marked "Sealed Proposal—Open on (*date and time*)."

(b) Submission of proposals shall be by hand delivery or certified mail. Any proposal received by the LHA after the deadline shall not be accepted by the LHA but shall be returned unopened. No proposal shall be opened by the LHA or HUD until after the deadline. To assure that HUD has received copies of all proposals, the LHA shall advise HUD by letter immediately after the deadline for receipt of proposals as to the number of proposals received and the names of the proposers. This letter shall provide no comments as to evaluation or preference.

§ 1272.107 Proposal contents.

(a) Each proposal shall include the following:

(1) A description of the housing proposed together with preliminary drawings and plans and outline specifications on prescribed HUD forms. Preliminary drawings and plans shall include: Site layout based on the topographical information available from existing records and the known subsurface soil conditions; landscape plans; general floor plans and unit plans, at the scale of ¼ inch equals one foot; and elevation drawings for each typical building at the same scale.

(2) A copy of the site option agreement(s), contract(s) of sale, or other document(s) which evidences developer's effective control of the site(s).

(3) A neighborhood map showing the location(s) of the site(s).

(4) A completed HUD environmental information form.

(5) A statement as to whether the proposed project is expected to displace site occupants and the number of families, individuals, and business concerns to be displaced (identified by race or minority group status).

(b) In addition, each proposal shall indicate or include:

(1) Who the developer, the builder and the owner/lessor will be; the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, using prescribed HUD forms.

(2) Evidence of management capability.

(3) The present zoning and proposed action for rezoning if current zoning is not permissive.

(4) The gross rents required by unit size, the portion of such rents attributable to each utility, and which utilities, if any, are to be paid directly by the families.

(5) The anticipated time required for construction of the improvements after the Agreement is signed.

(6) Submission of an Affirmative Marketing Plan, signed assurances of compliance with Title VI of the Civil Rights Act of 1964, Executive Order 11063, and Title VIII of the Civil Rights Act of 1968 and, in bid condition areas, certifications required pursuant to Executive Order 11246.

(7) Submission of an affirmative action plan for utilization of project area businesses pursuant to section 3 of the Housing and Urban Development Act of 1968, and regulations issued pursuant thereto.

(8) A statement that the owner and/or developer recognizes the relocation requirements that apply if the proposed project will cause displacement and will assume full responsibility for the funding of all costs incurred in providing to displaced persons the full relocation payments and services authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

§ 1272.108 Site and neighborhood standards.

(a) Proposed sites for new construction projects must be approved by HUD as meeting the following standards:

(1) The sites and neighborhoods shall be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 (and of Executive Order 11063 with respect to creed), and HUD regulations issued pursuant thereto.

(2) The site shall not be located in:

(i) An area of minority concentration unless (A) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (B) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, or national origin renders sites outside areas of minority concentration unavailable.)

(ii) A racially mixed area if the project will cause a significant increase in the proportion of minority to nonminority residents in the areas.

(3) The site shall be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank backups, sewage hazards, or mudslides; harmful air pollution, smoke or dust; excessive noise, vibration, or vehicular traffic; rodent or vermin infestation; or fire hazards. Moreover, the neighborhood must be free of characteristcs seriously detrimental to family life; and substandard dwellings or other undesirable elements should not predominate unless there is actively in progress a concerted program intended to upgrade the neighborhood.

(b) The housing shall be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized, standard housing of similar market rents.

(c) Travel time and cost via public transportation or private automobile from the neighborhood to employment shall not be excessive in providing a range of jobs for lower income workers.

(d) The project may not be built on a site which has occupants unless the owner and/or developer of the project voluntarily undertakes liabilty for and provides for the funding of all relocation costs. (See section 6 of the Agreement.)

§ 1272.109 Evaluation of proposals.

(a) Each proposal received shall be evaluated on the basis of all pertinent factors including, but not limited to: site; design and construction quality; rents; capability and responsibility of developer, builder, and owner; and compliance with Equal Opportunity and National Environmental Policy Act requirements and requirements for provision of employment and training and business opportunities in the project area.

(b) HUD will provide the LHA with an analysis of each proposal received which

will indicate the proposal or proposals found approvable.

(c) The HUD analysis of all proposals shall be held available for public inspection in the LHA office for at least 3 years following the Notification of Developer Selection.

§ 1272.110 Notification of developer selection.

The LHA shall review the HUD analyses, and may only select a proposal or proposals from among those found approvable by HUD. The LHA shall notify the developer(s) of his selection using the prescribed form of letter attached hereto as Appendix II. Upon selection, a copy of the LHA's Notification together with a copy of the LHA's resolution selecting the developer shall be sent promptly to HUD.

§ 1272.111 Submission of architect's certification and execution of annual contributions contract.

(a) The LHA letter of notification shall advise the developer that before the LHA may enter into an Agreement, the developer shall submit to the LHA the architect's certification as required in the prescribed form of Notification of Developer Selection. Such certification shall be prepared by the architect responsible for the preparation of the working drawings and specifications. The LHA shall immediately transmit one copy of the architect's certification to HUD.

(b) After receipt of the architect's certification HUD shall prepare (1) the Agreement, which shall conform to the prescribed form shown as Appendix IV of this part and (2) the Annual Contributions Contract, which shall conform to the prescribed form shown as Appendix III. The Annual Contributions Contract shall be transmitted by HUD to the LHA for execution and return to HUD. After receipt of the executed Annual Contributions Contract from the LHA, HUD shall execute it and transmit the Agreement to the LHA for execution by the LHA and the Owner. A copy of the executed Agreement should be sent to HUD by the LHA.

(c) If the developer fails to submit the architect's certification by the date specified in the letter, the LHA shall rescind the Notification unless it determines that a reasonable extension of time should be granted. A copy of the letter of extension or recision shall be transmitted to HUD.

§ 1272.112 Agreement to enter into Housing Assistance Payments Contract.

The Agreement shall include, but not be limited to, the following:

(a) A description of the property and the improvements to be constructed.

(b) An attachment of the actual text of the proposed Contract, complete in all respects except for execution, which shall specify the amount of rent to owner, and shall conform to the prescibed form shown as Appendix V.

(c) Construction initiation and completion dates.

(d) How project completion shall be evidenced (see § 1272.113(a)).

(e) A provision that the owner may not:

(1) Make any sale, assignment, or conveyance or transfer in any other form of his interests in the Agreement except:

(i) With the prior consent of the LHA and HUD; or

(ii) To a financial institution for the purpose of obtaining financing.

(2) Change to a different developer from the one named in the Agreement without prior consent of the LHA and HUD.

(f) A provision that the owner shall comply with relocation requirements as set forth in applicable HUD issuances, HUD Equal Opportunity (including equal employment opportunity) requirements, and the requirements of section 3 of the Housing and Urban Development Act of 1968 and regulations issued pursuant thereto in regard to providing opportunities for training and employment to lower income residents of the project area, and in regard to awarding contracts to business concerns located in, or owned in substantial part by residents of, the project area.

§ 1272.113 Project completion.

(a) *Evidence of completion.* Completion of the project shall be evidenced by furnishing the LHA with the following:

(1) A certificate of occupancy and/or other official approvals necessary for occupancy:

(2) Separate certifications by the owner and the registered architect who prepared the certification relating to the working drawings and specifications (see § 1272.111(a)) that:

(i) There are no defects or deficiencies in the project;

(ii) All work has been completed in accordance with the requirements of the Agreement;

(iii) The project is in good and tenantable condition.

(3) A set of "as-built" drawings.

(b) *HUD inspection.* (1) The LHA shall notify HUD when the project is completed. Upon receipt of such notification, HUD shall inspect the project and the evidence of completion listed in paragraph (a) of this section, HUD shall make a written determination as to whether or not the project has been satisfactorily completed. If the determination is in the affirmative, HUD will authorize the execution of the Housing Assistance Payments Contract. If the LHA or the owner/developer disagrees with the HUD determination, the matter may be appealed to the Secretary as if it were a dispute under section 9b of the Agreement.

(2) If the owner/developer, after furnishing the LHA with all items in paragraph (a) of this section, believes that the LHA has unreasonably withheld or delayed notification to HUD of project completion, the owner/developer may make a written request to HUD to determine if the project is completed and to take action as provided in paragraph (b)(1) of this section.

§ 1272.114 Area office review of contract compliance.

No later than 6 months after execution of the Housing Assistance Payments Contract for the project, HUD shall review project operations to ensure that the owner and the LHA are in full compliance with the terms and conditions of the Contract. Subsequent reviews shall be scheduled as necessary.

APPENDIX I

INVITATION FOR PROPOSALS

The Housing Authority of _____ [1] invites developers and builders to submit proposals for the development of privately owned housing to be assisted by housing assistance payments pursuant to Section 23 of the U.S. Housing Act of 1937, as amended. These payments will be made to the owner on behalf of low-income families, certified as eligible by the Housing Authority, occupying dwelling units covered by a contract for such payments between the Housing Authority and the owner.

[If the LHA received approval of a Section 23 program subject to a limitation that housing assistance payments be made with respect to 20 percent or less of the units in a multifamily structure or complex, the following paragraph shall be used: "The Housing Authority will provide housing assistance payments for 20 percent or less of the units in a multifamily structure or complex. Proposals will be accepted only if in accordance with this unit limitation and the followng:"]

[If the LHA received approval of a Section 23 program not subject to a 20 percent unit limitation, the following statement shall be used: "The Housing to be assisted shall be in accordance with the following:"]

[1] Enter legal name of Local Housing Authority.

FAMILY OCCUPANCY

Structure type [1]	Number of structures	Number of units by bedroom count [2]					
		Efficiency	1-BR	2-BR	3-BR	4-BR	5-BR

ELDERLY OCCUPANCY

Structure type [1]	Number of structures	Number of units by bedroom count [1]		
		Efficiency	1-BR	2-BR

[1] Enter structure type, i.e., high rise elevator, walkup, row, detached, semidetached.
[2] Enter number of units, by unit size (number of bedrooms per unit), to be assisted.

The maximum gross rents which the Housing Authority will consider shall not exceed the following:[2]

Structure type[1]	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR

[1] Enter structure type, i.e., high rise elevator, walkup, row, detached, semidetached.

Detailed guidelines, standards and procedures for the development of these units are contained in a Developer's Packet which may be obtained by interested developers and builders from the Housing Authority, whose complete address is_____.[3]

One copy of the completed proposal, which must be in accord with the guidelines and standards contained in the Developer's Packet obtained from the Housing Authority, shall be submitted by either hand delivery or certified mail to the Housing Authority office by not later than noon_____.[4] Two complete copies of the proposal shall be hand delivered or mailed (postmarked) on the same day to the HUD Area Office, whose address is_____.[5]

APPENDIX II

NOTIFICATION OF DEVELOPER SELECTION

Date:_____

This will notify you of selection of your proposal, dated_____, to provide _____[6] units of newly constructed housing at_____[7] of which _____[8] units are to be the subject of a contract by this Authority for the making of housing assistance payments on behalf of eligible low-income families leasing such units. The number, size and rents of units to be contracted for are as follows:

Unit size (number of bedrooms)	Number of units		Rents
	Total	Elderly	

This selection has been approved by the Department of Housing and Urban Development (HUD) and this Authority.

Should you decide to proceed with this undertaking, you will be expected to complete the project, in a manner acceptable to this Authority and HUD, in compliance with: (a) the requirements of the Invitation for Proposals published by this Authority, the Developer's Packet, and your proposal; (b) all applicable State and local laws, codes, ordinances, and regulations as modified by any waivers obtained from the appropriate officials; and (c) the appropriate HUD Minimum Property Standards and the applicable HUD planning and design criteria.

If you accept this Notification, you should submit to this Authority, not later than _____,[9] a certification by the registered architect responsible for the preparation of the working drawings and specifications that they meet the requirements of (a), (b), and (c) above. Upon submission of such certification, an Annual Contributions Contract will be executed by this Authority and HUD. Following such execution, an "Agreement to Enter into Housing Assistance Payments Contract" (Agreement) will be executed by you and this Authority, which Agreement shall be i acordance with the form of Agreement attached hereto.

Failure to submit the architect's certification within the specified time may result in the Authority's rescinding this Notification.

Your acceptance of this Notification constitutes a certification and agreement that (a) there will not be made any assignment, conveyance, or any other form of transfer of the property, or any interest therein, without the prior written consent of the Authority and HUD, except to a financial institution for the purpose of obtaining financing, and (b) no developer or owner shall be substituted for those named in the proposal without the written consent of the Authority and HUD.

Please indicate your acceptance of this Notification by signing in the space provided and returning two copies to this office within ten days of the date of this Notification.

Your truly,

_____
Housing Authority

By _____

Accepted:_____
_____
Title
_____
Date

APPENDIX III

ANNUAL CONTRIBUTIONS CONTRACT

This Contract is entered into as of the _____ day of _____, 19__, by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1401, *et seq.*, which Act as amended to the date of this Contract is herein called the "Act") and the Department of Housing and Urban Development Act (42 U.S.C. 3521), and _____ (herein called the "Local Authority"), which is organized and existing under the laws of the State of _____ and is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or Projects.* The Local Authority is undertaking to provide decent, safe, and sanitary housing for families of low income (further defined as "Family" or "Families" in Section 2.2) in privately owned accommodations pursuant to Section 23 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with the persons or entities having the legal right to lease or sublease such housing ("Owners"). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the type of housing and the number and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made, shall constitute a Project hereunder and shall be identified by a stated Project Number.

0.2 *Part I and Part II of this Contract.*

(a) Certain provisions of this Contract, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing).[10] A separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this Contract.

(b) The remaining provisions of this Contract, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this Contract.

0.3 *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Such established Fiscal Year shall be the 12-month period ending _____ of each calendar year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

Local Authority, by:
_____
The Government, by:
_____

PART I

NEW CONSTRUCTION PROJECT NO. _____

1.1 *The Project.* The Local Authority proposes to enter into a Housing Assistance Payments Contract ("Contract") with respect to newly constructed dwelling units pursuant to an agreement to enter into such Contract ("Agreement") executed prior to the commencement of construction. It is contemplated that the numbers and sizes of units will be as follows:

Size of Unit	*Number of Units*

The Local Authority shall, to the maximum extent feasible, enter into an Agreement and Contract in accordance with the numbers and sizes of units specified above, but the Local Authority shall not enter into any Agreement or Contract or take any other action which will result in a claim for a total Annual Contribution in respect to the Project in excess of the maximum amount stated in Section 1.3(b).

1.2 *Authorization of Actions by Local Authority.*

(a) In order to carry out the Project, the Local Authority is authorized to (i) enter

[2] Enter maximum gross rents, not to exceed HUD-established fair market rents by unit size and structure type to be developed for the housing market area in which the units are to be located.

[3] Enter complete address of the Local Housing Authority.

[4] Enter date by which completed proposals are to be received in the Housing Authority office.

[5] Enter address of the Area Office, Attention Gentlemen:

[6] Insert total number of units to be developed.

[7] Insert proposed project location. If units are to be developed and leased at more than one location, all such locations should be listed and units and rent summaries prepared for each such location.

[8] Insert number of units to be contracted for by the LHA for purposes of making housing assistance payments on behalf of eligible low-income families occupying such units.

[9] Insert date by which the architect's certification is to be sent to the Housing Authority.

[10] The form for Part I applicable to Substantial Rehabilitation will be published when the Substantial Rehabilitation Regulation is published.

into an Agreement, (ii) enter into a Contract, (iii) make housing assistance payments on behalf of Families, and (iv) take all other necessary actions all in accordance with the forms, conditions, and requirements prescribed or approved by the Government; PROVIDED, however, that neither the Local Authority nor the Government shall assume any obligation beyond that provided in the form of Agreement, and in the Contract, approved by the Government.

(b) The Contract shall bear the written approval of the Government.

(c) The Contract shall be for an initial term of not more than five years with provision for renewal for subsequent terms of not more than five years each, but in no event shall the term of the Contract exceed 20 years.

(4) The Contract may provide for periodic adjustments in the rents chargeable by the Owner; *Provided, however,* That any such provision shall specify that such adjustments are subject to the following clause:

Limitation. The LHA will make housing assistance payments in increased amounts commensurate with rent adjustments under this Section, but only to the extent possible within the limits of the maximum total amount of Annual Contributions payable under the Annual Contributions Contract in respect to the Project. No commitment is made by the LHA or the Government that the maximum total amount of Annual Contributions payable in respect to the Project, as specified in Part I of said Contract, will be increased by reason of any such rent adjustments. Accordingly, to enable the Owner to receive sufficient income from rents, the Owner shall have the right to select, and the LHA shall be obligated to approve as promptly as possible, Families whose average rent payments will result in receipts commensurate with the adjusted rents.

1.3 *Annual Contributions.*

(a) Subject to the maximum dollar limitation in paragraph (b) of this Section and the other provisions of this Contract, the Government shall pay Annual Contributions to the Local Authority in respect to the Project in an amount equal to the sum of the following:

(1) The amount of housing assistance payments payable during the Fiscal Year (see Section 1.4) by the Local Authority pursuant to the Contract, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government, for preliminary costs of administration and for security and utility deposits.

(3) The allowance for the cost of administration, in the amount approved by the Government.

(b) Notwithstanding any other provisions of this Contract or any provisions of any other Contract between the Government and the Local Authority, the Government shall not be obligated to make any Annual Contributions or any other payment in respect to the Project in excess of $_____.

(c) The Government will make periodic payments on account of the Annual Contributions upon requisition therefor by the Local Authority in the form prescribed by the Government. Following the end of each Fiscal Year, the Local Authority shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution for such Fiscal Year computed in accordance with paragraph (a) of this Section.

1.4 *Fiscal Year.* The Fiscal Year for the Project, shall be the Fiscal Year established by Section 0.3 of this Contract; PROVIDED, however, that the first Fiscal Year for the Project shall be the period beginning with the commencement of leasing (i.e., the first day of the month in which the first unit is leased by an eligible Family) and ending on the last day of said established Fiscal Year which is not less than 12 months after commencement of such leasing. If the first Fiscal Year exceeds 12 months, the maximum Annual Contribution in Section 1.3(b) may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 *Term of this Contract.* This Contract shall remain in effect so long as the Housing Assistance Payments Contract is in effect; PROVIDED, however, that not more than 20 Annual Contributions shall be payable with respect to the Project.

1.6 *Federal and Local Government Approvals.*

(a) The making of this Contract and the undertaking by the Government of the Annual Contributions as herein provided has been duly approved on List No. _____ for Annual Contributions Contracts.

(b) The Governing Body of the locality in which the dwelling units are to be located has approved the application of Section 23 of the Act to the locality, by resolution or ordinance duly adopted on _____, 19__.

1.7 *Separate Accounts and Records.* The books of account and records of the Local Authority shall be maintained for the Project as separate and distinct from all other Projects and undertakings of the Local Authority.

1.8 *Affirmative Fair Housing Marketing Regulation.* The Local Authority shall require the Owner to comply with the Affirmative Fair Housing Marketing Regulation, including the submission for Government approval of an Affirmative Marketing Plan and compliance with such approved Plan, as if the Owner were expressly subject to said Regulation.

1.9 *Equal Employment Opportunity.*

(a) The Local Authority shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this contract, the following Equal Opportunity clause:

"EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Local Authority setting forth the provisions of this Equal Opportunity clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Local Authority advising the said labor union or workers' representative of the contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

(b) The Local Authority agrees that it will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

(c) The Local Authority further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

1.10 *Expeditious Carrying Out of Project.* The Local Authority shall proceed expeditiously with the Project. If the Local Authority fails to proceed expeditiously, and no

agreement with the Owner has yet been entered into, the Government, by notice to the Local Authority, may terminate or reduce its obligation hereunder with respect to the Project. If an Agreement has been entered into, and the Local Authority or the Owner is not proceeding expeditiously with the Project, the Government will take appropriate action, including the Governmental action provided for in the Agreement.

1.11 *Failure of Local Authority to Comply with Contract.*

(a) In the event of failure of the Local Authority to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the Local Authority to enter into such Contract is drawn into question in any legal proceeding, or if the Local Authority asserts or claims that such Agreement or Contract is not binding upon the Local Authority for any such reason, the occurrence of any such event, if the Owner is not in default, shall constitute a Substantial Default hereunder. In such case, the Government will assume the Local Authority's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the Local Authority, and shall exercise such other powers as the Government may have to cure the Default.

(b) All rights and obligations of the Local Authority assumed by the Government will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Contract will thereafter be administered in accordance with its terms and the terms of this Annual Contributions Contract, or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(c) The provisions of this Section 1.11 are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment. To enforce the performance of this provision the Owner and such assignees, as well as the Local Authority, shall have the right to proceed against the Government by suit at law or in equity.

TERMS AND CONDITIONS CONSTITUTING PART II OF AN ANNUAL CONTRIBUTIONS CONTRACT BETWEEN LOCAL AUTHORITY AND THE UNITED STATES OF AMERICA

2.1. *Low-Income Housing Use.* The Local Authority shall use the Annual Contributions solely for the purpose of providing decent, safe, and sanitary dwellings for families of low income, hereinafter further defined as "Families."

2.2. *Definitions*—(a) *Families; Elderly Families; and Displaced Families.* (1) The term "Families" means families of low income, includes Families consisting of a single person in the case of Elderly Families and Displaced Families, and includes the remaining member of a tenant Family.

(2) The term "Elderly Families" means Families whose heads (or their spouses), or whose sole members, have attained the age at which an individual may elect to receive an old-age benefit under Title II of the Social Security Act (42 U.S.C. 301, et seq.); or are under a disability as defined in section 223 of that Act, or are handicapped within the meaning of Section 202 (12 U.S.C. 1701q) of the Housing Act of 1959, as amended.

(3) The term "Displaced Families" means Families displaced by urban renewal or other governmental action, or Families whose present or former dwellings are situated in areas as determined by the Government to have been affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster.

(b) *Project Receipts and Project Expenditures.* (1) "Project Receipts" with respect to each Project shall mean the Annual Contributions payable hereunder and all other receipts, if any, accruing to the Local Authority from, out of, or in connection with such Project.

(2) "Project Expenditures" with respect to each Project shall mean all costs allowable under Section 1.3, Part I of this Contract with respect to such Project.

(c) *Substantial Default.* For the purpose of this Contract a Substantial Default is defined to be the occurrence of any of the following events:

(1) If the Local Authority shall default in the observance or performance of the provisions of Section 2.7; or

(2) If the Local Authority shall default in the observance or performance of the provisions of any Housing Assistance Payments Contract; or

(3) If the Local Authority shall fail or refuse to honor any duly issued Certificate of Family Eligibility in accordance with its terms; or

(4) Failure of the Local Authority to comply with the requirements of Sections 2.8, 2.9, 2.10, or 2.11; or

(5) If there is any default by the Local Authority in the performance or observance of any term, covenant, or condition of this Contract other than the defaults enumerated in subsections (1) through (4) of this paragraph (c) and if such default has not been remedied within a reasonable time, not to exceed thirty days, after the Government has notified the Local Authority thereof.

2.3. *Maximum Income Limits and Rents.*

(a) Subject to the approval of the Government, the Local Authority shall fix income limits for eligibility and rents after taking into consideration:

(1) The Family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the family, and

(2) The economic factors which affect the financial stability and solvency of the Projects.

(b) Income limits shall restrict eligibility to Families (as defined in Section 2.2) and shall assure the financial solvency of the Projects. Income limits and rents as fixed by the Local Authority shall meet the requirements of applicable local law.

(c) The Local Authority shall submit to the Government for its approval a schedule or schedules of income limits and rents, together with such supporting data and documents as the Government may require.

(d) The Local Authority may at any time review and revise such schedules, and shall review and revise such schedules if the Government determines that changed conditions in the locality make such revisions necessary in achieving the purposes of the Act.

2.4. *Admission Policies.*

(a) The Local Authority shall duly adopt and promulgate, by publication or posting in a conspicuous place for examination by prospective tenants, regulations establishing its policies for the issuance of Certificates of Family Eligibility. Such regulations must be reasonable and give full consideration to its public responsibility for rehousing Displaced Families, to the applicant's status as a serviceman or veteran or relationship to a serviceman or veteran or to a disabled serviceman or veteran and to the applicant's age or disability, housing conditions, urgency of housing need, and source of income, and shall accord to Families consisting of two or more persons such priority over Families consisting of single persons as the Local Authority determines to be necessary to avoid undue hardship.

(b) The Local Authority shall promptly notify any applicant determined to be ineligible for housing assistance payments of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination. Any applicant determined to be eligible for housing assistance payments shall be given a Certificate of Family Eligibility or shall be notified of the date when such Certificate will be issued, insofar as such date can be reasonably determined.

2.5. *Continued Eligibility.*

(a) The Local Authority shall periodically reexamine the incomes of Families for whom housing assistance payments are being made: *Provided, however,* That the length of time between the issuance of a Certificate of Family Eligibility to a Family subject to yearly reexamination and the first reexamination of such Family may be extended by not more than six months if necessary to fit a reexamination schedule established by the Local Authority.

(b) If, upon such reexamination, it is found that Family income or composition has changed, the portion of rent payable by the Family and the amount of housing assistance payment shall be adjusted accordingly.

(c) If, upon such reexamination, it is found that the income of a Family increased beyond the approved income limits for the Project, housing assistance payments for such such Family shall terminate.

2.6. *Applications and Certifications.*

(a) Prior to the issuance of a Certificate of Family Eligibility to each Family and thereafter on the date established by the Local Authority for each reexamination of the status of such Family, the Local Authority shall obtain a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary to enable the Local Authority to determine whether the Family meets the conditions of eligibility for housing assistance payments.

(b) The Local Authority shall establish policies governing the nature and extent of investigations to be made of applicants' and tenants' statements relating to their eligibility.

(c) A duly authorized official of the Local Authority shall, at times prescribed by the Government, make written certifications to the Government that each Certificate of Family Eligibility issued during the period covered by the certification was issued in accordance with its duly adopted regulations and approved income limits.

2.7. *Maintenance and Inspections.*

(a) The Local Authority shall require as a condition for the making of housing assistance payments, that the Owner at all times maintain the Project in decent, safe, and sanitary condition.

(b) The Local Authority shall make inspections of dwelling units prior to commencement of occupancy by Families, and of grounds, facilities, and areas for their benefit and use, and shall make subsequent inspections, adequate to assure that decent, safe, and sanitary housing accommodations are being provided.

2.8 *Nondiscrimination in Housing.*

(a) The Local Authority shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act and

the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The Local Authority shall, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

"This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the [contractor or other] to comply therewith inures to the benefit of the Local Authority any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the [contrac-United States, the said Department, and the tor or other.]"

(b) The Local Authority shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use or occupancy thereof, nor deny to any family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. In determining the eligibility of any family for admission, no family shall be automatically excluded because of membership in a class such as unmarried mothers, families having police records or poor rent-paying habits, etc.

2.9 *Affirmative Fair Housing Market Regulation.* In connection with invitations of applications for and issuance of Certificates of Family Eligibility, the Local Authority shall comply with the Affirmative Fair Housing Marketing Regulations, including the submission for Government approval of an Affirmative Marketing Plan and compliance with such approved Plan, as if the Local Authority were expressly subject to said Regulation.

2.10. *Equal Employment Opportunity.* The Local Authority shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The Local Authority shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2.11. *Employment of Project Area Residents and Contractors.* The Local Authority shall comply and shall require each of its contractors and subcontractors employed in the performance of this Contract to comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations and requirements of the Government thereunder, requiring that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and that contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

2.12. *Insurance and Fidelity Bond Coverage.*

(a) For purposes of protection against hazards arising out of or in connection with the administrative activities of the Local Authority in carrying out the Project, the Local Authority shall carry adequate (1) comprehensive general liability insurance, (2) workmen's compensation coverage (statutory or voluntary), and (3) automobile liability insurance against property damage and bodily injury (owned and non-owned).

(b) The Local Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

(c) Each insurance policy or bond shall be written to become effective at the time the Local Authority becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Local Authority is subject to such risk or hazard. Such insurance and bonds shall (1) be payable in such manner, (2) be in such form, and (3) be for such amounts, all as may be determined by the Local Authority and approved by the Government, and shall be obtained from financially sound and responsible insurance companies.

(d) In connection with each policy, including renewals, for comprehensive general liability insurance the Local Authority shall give full opportunity for open and competitive bidding. The Local Authority shall give such publicity to advertisements for bids as will assure adequate competition and shall afford an opportunity to bid to all insurers who have indicated in writing to the Local Authority their desire to submit a bid and who are licensed to do business in the State. Such insurance shall be awarded to the lowest responsible bidder. The lowest bid shall be determined upon the basis of net cost to the Local Authority. Net cost, for the purposes of this subsection (d), shall mean the gross deposit premium, plus the cost of insurance against the hazards, if any, of assessments, less any anticipated dividend based on the dividend payment and assessment record of the insurer for the previous ten years. Nothing in this subsection (d) shall have the effect of requiring the Local Authority to purchase insurance from any insurer not licensed to do business in the State or to purchase insurance which involves any hazard of assessment unless insurance against such hazard is available.

(e) The Local Authority shall require that each liability insurance policy prohibit the insurer from defending any tort claim on the ground of immunity of the Local Authority from suit.

(f) The Local Authority shall submit certified duplicate copies of all insurance policies and bonds to the Government not less than forty-five days before the effective date thereof for review to determine compliance with this Contract. Unless disapproved by the Government within thirty days of the date submitted, the policies and bonds submitted shall be considered as approved by the Government.

(g) If the Local Authority shall fail at any time to obtain and maintain insurance as required by subsections (a), (b), (c), and (d) of this Sec. 2.12, the Government may obtain such insurance on behalf of the Local Authority and the Local Authority shall promptly reimburse the Government for the cost thereof together with interest at the then going Federal rate as determined pursuant to Section 2(10) of the Act.

2.13. *Procurement.* In the purchasing of equipment, materials, and supplies, and in the award of contracts for services, the Local Authority shall comply with all applicable State and local laws, and in any event shall make such purchases and award such contracts only to the lowest responsible bidder after advertising a sufficient time previously for proposals, except:

(a) When the amount involved in any one case does not exceed $2,500; or

(b) When the public exigencies require the immediate delivery of the articles or performance of the service; or

(c) When only one source of supply is available and the purchasing or contracting officer of the Local Authority shall so certify; or

(d) When the services required are (1) of a technical and professional nature, or (2) to be performed under Local Authority supervision and paid for on a time basis.

2.14. *Personnel.*

(a) The Local Authority shall adopt and comply with a statement of personnel policies comparable with pertinent local public practice. Such statement shall cover job titles and classifications, salary and wage rates for employees, weekly hours of work, qualification standards, leave regulations, and payment of expenses of employees in travel status.

(b) The Local Authority may charge contributions for participation in a retirement plan for its employees to Project Expenditures where such plan has been approved by the Government or is required by law.

(c) The Local Authority shall maintain complete records with respect to employee's leave, authorizations of overtime and official travel, and vouchers supporting reimbursement of travel expense.

(d) No funds of any Project may be used to pay any compensation for the services of members of the Local Authority.

2.15. *Books of Account and Records; Reports; Audits.*

(a) The Local Authority shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the Local Authority of the Annual Contributions and other Project Receipts, if any.

(b) The Local Authority shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(c) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the Local Authority that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(d) The Local Authority shall not charge as a Project Expenditure the cost or expense of any audit with respect to any Project for any Fiscal Year unless (1) the Government has approved such audit, or (2) such audit is required by law, or (3) the Government has failed to furnish the Local Authority with a report of its fiscal audit of the Local Authority's books of account of such Fiscal Year within six months after the end thereof and, subsequent to a notice by the Local Authority of such failure, the Government has failed to submit its report of such audit within three months after receipt of such notice.

2.16. *General Depositary Agreement and General Fund.*

(a) Promptly after the execution of this Contract, the Local Authority shall enter into, and thereafter maintain, one or more

agreements, which are herein collectively called the "General Depositary Agreement," in form prescribed by the Government, with one or more banks (each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation) selected as depositary by the Local Authority. Immediately upon the execution of any General Depositary Agreement, the Local Authority shall furnish to the Government such executed or conformed copies thereof as the Government may require. No such General Depositary Agreement shall be terminated except after thirty days notice to the Government.

(b) All monies received by or held for account of the Local Authority in connection with the Projects shall constitute the General Fund.

(c) The Local Authority shall, except as otherwise provided in this Contract, deposit promptly with such bank or banks, under the terms of the General Depositary Agreement, all monies constituting the General Fund.

(d) The Local Authority may withdraw monies from the General Fund only for (1) the payment of Project Expenditures, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the Local Authority stating in proper detail the purposes for which such withdrawal is made.

(e) If the Local Authority (1) in the determination of the Government, is in Substantial Default, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this Contract or in any document or data submitted to the Government as a basis for this Contract or as an inducement to the Government to enter into this Contract, the Government shall have the right to require any bank or other depositary which holds any monies of the General Fund, to refuse to permit any withdrawals of such monies; *Provided, however,* That upon the curing of such Default the Government shall promptly rescind such requirement.

2.17. *Pooling of Funds under Special Conditions and Revolving Fund.*

(a) The Local Authority may deposit under the terms of the General Depositary Agreement monies received or held by the Local Authority in connection with any other housing project developed or operated by the Local Authority pursuant to the provisions of any contract for annual contributions, administration, or lease between the Local Authority and the Government.

(b) The Local Authority may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the Local Authority, including any project or enterprise in which the Government has no financial interest; *Provided, however,* That such deposits shall be lump-sum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the Local Authority operates other projects or enterprises in which the Government has no financial interest it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depositary Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the Local Authority; *Provided, however,* That all deposits in such revolving fund shall be lump sum transfers from the depositaries of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The Local Authority may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(e) In no event shall the Local Authority withdraw from any of the funds or accounts authorized under this Sec. 2.17 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.18. *Assignment of Interest in Project to Government; Continuance of Annual Contributions.* Upon the occurrence of a Substantial Default (as herein defined) with respect to any Project the Local Authority shall, if the Government so requires, assign to the Government all of its rights and interests in and to the Project, or such part thereof as the Government may specify, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this Contract until reassigned to the Local Authority. After the Government shall be satisfied that all defaults with respect to the Project have been cured and that the Project will thereafter be operated in accordance with the terms of this Contract, the Government shall reassign to the Local Authority all of the rights and interests of the Government in and to the Project as such rights and interests exist at the time of such reassignment.

2.19. *Remedies Not Exclusive and Non-Waivers of Remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, LHA and/or the Government from exercising any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to take any remedial action for the same or any subsequent default.

2.20 *Interest of Members, Officers, or Employees of Local Authority, Members of Local Governing Body, or Other Public Officials.*

(a) Neither the Local Authority nor any of its contractors or their subconstractors shall enter into any contract, subcontract, or arrangement, in connection with any Project, in which any member, officer, or employee of the Local Authority, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Authority was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Local Authority, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Local Authority and such disclosure is entered upon the minutes of the Local Authority, the Local Authority, with the prior approval of the Government may waive the prohibition contained in this subsection: *Provided, however,* That any such present member, officer, or employee of the Local Authority shall not participate in any action by the Local Authority relating to such contract, subcontract, or arrangement.

(b) The Local Authority shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:

"No member, officer, or employee of the Local Authority, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which the Local Authority was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof."

(c) The provisions of the foregoing subsections (a) and (b) of this Section 2.20 shall not be applicable to the General Depositary Agreement, or utility service the rates for which are fixed or controlled by a governmental agency.

2.21. *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

APPENDIX IV

AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT

This Agreement to Enter into Housing Assistance Payments Contract ("Agreement") is made and entered into this _____ day of _____, 19____, by and between the _____ ("LHA"), a body, corporate and politic, organized and existing under and by virtue of the laws of the State of _____, and _____ ("Owner").

WHEREAS, the Owner proposes to complete a housing Project consisting of improvements and land (as described in the developer's approved proposal, including any approved modifications, attached hereto as Exhibit "A"); and

WHEREAS, the Owner and the LHA propose to enter into a Housing Assistance Payments Contract ("Contract") upon the completion of said Project, for the purpose of making housing assistance payments to enable eligible low-income families ("Families") to occupy units in said Project as described in Exhibit "B", attached hereto; and

WHEREAS, the LHA has entered into an Annual Contributions Contract dated _____, 19__, with the United States of America (hereinafter called the "Government"), with respect to Project No. _____ ("ACC"), under which the Government will provide financial assistance to the LHA pursuant to Section 23 of the United States Housing Act of 1937 for the purpose of making housing assistance payments, which ACC is attached hereto as Exhibit "C"; and

WHEREAS, the developer of this Project is the Owner. (Name of developer if he is not the Owner) _____.

NOW THEREFORE, the parties hereto agree as follows:

1. *The Improvements.* The completed improvements shall be in accordance with Exhibit "A". The Owner shall be solely responsible for completion of the improvements and nothing contained in this Agreement shall create or affect any relationship between the LHA and the lender or any contractors or subcontractors employed by the Owner in the completion thereof.

2. *Time for completion.*

a. The Project shall be completed in accordance with Section 4 no later than ____ days after the date of this Agreement.

The Owner agrees that no later than _____, 19__, the work will be commenced and diligently continued. The LHA

reserves the right to cancel this Agreement, subject to Government approval, in the event the work is not commenced and/or diligently continued as aforesaid.

b. In the event that there is delay in the completion of this Project due to strikes, lockouts, labor union disputes, fire, unusual delay in transportation, unavoidable casualties, weather, acts of God, or any other causes beyond the Owner's control, or by delay authorized by the LHA, the time for completion shall be extended to the extent that completion is delayed due to one or more of these causes.

3. *Changes during construction.* The LHA, with Government approval, may reduce the rents payable to the Owner if deviations from Exhibit "A" alter the Project design or quality or other basis for proposal selection. Accordingly, the Owner shall obtain prior written approval for such changes from the LHA and the Government.

4. *Project completion: Execution of housing assistance payments contract.*

a. *Evidence of Completion.* The completion of the Project shall be evidenced by furnishing the LHA with the following:

(1) a certificate of occupancy and/or other official approvals necessary for occupancy; and

(2) separate certifications by the registered Architect responsible for the preparation of the working drawings and specifications and by the Owner that: (a) there are no defects or deficiencies in the Project; (b) all work has been completed in accordance with the terms and conditions of this Agreement; and (c) the Project is in good and tenantable condition; and

(3) a set of "as-built" drawings.

b. *Government Inspection.*

(1) The LHA shall notify the Government when the Project is completed. Upon receipt of such notification a Government representative shall inspect the Project and the evidence of completion listed in paragraph a above. The Government shall make a written determination as to whether or not the Project has been satisfactorily completed. If the determination is in the affirmative, the Government will authorize the execution of the Contract. If the LHA or the Owner disagrees with the Government determination, the matter may be appealed to the Secretary of Housing and Urban Development as if it were a dispute under Section 9b of the Agreement.

(2) If the Owner, after furnishing the LHA with all the items in paragraph a above, believes that the LHA has unreasonably withheld or delayed notification to the Government of Project completion, the Owner may make a written request to the Government to determine if the Project is completed and to take action as provided in paragraph b(1) of this section.

5. *Housing Assistance Payments Contract.*

a. Upon written determination by the Government that the Project has been completed in accordance with the terms and conditions of this Agreement, the Owner and the LHA shall execute the Contract attached hereto as Exhibit "D".

b. The rents to the Owner, by unit size, amounts of housing assistance payments, and all other applicable terms and conditions shall be as specified in the proposed Housing Assistance Payments Contract. Each party has read or is presumed to have read the proposed Contract. It is expressly agreed that there shall be no change in the terms and conditions of the Contract other than in accordance with Section 3 of this Agreement.

6. *Relocation Requirements.*

a. The Owner hereby certifies that the site of the Project was without occupants as of the date of the "Notification of Developer Selection" by checking the "yes" box below.

☐ Yes
☐ No

b. If the answer to a above is "no", the Owner hereby agrees to comply with the provisions of the Uniform Relocation Assistance and Real Property Act Acquisition Policies Act of 1970 and applicable Government regulations and requirements issued pursuant thereto, and the following shall apply:

(1) The maximum potential amount of all relocation costs as calculated by the LHA and approved by the Government is _____ dollars.

(2) The Owner has deposited this amount in an escrow account under the terms of which payments may be made only upon presentation of written authorization by the LHA for the purpose of meeting relocation costs.

(3) The Owner hereby voluntarily undertakes liability for all relocation costs with respect to site occupants and agrees that if the funds in the escrow account shall prove to be insufficient to meet all such relocation costs, he will deposit such additional amounts as the LHA determines to be necessary for such purpose.

(4) When the LHA determines, with Government approval, that there is no longer any potential liability for relocation costs, any balance in the escrow account shall be paid to the Owner.

7. *Employment of project area residents and contractors.* The Owner shall comply and shall require each of its contractors and subcontractors employed in the performance of this Contract to comply (including compliance with the Government-approved affirmative action plan for utilization of Project area businesses) with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations and requirements of the Government thereunder, requiring that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the Project area and that contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

8. *Equal employment opportunity.*

a. The Owner shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this Agreement, the following Equal Opportunity clause:

"EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed; and that employees are treated during employment without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Local Authority setting forth the provisions of this Equal Opportunity clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Local Authority advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States."

b. The Owner agrees that he will be bound by the above Equal Opportunity clause with respect to his own employment practices when he participates in federally assisted construction work.

c. The Owner agrees that he will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

d. The Owner further agrees that he will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not

demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

9. *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement of the LHA and Owner may be submitted by either party to the HUD Area Director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the LHA.

b. The decision of the Area Director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Area Director a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Agreement and in accordance with the decision of the Area Director.

c. This "Disputes" section does not preclude consideration of questions of law in connection with decisions rendered under paragraph a of this Section: *Provided, however,* That nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

10. *Interest of members, officers, or employees of local authority, members of local governing body, or other public officials.* No member, officer, or employee of the LHA, no member of the governing body of the locality (city and county) in which the Project is situated, no member of the governing body of the locality in which the LHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any proceeds or benefits arising therefrom.

11. *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits which may arise therefrom.

12. *Nonassignability.*

a. The Owner agrees that he has not made, and will not make, any sale, assignment, or conveyance or transfer in any other form of this Agreement or the Project, or any part thereof, or any of his interests therein, except as follows:

(1) with the prior consent of the LHA and the Government;

(2) to a financial institution or trustee for the purpose of obtaining financing of the Premises, to which assignment the LHA and the Government shall consent in writing if requested by the Owner or the lender.

b. The Owner agrees that he will not change to a different Developer from the one named in the preamble of this Agreement, except with the prior consent of the LHA and the Government.

c. The Owner agrees that the approved Developer has not made, and will not make, except with the prior consent of the LHA and the Government, any assignment or transfer in any form of the Developer's contract to construct the Premises, or of any part thereof, or any of the Developer's interest therein.

d. The Owner agrees to notify the LHA and the Government promptly of any proposed action covered by paragraph a or b or c of this Section. The Owner further agrees to request the written consent of the LHA and the Government except where the proposed action is covered by paragraph a(2) of this Section.

e. For the purpose of this Section, a transfer of stock in the Owner or Developer in whole or in part, by a party holding ten percent or more of the stock of said Owner or Developer, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to parties in control of the Owner or Developer or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Agreement, the Premises, or the construction contract. With respect to this provision, the Owner, and the party signing this Agreement on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

13. *Authority of the LHA.* The LHA warrants that it is a duly organized body, corporate and politic, authorized by law to engage in the development or administration of low-rent housing or slum clearance, and that it is in fact and in law authorized to execute this Agreement.

14. *Annual contributions contract.* The execution of the ACC by the Government signifies that said ACC has been properly authorized; that the faith of the United States is solemnly pledged to the payment of annual contributions pursuant to said ACC; and that funds have been obligated by the Government for such payment to assist the LHA in the performance of its obligations under the Housing Assistance Payments Contract. The LHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of annual contributions payable thereunder with respect to the Project.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in four original counterparts as of the day and year first above written.

LHA

_____

By _____

OWNER

_____

By _____

APPENDIX V

NEW CONSTRUCTION

HOUSING ASSISTANCE PAYMENTS CONTRACT

This Housing Assistance Payments Contract ("Contract") is made and entered into on this _____ day of _____ 19__, by and between _____ ("Owner") and _____, ("LHA") a public body, corporate and politic, organized and existing under and by virtue of the laws of the State of _____.

The Owner and the LHA agree as follows:

1. *Purpose of contract*

a. The LHA hereby agrees to make housing assistance payments on behalf of eligible low-income families ("Families") for the number and type of units specified in Schedule "A", attached hereto ("assisted units"), to enable such Families to lease decent, safe, and sanitary housing pursuant to Section 23 of the United States Housing Act of 1937.

b. The assisted units are to be leased by the Owner to Families for use and occupancy by such Families solely as private dwellings.

2. *Annual Contributions Contract*

a. The LHA has entered into an Annual Contributions Contract dated _____, with the United States of America (hereinafter called the "Government"), with respect to Project No. _____ ("ACC"), under which the Government will provide financial assistance to the LHA pursuant to Section 23 of the United States Housing Act of 1937, for the purpose of making housing assistance payments, which ACC is attached hereto.

b. The LHA hereby pledges such annual contributions to the payment of housing assistance payments made pursuant to the Housing Assistance Payments Contract. The LHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of annual contributions payable thereunder with respect to the Project.

3. *Housing Assistance Payments.*

a. Housing assistance payments shall be made by the LHA to the Owner, under the terms and conditions of this Contract, only for the period during which assisted units are leased by Families under Leases approved by the LHA. If a Family vacates its unit in violation of the provisions of its Lease, the Owner may continue to receive housing assistance payments with respect to such unit in accordance with the terms of the Contract, not beyond the termination of the Lease (in accordance with its terms), but only if the Owner (1) has promptly (within 30 days) notified the LHA of the vacancy and (2) has not rejected, except for good cause acceptable to the LHA, any substitute Family provided by the LHA.

b. Housing assistance payments shall equal the difference between the rents for the units leased by Families as set forth in Schedule "A" and the amounts of such rents payable by Families. The LHA shall determine the eligibility of Families and the amount of rentals and other charges to be paid by each Family to the Owner in accordance with standards applicable to the Housing Assistance Payments Program. The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family income or composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Owner and the Family. However, any increase or decrease in the amount payable by the Family shall be offset by a corresponding decrease or increase in the amount of housing assistance payment.

c. The sole financial obligation of the LHA shall be to make housing assistance payments on behalf of the Family. Neither the LHA nor the Government has assumed any obligation whatsoever for the amount of rent payable by the Family or the satisfaction of any claim by the Owner against the Family.

d. Housing assistance payments shall not be made for units which are: (1) vacant except as provided in Section 3a above; (2) leased by other than eligible Families; or (3) subject to rent abatement as provided in Section 4d below.

e. (1) The Owner shall submit monthly requests to the LHA for housing assistance payments. Each such request shall set forth: (a) the name of each Family and the address and/or number of the unit leased by the Family; (b) the rent as set forth in Schedule "A" for each leased unit and the amount of rent payable by the Family leasing the unit; and (c) the amount of housing assistance payment requested by the Owner. Upon the determination of the LHA that the amount of the request is correct and that the Owner is in compliance with the provisions of this Contract, the LHA shall pay to the Owner the amount of housing assistance payment requested.

(2) If the Owner has received an excessive payment, the LHA, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(3) The statements set forth in each of the Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years or both.

4. *The premises.*

a. *Definition*—The term "Premises", as used in this Contract, means units which are leased by eligible Families and areas, facilities and grounds which are for their benefit or use, as described in the "Property Description" attached hereto.

b. *Legal Interest*—The Owner warrants that it has the legal right and power to execute this Contract and to lease dwelling units in the Premises.

c. *Owner's Warranty of Condition of Premises*—The Owner warrants that the Premises have been completed in accordance with the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") applicable to the Premises.

d. *Maintenance and Operation of Premises*—The Owner agrees to maintain and operate the Premises so as to provide decent, safe, and sanitary housing, including the provisions of all services and maintenance under Owner-Family Leases. If, at any time during any term of this Contract, the Owner fails to comply with this obligation with respect to any unit leased by an eligible Family, either: (1) housing assistance payments on behalf of such Family shall be abated, effective upon written notification to the Owner, until such time as the obligation is complied with, or (2) this Contract shall be terminated in accordance with Section 14b of this Contract.

e. *LHA Inspections.*

(1) Prior to occupancy of any unit by an eligible Family, the LHA shall inspect the unit, or cause it to be inspected, to determine that the unit is in decent, safe, and sanitary condition.

(2) The LHA may inspect or cause to be inspected, at least annually, the Premises to determine that they are in decent, safe, and sanitary condition.

5. *Term of contract.* The initial term of this Contract shall be __ years (not to exceed five years) beginning _____ 19__, and ending _____, 19__. This Contract shall be renewed, at the option of the Owner, for an additional term(s) of __ years (not to exceed five years each), provided that the total Contract term, including renewals, shall not exceed 20 years. Renewals shall be automatic unless: (1) the Owner notifies the LHA, no later than 60 days prior to the expiration of the current term, of his intention not to renew or to request a rent renegotiation pursuant to Section 6 below; or (2) the LHA notifies the Owner, no later than 30 days prior to the expiration of the current term, that he is in Default, as defined in Section 14 below. The term of Owner-Family Lease, including renewals, if any, shall not extend beyond the term of this Contract.

6. *Rent adjustments.* The payment of increased housing assistance payments as a result of rent adjustments under this Section shall be subject to the provisions contained in subsection c hereof.

a. *Automatic Annual Adjustments.*

(1) The monthly rents in Schedule "A" shall be adjusted automatically on the date of execution of this Contract and on each annual anniversary date of this Contract. The adjustment(s) shall be based upon the Government-determined Adjustment Factor, as defined below.

(2) The Adjustment Factor is the Government-determined percentage change in the Government-established fair market rent for existing housing for the market area in which the Premises are located.

(3) The amount of each automatic annual adjustment shall be computed by applying the Adjustment Factor in effect at the time of the adjustment (provided that the Adjustment Factor determination is not more than one year old) to the rents shown in Schedule "A", as it may be amended from time to time.

(4) In no case may an annual adjustment result in Contract rents which, together with any allowance for utilities payable directly by Families, would exceed the fair market rents in effect for the market area at the time of adjustment. For the first four annual adjustments the fair market rents shall be those which apply to newly constructed housing, plus the percentage, if any, by which the original Schedule "A" Contract rents exceeded the then applicable fair market rents. For all subsequent adjustments, the fair market rents shall be those which apply to existing housing.

(5) Rents may be adjusted upward or downward, as may be appropriate; provided that, in no case shall the adjusted rents be less than the original Schedule "A" rents.

b. *Renegotiations.* The Contract rents in Schedule "A" may be renegotiated to become effective at the beginning of the sixth, eleventh, and sixteenth years of the Contract (if the Contract is renewed for that length of time), whether or not such effective date of renegotiation coincides with the beginning of a renewal term. However, such renegotiations may not result in rents in excess of the fair market rents for existing housing for the housing market area in effect at the time of renegotiation.

c. *Limitation.* The LHA will make housing assistance payments in increased amounts commensurate with rent adjustments under this Section, but only to the extent possible within the limits of the maximum total amount of Annual Contributions payable under the Annual Contributions Contract in respect to the Project. No commitment is made by the LHA or the Government that the maximum total amount of Annual Contributions payable in respect to the Project, as specified in Part I of said Contract, will be increased by reason of any such rent adjustments. Accordingly, to enable the Owner to receive sufficient income from rents, the Owner shall have the right to select, and the LHA shall be obligated to approve as promptly as possible, Families whose average rent payments will result in receipts commensurate with the adjusted rents.

7. *Contract amendment.* Any adjustment or renegotiation in Schedule "A" rents shall be incorporated by amendment to Schedule "A" of this Contract.

8. *Utilities.* The Owner agrees to provide and to pay promptly when due all utilities for the Premises, except to the extent that Families are obligated to pay directly for utilities for their respective units.

9. *Admission of Families.*

a. Families may apply to either the LHA or the Owner. The Owner may select a Family, subject to the Family's obtaining a Certificate of Family Eligibility from the LHA, or may refer all applications to the LHA for selection.

b. In the selection of Families, or in the approval thereof, the Owner and the LHA shall comply with the Government-approved Affirmative Marketing Plans, which are attached hereto and made a part hereof.

10. *Nondiscrimination in housing.*

a. Neither the Owner nor the LHA shall, in the selection or approval of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. In determining the eligibility of Families for admission to the Premises, no person shall be automatically excluded because of membership in a class such as unmarried mothers, families having police records or poor rent-paying habits, etc.

b. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination.

11. *Employment of project area residents and contractors.* The Owner shall comply and shall require each of its contractors and subcontractors employed in the performance of this Contract to comply (including compliace with the Government-approved affirmative action plan for utilization of project area businesses) with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations and requirements of the Government thereunder, requiring that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the Project area and that contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

12. *Eviction.* The Owner shall not evict, nor give an eviction notice to, any Family without having notified the LHA of the grounds and obtained the LHA's authorization for the proposed eviction. In the event the Owner requests such authorization, the LHA shall give the authorization unless the circumstances are such that in the LHA's judgment the granting thereof would be an abuse of the LHA's discretion.

13. *Owner-family lease.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

"a. The total rent to the Lessor for this unit shall be $____ per month. Inasmuch as the Lessor has contracted with _____ _____ (Housing Authority), herein referred to as the LHA, for housing assistance payments on behalf of the Lessee, the amount of rent payable by the Lessee shall

be $____. The amount shall be subject to change by reason of changes in the family income or composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Lessee and Lessor. However, any increase or decrease in the rent payable by the Lessee shall be offset by a corresponding decrease or increase in the amount of the housing assistance payments.

"b. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

"c. The Lessor shall not evict nor give an eviction notice to the Lessee without having notified the LHA of the grounds and obtained the LHA's authorization for the proposed eviction.

"d. The Lessee shall permit inspections of his dwelling unit, provided such inspections are made at a reasonable time and after reasonable notice has been given.

"e. The Lessor covenants that the Lessee shall have peaceful possession of his unit.

"f. The Lessor shall continue to maintain the dwelling unit in a decent, safe, and sanitary condition, as determined by the LHA.

"g. The Lessor shall perform all maintenance, repair, and replacement services for the Premises (including the equipment, grounds, and common areas thereof). Minimum standards of maintenance under this Lease shall include at least the following:

(1) Custodial services (including, but not limited to: cleaning of hallways, garbage storage areas, and all public or common areas on a regularly scheduled basis but not less frequently than _____; and provision of an adequate supply of trash and garbage storage equipment, and/or adequate trash and garbage disposal);

(2) Grounds maintenance (including, but not limited to: exterior custodial services on a regularly scheduled basis; maintenance of lawns and outdoor plantings, including lawn cutting and reseeding);

(3) Prompt response to Lessee service calls (including, but not limited to: calls with respect to refrigerators, ranges, plumbing, heating, electrical and hot water fixtures and systems, and broken, stuck, or damaged doors, screens, or windows);

(4) Repainting and redecorating dwelling space and non-dwelling space surfaces on a regularly scheduled basis as appropriate;

(5) Prompt replacement of light bulbs and other lighting equipment in non-dwelling spaces, common areas, and outdoor areas;

(6) Exterminating services on a regularly scheduled basis, but not less frequently than _____;

(7) Where applicable, removal of snow and ice from walkways, exterior stairs, and parking areas on a timely basis;

(8) Repair of walkways and parking lot surfaces;

(9) Where applicable, repair of garbage disposals, dishwashers, air conditioners, and laundry equipment;

(10) Where applicable, regular maintenance and prompt repair of elevators, incinerators, compactors, and laundry equipment and facilities;

(11) Such other maintenace services as are generally supplied to tenants in the housing market area.

"h. The Lessor shall provide at least those security services generally supplied to tenants in the housing market area.

"i. The sole financial obligation of the LHA shall be to make housing assistance payments on behalf of the Lessee. Neither the LHA nor the Federal Government has assumed any obligation whatsoever for the amount of rent payable by the Lessee or the satisfiaction of any claim by the Lessor against the Lessee.

"j. If the Lease contains a notice-to-vacate provision and the Lessee vacates the dwelling unit without giving the required 30-day notice to the Lessor, the Lease shall terminate on the date when it would have terminated if the Lessee had given notice in accordance with the provisions of the Lease on the date that he vacated the dwelling unit. If the Lease does not contain a notice-to-vacate provision and the Lessee vacates the dwelling unit before the end of the Lease term, the Lessor's rights to continue to receive housing assistance payments are governed by the Housing Assistance Payments Contract.

"k. If any of these required Lease provisions should conflict with any other provisions of this Lease, the required provisions shall prevail."

14. *Default by the owner.*

a. A Default by the Owner under this Contract shall result if:

(1) the Owner has violated or failed to comply with any provisions of this Contract or of any Owner-Family Lease; or

(2) the Owner has failed to perform any of its obligations under this Contract or under any Owner-Family Lease; or

(3) the Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Owner-Family Lease.

b. Upon the determination by the LHA that a Default has occurred, the LHA, with approval of HUD, may notify the Owner that the LHA is terminating the Contract effective 30 days from the date of notice, unless within that period the Owner cures any non-compliance, or initiates a course of corrective action which will cure the non-compliance within such minimum additional time as may be necessary and agreed to by the LHA with the approval of HUD. If the LHA so notifies the Owner, it shall also send a copy of such notice to the Family, together with information regarding continued assistance.

15. *Default by the LHA.*

a. A Default by the LHA under this Contract shall result if:

(1) the LHA has violated or failed to comply with any provisions of the Contract or failed to perform any of its obligations under this Contract; or

(2) this Contract at any time is held to be void, voidable, or ultra vires, or the power or right of the LHA to enter into this Contract is drawn into question in any legal proceeding; or

(3) the LHA asserts or claims that this Contract is not binding upon it for any reason or otherwise asserts or demonstrates that it does not intend to fulfill its obligations under said Contract.

b. Upon the determination by the Government that a Default by the LHA has occurred, the following provisions of the ACC (which is hereby made a part of this Contract), shall be applicable:

"[In such case] the Local Authority shall, if the Government so requires, assign to the Government all of its rights and interests in and to the Project, or such part thereof as the Government may specify and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this Contract until reassigned to the Local Authority. After the Government shall be satisfied that all defaults with respect to the Project have been cured and that the Project will thereafter be operated in accordance with the terms of this Contract, the Government shall reassign to the Local Authority all of the rights and interests of the Government in and to the Project as such rights and interests exist at the time of such reassignment."

16. *Remedies not exclusive and non-waiver of remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, LHA and/or the Government from exercising any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to take any remedial action for the same or any subsequent default.

17. *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the LHA and Owner may be submitted by either party to the HUD Area Director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the LHA.

b. The decision of the Area Director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Area Director a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of the Area Director.

c. This Section does not preclude consideration of questions of law in connection with the decisions rendered under paragraphs a and b of this Section; *Provided, however,* That nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

18. *Interest of members, officers or employees of local authority, members of local governing body or other public officials.* No member, officer, or employee of the LHA, no member of the governing body of the locality (city and county) in which the Premises are situated, no member of the governing body of the locality in which the LHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Premises, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising from it.

19. *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this contract or to any benefits which may arise therefrom.

20. *Nonassignability.*

a. The Owner agrees that it has not made, and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the Premises, or any part thereof, or any of its interest therein, except with the prior consent of the LHA and the Government.

b. The Owner agrees to notify the LHA and the Government promptly of any proposed action covered by paragraph c of this Sec-

tion, and to request the written consent of the LHA and the Government in regard thereto.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner or any other similarly significant change in the ownership of such stock or in the relative distribution thereof in or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract or the Premises. With respect to this provision, the Owner and the party signing this contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

21. *Entire agreement.* This Contract constitutes the entire agreement of the parties in respect to the Premises, and there are no oral agreements between the parties. No changes in this Contract shall be made except in writing signed by both the Owner and the LHA and approved by the Government.

Local Housing Authority

By:

Owner:

By:

Approved:
United States of America
Secretary of Housing and
Urban Development
By:

APPENDIX VI

CERTIFICATE OF FAMILY ELIGIBILITY

1. *Family.* This is to certify that _____, herein referred to
(head of eligible family)
as the Family, is eligible for housing assistance payments under the Section 23 Housing Assistance Payments Program operated by _____, herein re-
(name of Local Housing Authority)
ferred to as the LHA, as set forth more fully below. This Certificate shall automatically expire at the end of 45 days from _____ unless the Family has
(date of Certificate)
provided the LHA with a written offer by an owner as described in 3 b below. This Certificate may be extended by the LHA, at its discretion, upon submission by the Family of this Certificate to the LHA.

2. *Housing Assistance Payments.*

a. The LHA has determined that the Family can afford to pay $_____[11] toward gross rent (including the cost of utilities). The LHA will pay on behalf of the Family a housing assistance payment in the amount of the difference between the rent chargeable by the Owner and that portion of the rent payable by the Family, provided that the rent chargeable by the Owner shall not exceed the fair market rent established by the Department of Housing and Urban Development (HUD) for a __[12] bedroom unit suitable to the Family's needs, less any allowance for utilities payable directly by the Family.

b. The amount payable by the Family shall be subject to change by reason of changes in Family income or Family composition, as determined by the LHA, effective as of the date stated in a notification of such change to the Family and the Owner. Any increase or decrease in the amount payable by the Family shall be offset by a corresponding decrease or increase in the amount of Housing Assistance Payment.

3. *Authorization to Family.* The Family is authorized by the LHA to:

a. find a dwelling unit which is suitable to the Family's needs and is decent, safe, and sanitary as determined by the LHA; and

b. obtain a written offer by the Owner of said unit to lease the unit to the Family in accordance with the provisions of this Certificate of Family Eligibility, and to submit such offer, in the prescribed form (Owner's Offer to Lease Dwelling Unit) attached hereto, to the LHA for its approval.

4. *Action by the LHA.* The LHA shall, as promptly as possible, inspect, or cause to be inspected, the offered unit, and, if the LHA determines that the unit is suitable for the Family's needs and is in decent, safe, and sanitary condition, (b) the proposed rent is acceptable, and (c) the LHA has sufficient funds available under its Annual Contributions Contract, the LHA shall execute a Housing Assistance Payments Contract (prescribed form attached hereto) for the approved dwelling unit and approve the Lease for said unit.

5. *Conditions.*

a. Breach or noncompliance with any of the following conditions may terminate eligibility for housing assistance payments:

(1) The dwelling unit shall continue to be decent, safe, and sanitary as determined by the LHA.

(2) The term of the Lease between the Owner and the Family shall be for not less than one year and shall generally be for not more than one year but may contain an option of either party to terminate upon 30 days advance notice in writing. The Lease may be renewed upon expiration of the original term; however, the specified lease term, including specified renewal options, if any, shall in no event exceed three years or the term of the Annual Contributions Contract pertaining to the Lease, whichever is shorter.

(3) The Lease shall include the special provisions attached hereto as Attachment 1.

(4) The Family shall make timely rental payments to the Lessor under the LHA-approved Lease.

(5) The Family shall provide such Family income information and records as may be required in the administration of the program, and shall permit inspections of its dwelling unit, provided that such inspections are made at a reasonable time and after reasonable notice has been given.

b. The Family must continue to occupy its approved unit to remain eligible for housing assistance payments except that:

(1) If the Family (a) wishes to vacate its unit at the end of the Lease term, or prior thereto in accordance with the provisions of the Lease, in order to move to another approvable unit, or (b) is required to move for reasons other than violation of the Lease on the part of the Family, as determined by the LHA, and wishes to move to another approvable unit, the Family shall be given a new Certificate of Family Eligibility providing for housing assistance payments for occupancy of such other unit, if:

(i) the Family provides reasonable notice to the LHA of its intention to vacate; and

(ii) the LHA determines that the Family is in compliance with the provisions of the Lease, including provisions requiring notice to the Owner, if applicable; and

(iii) the LHA has sufficient funds under its Annual Contributions Contract.

(2) If the Family wishes to vacate the unit prior to the termination of the Lease other than in accordance with the provisions of the Lease, in order to move to another approvable unit, the Family may be given a new Certificate providing for housing assistance payments for occupancy of such other unit if:

(i) the Family provides reasonable notice of its intention to vacate and the reason(s) therefor to both the LHA and the Owner; and

(ii) the LHA determines that the Family is otherwise in compliance with the provisions of the Lease; and

(iii) the LHA determines that the Family has good reasons to vacate; and

(iv) the LHA has sufficient funds under its Annual Contributions Contract, after meeting its obligations for housing assistance payments to the owner of the unit to be vacated.

6. *Equal Housing Opportunity.* If the Family has reason to believe that, in its search for suitable housing, it has been discriminated against on the basis of race, color, creed, religion, sex, or national origin, or because of membership in a class such as unmarried mothers or families having police records or poor rent-paying habits, etc., it may file a complaint with the HUD Regional Office of Equal Opportunity. Fair Housing Complaint Forms (HUD 903(s)) are available in this LHA Office.

7. *Availability of Funds.* It is the LHA's best judgment that it will have funds available to honor this Certificate when the Family locates an acceptable unit. However, honoring of this Certificate by the LHA is subject to the availability of funds to the LHA at that time.

I agree to the foregoing conditions in order to have housing assistance payments made in my behalf under the Section 23 Housing Assistance Payments Program.

Signature of Head of Family

Signing for the LHA

Date

Reference on folio 379.

APPENDIX VI, ATTACHMENT I

LEASE PROVISIONS REQUIRED FOR PARTICIPATION IN THE HOUSING ASSISTANCE PAYMENTS PROGRAM

"a. The total rent to the Lessor for this unit shall be $_____ per month. Inasmuch as the Lessor has contracted with _____ (Housing Authority), herein referred to as the LHA, for housing assistance payments on behalf of the Lessee, the amount of rent payable by the Lessee shall be $_____. This amount shall be subject to change by reason of changes in family income or family composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Lessee and Lessor. However, any increase or decrease in the rent payable by the Lessee shall be offset by a corresponding decrease or increase in the amount of the housing assistance payments.

"b. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

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[11] Enter appropriate amount consistent with the applicable rent to income ratio, not to exceed 25 percent of the Family's adjusted income.

[12] Enter the unit size, by number of bedrooms, for which the Family is eligible pursuant to the occupancy standards of the LHA.

"c. The Lessor shall not evict nor give an eviction notice to the Lessee without having notified the LHA of the grounds and obtained the LHA's authorization for the proposed eviction.

"d. The Lessee shall permit inspections of his dwelling unit, provided such inspections are made at a reasonable time and after reasonable notice has been given.

"e. The Lessor covenants that the Lessee shall have peaceful possession of his unit.

"f. The Lessor shall continue to maintain the dwelling unit in a decent, safe, and sanitary condition, as determined by the LHA.

"g. The Lessor shall perform all maintenance, repair, and replacement services for the Premises (including the equipment, grounds, and common areas thereof). Minimum standards of maintenance under this Lease shall include at least the following:

"(1) Custodial services (including, but not limited to: cleaning of hallways, garbage storage areas, and all public or common areas on a regularly scheduled basis, but not less frequently than _____; and provision of an adequate supply of trash and garbage storage equipment, and/or adequate trash and garbage disposal);

"(2) Grounds maintenance (including, but not limited to: exterior custodial services on a regularly scheduled basis; maintenance of lawns and outdoor plantings, including lawn cutting and reseeding);

"(3) Prompt response to Lessee service calls (including, but not limited to: calls with respect to refrigerators, ranges, plumbing, heating, electrical and hot water fixtures and systems, and broken, stuck, or damaged doors, screens or windows);

"(4) Repainting and redecorating dwelling space and non-dwelling space surfaces on a regularly scheduled basis as appropriate;

"(5) Prompt replacement of light bulbs and other lighting equipment in non-dwelling spaces, common areas, and outdoor areas;

"(6) Exterminating services on a regularly scheduled basis, but not less frequently than _____;

"(7) Where applicable, removal of snow and ice from walkways, exterior stairs, and parking areas on a timely basis;

"(8) Repair of walkways and parking lot surfaces;

"(9) Where applicable, repair of garbage disposals, dishwashers, air conditioners, and laundry equipment;

"(10) Where applicable, regular maintenance and prompt repair of elevators, incinerators, compactors, and laundry equipment and facilities;

"(11) Such other maintenance services as are generally supplied to tenants in the housing market area.

"h. The Lessor shall provide at least those security services generally supplied to tenants in the housing market area.

"i. The sole financial obligation of the LHA shall be to make housing assistance payments on behalf of the Lessee. Neither the LHA nor the Federal Government has assumed any obligation whatsoever for the amount of rent payable by the Lessee or the satisfaction of any claim by the Lessor against the Lessee.

"j. If the Lease contains a notice to vacate provision and the Lessee vacates the dwelling unit without giving the required 30-day notice to the Lessor, the Lease shall terminate on the date when it would have terminated if the Lessee had given notice on the date that he vacated the dwelling unit. If the Lease does not contain a notice to vacate provision and the Lessee vacates the dwelling unit before the end of the Lease term, the Owner's rights to continue to receive housing assistance payments are governed by the Housing Assistance Payments Contract.

"k. If any of these required Lease provisions should conflict with any other provisions of this Lease, the required provisions shall prevail."

APPENDIX VII

OWNER'S OFFER TO LEASE DWELLING UNIT

I _____ hereby offer
(name of owner/lessor)
the following dwelling unit _____
(street address/
_____ for lease by
apartment number, if any)
_____ for a period of
(name of head of family)
____ months (not less than one year) beginning _____.

The unit, consisting of __ bedrooms, is to be leased at $_____ per month. Such amount includes the cost of the utilities checked below:

☐ heat ☐ electricity ☐ gas
☐ water ☐ other (specify) ☐ none

The most recent rent charged for the above dwelling unit was $_____ per month. The difference between this amount and the proposed rent, if any, is due to the following reasons:

_____
_____
_____.

The above dwelling unit is currently:

☐ Vacant and I hereby certify that the unit was vacant prior to the date of execution of this Offer to Lease.
☐ Occupied by the above-named family.
☐ Occupied by other than the above-named family but it shall have been vacated prior to the execution of a lease with the above-named family as a result of (1) voluntary decision of occupant or (2) action by landlord for cause or (3) reasons clearly unrelated to the proposed leasing to the above-named family.

I have read the proposed Housing Assistance Payments Contract and, if such Contract is entered into, will comply with the provisions contained therein.

This offer shall expire ____ days from the date entered below.

_____ _____
Owner/Lessor Date

Accepted by:

_____ _____
Signing for LHA Date

SHELDON B. LUBER,
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.74-1489 Filed 1-16-74;8:45 am]

[24 CFR Part 1274]

[Docket No. R-74-247]

HOUSING ASSISTANCE PAYMENT PROGRAM—EXISTING HOUSING

Proposed Procedures and Provisions

Notice is hereby given that the Department of Housing and Urban Development proposes to amend 24 CFR by adding a new Part 1274 to Chapter VIII. The proposed amendment sets forth the essential elements of the Section 23 Housing Assistance Payments Program-Existing Housing and includes, among other things, the roles and responsibility of the Department, the local housing authority, the owner and the eligible low-income family, the steps in applying for the Section 23 Housing Assistance Payments Program, the basis for determining the amount of housing assistance payments and the prescribed forms of contracts, lease provisions and other documents.

Interested parties are invited to submit written comments, suggestions and objections regarding the proposed amendment by Feb. 21, 1974, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

It is therefore proposed to amend 24 CFR by adding the provision set forth below.

PART 1274—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING (WITHOUT SUBSTANTIAL REHABILITATION)

Subpart A—Applicability, Scope, and Basic Policies

Subpart B—Project Development and Operation

APPENDICES

AUTHORITY: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); section 10(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1410(b)); and section 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1421(b).)

Subpart A—Applicability, Scope, and Basic Policies

§ 1274.1 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of housing assistance payments on behalf of eligible low-income families leasing privately owned existing, decent, safe, and sanitary housing pursuant to the provisions of section 23 of the U.S. Housing Act of 1937.

(b) "Existing housing" means housing whose original construction and/or substantial rehabilitation was completed prior to the execution of an agreement between a Local Housing Authority (LHA) and an owner for the subsequent

leasing or the making of housing assistance payments for occupancy by eligible low-income families. "Existing housing" includes housing which requires minor repairs, improvements or rehabilitation to put it into decent, safe, and sanitary condition, provided that such work is performed without any commitment of the LHA prior to the execution of a Housing Assistance Payments Contract.

(c) The policies and procedures contained herein shall apply to all section 23 projects for existing housing placed under annual contributions contract after the effective date of this part. With respect to projects placed under annual contributions contracts prior to the effective date of this part, HUD may apply these standards to the extent it determines it is practicable to do so.

(d) This part (1) covers policies and procedures relating to the roles and responsibilities of HUD, the LHA, and the owner; the application and leasing processes; and (2) contains contracts, leases, and other documents.

§ 1274.2 Definitions.

(a) *Decent, safe, and sanitary housing.* For the purposes of this program, housing is considered to be decent, safe, and sanitary if a certificate of occupancy or other certification, as required by law, has been issued by the authorized governmental official as to compliance with all applicable codes and ordinances, and if the following minimum standards are met:

(1) The housing has been determined by the LHA to be decent, safe, and sanitary within the meaning of the U.S. Housing Act based upon all pertinent factors, including, but not limited to, the following:

(i) The condition of the exterior and interior of the structure and the housing unit;

(ii) Adequacy and operating condition of sanitary facilities, which must be private; and adequacy of solid and liquid waste disposal facilities;

(iii) Adequacy and operating condition of kitchen facilities, which must (A) contain a range and refrigerator (except in localities where it is normal practice that tenants provide these items), a sink, space for storage of food and for storage of utensils and dishes, and (B) be private except where authorized as congregate housing meeting the HUD requirements for such housing;

(iv) Adequacy and operating condition of heating, lighting and ventilating equipment and/or facilities;

(v) Size, number of rooms, and furnishability to accommodate adequately the size and type of family to be housed.

(2) The owner shall provide either (i) a certification from the authorized local government official or a qualified laboratory that exposed interior and exterior surfaces are free of lead based paint hazards, or (ii) a certification by the owner that those surfaces have been adequately treated or covered, all in accordance with the applicable HUD regulations issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 USC 4801.

(3) The site shall be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank backups, sewage hazards, or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; rodent or vermin infestation; or fire hazards. The neighborhood shall be free of characteristics seriously detrimental to family life, and substandard dwellings or other undesirable elements should not predominate unless there is actively in progress a concerted program intended to upgrade the neighborhood.

(b) *Fair market rent and gross rent.* Fair market rent is the gross rent (including utilities, ranges and refrigerators, and all maintenance and management services) for dwelling units of varying size (number of bedrooms), which, as determined at least annually by HUD, would be required to be paid in each housing market area in order to obtain privately owned, existing, decent, safe, and sanitary housing of modest (nonluxury) nature. Gross rent includes all utilities (except telephone) whether or not paid directly to the utility company by the family.

(c) *Gross family contribution.* The portion of the rent to owner payable by a family plus the allowance established by the LHA for any utilities (except telephone) payable directly by the family.

(d) *Annual contributions contract.* A written agreement between HUD and an LHA to provide annual contributions to the LHA for participation in the Housing Assistance Payments Program. (See Appendix I.)

(e) *Eligible families.* Those families determined by the LHA to meet the requirements for admission into, and continued occupancy of, housing assisted hereunder.

(f) *Certificate of family eligibility.* The certificate issued by an LHA to an applicant family declaring it to be eligible and stating the terms and conditions of such eligibility. (See Appendix II.)

(g) *Owners offer to lease dwelling unit.* A written offer by an owner to lease a dwelling unit to an eligible family under the Housing Assistance Payments Program. (See Appendix III.)

(h) *Housing assistance payments contract ("Contract").* A written Contract between an LHA and an owner for the purpose of providing housing assistance payments on behalf of eligible families. (See Appendix IV.)

(i) *Lease.* An LHA-approved written agreement between a private owner and an eligible family for the leasing of an existing, decent, safe, and sanitary dwelling unit. The lease shall contain the provisions specified in the Contract.

§ 1274.3 Basic policies.

(a) *"Finders-keepers" policy.* Eligible families shall be responsible for finding decent, safe, and sanitary units on the private market so as to maximize choice. LHAs may provide assistance in finding units to those families who, for age, handicap or other reasons, are unable to locate suitable units. An LHA may provide housing assistance payments to an eligible family already leasing decent, safe, and sanitary housing, provided it has been issued a Certificate of Family Eligibility in accordance with the policies and procedures of the LHA and has submitted a completed Owner's Offer to Lease Dwelling Unit to the LHA.

(b) *Annual contributions.* The maximum annual contribution that may be contracted for in the Annual Contributions Contract for a project shall be: (1) the total of the applicable fair market rents for all the units in the project plus (2) an allowance for the cost of administration. The allowance for the preliminary costs of administration and for security and utility deposits (see § 1274.105) shall be payable out of this total.

(c) *Housing assistance payments.* (1) The housing assistance payments will pay the owner the difference between the rent chargeable by the owner and that portion of said rent payable by the family. Families shall not be eligible for such Federal financial assistance when the LHA determines that 25 percent of adjusted family income equals or exceeds the gross rent for the unit leased.

(2) Housing assistance payments shall be paid to owners only for those units under lease by eligible families. If a family vacates its unit in violation of the provisions of its lease, the owner may continue to receive housing assistance payments with respect to such unit in accordance with the terms of the Contract, not beyond the termination of the lease (in accordance with its terms), but only if the owner (i) has promptly (within 30 days) notified the LHA of the vacancy and (ii) has not rejected, except for good cause acceptable to the LHA, any substitute family provided by the LHA.

(d) *Eligible agencies.* (1) All legally constituted LHAs created pursuant to State housing authorities laws are eligible to participate in this program. In addition, under the terms of the U.S. Housing Act, a public housing agency may include any State, county, municipality or other governmental entity or public body which is authorized by State law to engage in the development or administration of low-income housing or slum clearance and therefore may also be eligible to participate in this section 23 program. The abbreviations "LHA" or "LHAs" as used herein include any governmental entity or public body as described in this paragraph.

(2) LHAs may, by agreement, cooperate with each other in carrying out their respective functions, and State laws typically provide that a locality which has no LHA can invite another LHA within the State to function within its borders. In addition to the few States that have created statewide LHAs, many more have State departments or agencies authorized to administer housing and

urban development legislation which qualifies them as public housing agencies under the U.S. Housing Act and authorizes them to carry out this function or to act through LHAs or other qualified entities.

(e) *Local governing body approval.* HUD cannot approve an application for a section 23 program unless the governing body of the locality in which the units are to be assisted has, by resolution, approved the application of the provisions of Section 23 to such locality. Once such a resolution has been enacted, it may satisfy this approval requirement for all subsequent Section 23 projects. The terms of the resolution as enacted must be examined by the LHA and HUD to determine whether it contains any restrictive language (e.g., limits the number of dwelling units or limits the program to locations which would have the effect of denying equal housing opportunities) which would require that a new resolution be passed to enable HUD to approve the proposed program.

(f) *Types of housing.* (1) Any type of existing housing which is in or may be put into decent, safe, and sanitary condition may be utilized. Such housing may include detached or semidetached dwellings, row-houses, mobile homes, units in walk-up apartment buildings, or a combination of such housing types. Units in high-rise elevator buildings may not be used for families with children unless HUD determines that there is no practical alternative. Congregate or single-room occupancy (SRO) housing may be used for occupancy by elderly, handicapped, or displaced families and individuals. (See HUD requirements applicable to congregate and SRO housing.)

(2) Existing FHA insured, FmHA insured or direct loan, and VA guaranteed properties may also be utilized; however, the aggregate number of units in any section 221(d)(3) below market interest rate (BMIR), section 202, or section 236 project that can be made available to families assisted through the rent supplement and/or section 23 programs will generally be limited to 40 percent of the total unless written approval of HUD is obtained covering specific projects on an exception basis which involve: (i) the need to provide housing to persons displaced by urban renewal or other governmental action, or by natural events such as fire or flood, or (ii) vacancies of extended duration which are needed for immediate occupancy by the local authority. The housing assistance payment shall be the amount by which the rent paid by the eligible family is less than the basic or fully subsidized rent for the unit involved. In no event may a dwelling unit or the occupants thereof receive both rent supplement and Section 23 housing assistance.

(g) *Limitation on number of units in single structure.* (1) Section 23(c) of the U.S. Housing Act provides that no more than ten percent of the units in any single structure shall be assisted unless the LHA, because of the limited number of units in the structure or for any other reason, determines that such limit should not be applied. Where the LHA determines that the ten percent limitation should not be applied, a record of its determination shall be maintained in the LHA's permanent file, and the LHA shall notify HUD of its action.

(2) However, in approving applications for housing assistance programs involving multifamily (five or more units) structures, HUD will give priority to those applications which would provide for assistance for 20 percent or less of the units in a single multifamily structure or complex.

(h) *Relocation requirements.* No LHA shall approve a lease for any unit which is occupied unless (1) the occupant will continue to reside in the same unit under the LHA's section 23 existing housing program or (2) the owner voluntarily undertakes liability for and provides for the funding of all relocation costs. (See section 16 of the Contract.)

(i) *Equal opportunity requirements.* Participation in the Section 23 Housing Assistance Payments Program—Existing Housing requires compliance by all participants with (1) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11063 and (2) all rules, regulations, and requirements issued pursuant thereto.

(j) *Availability of funds for security and utility deposits.* In hardship cases where families are unable to obtain funds from community agencies or other sources for payment of security deposits to landlords or utility companies (except telephone), the LHA may pay the owner and/or utility companies the funds necessary, not to exceed one month's rent plus utility deposits (excluding telephone). This amount shall be recovered by the LHA from the family over a one-year period.

(k) *Responsibilities of the owner.* The owner shall be responsible for the complete and total management, maintenance and operation of the dwelling unit. These responsibilities shall include, but not be limited to, the payment of utilities (unless paid directly by the family), insurance and taxes; performance of all ordinary and extraordinary maintenance; performance of all management functions including the taking of applications and selection of families (with the exception of determination and verification of eligibility for the particular dwelling unit involved, which shall be the function of the LHA); collection of rents; risk of loss from vacancies and nonpayment of rent by tenant families; and preparation and furnishing of information required by the LHA under the Contract.

(l) *Responsibilities of the LHA.* The LHA shall be responsible for review of applications submitted by families to determine eligibility for assistance; determination of amounts of housing assistance payments; issuance of Certificates of Family Eligibility to eligible families; inspection and approval of dwelling units to be leased; execution of Housing Assistance Payments Contracts and approval of owner-family leases; making housing assistance payments on behalf of eligible families; reexamination of family eligibility as prescribed by HUD regulations; inspections prior to leasing and at least annually to determine that the units are maintained in decent, safe, and sanitary condition (failure to do so shall constitute a Substantial Default by the LHA under the Annual Contributions Contract); and authorization of eviction. The LHA may provide advice and guidance to eligible families in finding suitable housing, including advice and guidance to families experiencing discrimination.

(m) *Responsibilities of the family.* A family receiving housing assistance under this program shall be responsible for fulfilling all its obligations under both its lease with the owner and the Certificate of Family Eligibility issued to it by the LHA.

§ 1274.4 Separate project requirements.

All of the units administered by an LHA for housing assistance payments for existing housing shall constitute a single project and shall be assigned a separate project number.

Subpart B—Project Development and Operation

§ 1274.101 Preapplication.

The LHA shall determine whether there is a need for housing assistance for low-income families within its operating jurisdiction. If it determines there is such a need, the LHA shall survey the housing market of the locality to determine whether there is a sufficient supply of units suitable for use in this program to meet all or part of this need. In determining the adequacy of the housing supply, the LHA shall estimate realistically the number and size (number of bedrooms) of units that may be available, the condition of such units, and the rents at which such units may be leased.

§ 1274.102 LHA submission of application.

(a) *Submission of application.* (1) An application for a section 23 existing housing program to be submitted by the LHA to HUD, shall be in a form prescribed by HUD and shall:

(i) Describe the results of the LHA's survey of the housing market in terms of the number, size (number of bedrooms), condition, structure type, and rents of units which may be available;

(ii) Document the need for housing assistance in terms of family incomes, housing conditions, and rental payments as proportion of income;

(iii) Indicate the number of units, by unit size (number of bedrooms), which are to be leased by eligible families, including a separate indication of the number of units to be leased by elderly families;

(iv) Include an estimate of the cost of administration attributable to the proposed program, and provide a basis for all estimates;

(v) Provide an estimate of the average gross family contribution to be paid by

families (not to exceed 25 percent of estimated adjusted family incomes);

(vi) Indicate whether the LHA intends to meet the unit limitation described in § 1274.3(g)(2);

(vii) Indicate whether the LHA has adopted and implemented an approved tenant selection and assignment plan in compliance with Title VI of the Civil Rights Act of 1964.

(2) The LHA shall submit an Affirmative Marketing Plan with regard to invitations of applications for and issuance of Certificates of Family Eligibility.

(3) HUD regulation, Project Selection Criteria (24 CFR 200.700), is not applicable; however, see § 1274.2(a)(3) for required site and neighborhood standards.

(4) Advice and assistance in the preparation of the application are available from HUD.

(b) *Income limits and rent schedules.* (1) LHAs not having previously approved income limits and rent schedules shall submit income limits and rent schedules, in accordance with HUD requirements for approval with their applications.

(2) It is the incomes from families to be housed under the proposed Housing Assistance Payments Program, not the income limits, that is more significant in enabling HUD to determine assistance requirements. The LHA shall, therefore, provide accurate estimates of anticipated family income and the amount (including utilities) to be paid from the incomes of families expected to be assisted. In making these estimates, the LHA should utilize such information as incomes, after deductions and exemptions, of families on updated, current waiting lists and rents being paid by tenants in other leased and non-leased units operated by the LHA, as well as incomes of families expected to be housed under the income limits established for this program.

§ 1274.103 HUD review and approval of application.

(a) *Review of application.* HUD shall review the application to determine that: there is need for assistance for the number of units applied for; the estimate of the cost of administration is realistic and allowable by HUD; the reasonably anticipated average gross family contribution is realistic; and the LHA is in compliance with all Equal Opportunity requirements. If deemed appropriate, HUD shall make any adjustments in size of program, bedroom distribution, the allowance for the cost of administration, or family contribution. Such adjustments shall be accepted by the LHA in order to receive application approval. Where the LHA is found to be in noncompliance with any Equal Opportunity requirements, appropriate action to effectuate compliance shall be taken. In determining whether or not to approve an application, HUD shall establish priorities on the basis of § 1274.3(g)(2).

(b) *Approval or disapproval of application.* (1) Upon completion of its review, HUD shall notify the LHA by letter that its application is approved, can be approved if the LHA adopts, within 30 days, the changes required by HUD, or is disapproved. If the application is disapproved, the letter shall indicate in detail the reasons for disapproval.

(2) If the application is approved, the letter shall authorize the LHA to execute the Annual Contributions Contract transmitted with the letter. The letter shall also contain the HUD-established fair market rents, by unit size, for the appropriate housing market area. The LHA shall be advised that these rents represent the maximum gross rents that can be approved for the project. The LHA shall also be advised that if all or part of the cost for utilities is to be assumed by the family, the rent to owner shall not exceed the fair market rent less an allowance for family-paid utilities (excluding telephone). The letter shall also contain a leasing schedule in accordance with § 1274.104(b).

§ 1274.104 Annual contributions contract.

(a) *Approval and term of ACC.* Following HUD approval of an application, an Annual Contributions Contract in the form prescribed in Appendix I shall be prepared and processed, in accordance with HUD requirements and be transmitted by HUD to the LHA for execution and return to HUD with appropriate documents. The annual contributions period shall be for four years as provided in Appendix I. A longer period may be permitted at the discretion of the Secretary.

(b) *Expeditious leasing.* The Annual Contributions Contract shall include a provision relating to expeditious leasing of units under the program. HUD will provide, in its transmittal of the Annual Contributions Contract to the LHA, target dates by calendar quarter endings, which will specify the number of units that are expected to be occupied during each quarter. These target dates will be established so as to implement HUD policy that all units in a section 23 existing program of 100 units or more must be occupied by eligible families within 12 months after execution of the Annual Contributions Contract. In the case of smaller programs, a shorter time period may be established by HUD. Failure to adhere to this schedule will be considered a prima facie basis for reduction by HUD of the number of units and amount of HUD's annual contributions commitment.

§ 1274.105 Allowance for preliminary costs of administration and for security and utility deposits.

An allowance may be provided for the preliminary costs of administration incurred by the LHA in conducting surveys, listings and inspections prior to the execution of the Annual Contributions Contract, and for security and utility deposits. An estimate of these costs should be included by the LHA in its first Operating Budget which is to be submitted for approval when the Annual Contributions Contract is executed.

§ 1274.106 Leasing from owners.

(a) *Public notice to low-income families.* After receiving HUD approval of its application, the LHA shall make known to the public the availability of housing assistance for low-income families and shall invite such families to apply for Certificates of Family Eligibility in accordance with Affirmative Fair Housing Marketing Regulations, including Advertising Guidelines for Fair Housing requiring the use of the Equal Housing Opportunity logotype, statement, and slogan, the LHA's Affirmative Marketing Plan, and the LHA's admission policies. Families who are already on public housing waiting lists shall be notified that they must apply specifically for assistance under this program, if they wish to be considered for it. Any such family who applies for this program shall not lose its place on the public housing waiting list until it has been housed. The LHA shall send a copy of its public invitation to HUD.

(b) *Public notice to owners; listing of units.* The LHA shall invite private owners to make dwelling units available for leasing by eligible families. The LHA shall (1) develop working relationships with local landlords and real estate broker associations, (2) publicize the program in such ways as to reach a maximum number of landlords and real estate brokers, (3) establish contact with civic, charitable, or neighborhood organizations which have an interest in housing for low-income families, and (4) explain fully the provisions of the program, including provisions for Equal Opportunity and against discrimination, to real estate and landlord and other groups whose members may be dealing with eligible families. Owners interested in making their units available for use by low-income families should notify the LHA which shall establish and maintain a listing of such units, accompanied by appropriate information relating to rent, type of unit (single family housing, apartment, etc.), number of bedrooms, location, etc. Such list shall be posted or otherwise made available for use by eligible families, provided that: the list is open to any private owner who wishes his rental units to be included; the list is publicly posted; notice of the existence of the list and the manner in which units may be included on it is publicized by the LHA; the list is used by the LHA in such a way as to ensure that eligible families are neither directed or encouraged to rent, nor discouraged from renting, from any individual; the list contains a statement that eligible families are free to choose housing units not listed; the LHA make efforts to develop a listing of units which will be consistent with the objectives of its Affirmative Marketing Plan; and that owners of listed units provide a written assurance that their units will be made available without discrimination on the basis of race, color, creed, religion, sex, or national origin.

(c) *Determination of family eligibility.* In general, low-income families should contact the LHA concerning participation in the program. If an owner is the initial point of contact, he shall refer the family to the LHA for deter-

mination of eligibility. However, regardless of whether the initial point of contact is with the owner or the LHA, the LHA shall be solely responsible for determining eligibility.

(d) *Certificate of family eligibility.* (1) If the applicant is determined to be eligible and is selected for participation, he shall be given a Certificate of Family Eligibility which conforms to the prescribed form attached hereto as Appendix II and which shall be signed by the applicant and executed by the LHA. Such Certificate will provide that the LHA will pay on behalf of the family the difference between the rent chargeable by the owner and that portion of said rent payable by the family.

(2) Such Certificate shall expire at the end of 45 days unless the eligible family notifies the LHA of the unit it wishes to lease within that time period and submits the Owner's Offer to Lease Dwelling Unit on the prescribed form attached as Appendix III. Expiration of the Certificate shall not preclude the LHA from extending the Certificate upon submission by the family of the Certificate.

(3) The LHA shall maintain a system to assure that it will be able to honor all outstanding Certificates of Family Eligibility within its ACC authorization.

(4) In issuing Certificates, selection procedures shall be utilized which insure nondiscrimination and facilitate achievement of the anticipated results of the approved Affirmative Marketing Plan.

(5) The family must continue to occupy its approved unit to remain eligible for housing assistance payments except that:

(i) If the family wishes to vacate its unit at the end of the lease term, or prior thereto in accordance with the provisions of the lease, in order to move to another approvable unit, or is required to move for reasons other than default on the part of the family, as determined by the LHA, and wishes to move to another approvable unit, the family shall be given a new Certificate of Family Eligibility providing for housing assistance payments for occupancy of such other unit, if:

(A) The family provides reasonable notice to the LHA of its intention to vacate; and

(B) The LHA determines that the family is in compliance with the provisions of the lease, including provisions requiring notice to the owner, if applicable; and

(C) The LHA has sufficient funds under its annual contributions contract.

(ii) If the family wishes to vacate the unit prior to the termination of the lease other than in accordance with provisions of the lease, in order to move to another approvable unit, the family may be given a new Certificate providing for housing assistance payments for occupancy of such other unit if:

(A) The family provides reasonable notice of its intention to vacate and the reason(s) therefor to both the LHA and the owner; and

(B) The LHA determines that the family is otherwise in compliance with the provisions of the lease; and

(C) The LHA determines that the family has good reasons to vacate; and

(D) The LHA has sufficient funds under its Annual Contributions Contract, after meeting its obligations for housing assistance payments to the owner of the unit to be vacated.

(6) LHA records on applicant and certified families shall be maintained so as to provide HUD with racial and ethnic data.

(e) *Finding of units.* Holders of Certificates of Family Eligibility shall be responsible for finding suitable units. The LHA may, however, undertake to find suitable units for families requiring special assistance, such as the elderly or handicapped.

(f) *Inspection of units.* (1) Before approving a lease the LHA shall inspect the unit, including the making of appropriate inquiries, or cause it to be inspected by the appropriate authorized governmental official, for compliance with all applicable codes and ordinances. In addition, the LHA shall inspect the unit, or cause it to be inspected, for compliance with the minimum standards set forth in § 1274.2(a).

(2) If minor repair, improvement, or rehabilitation is needed to make a unit decent, safe, and sanitary, the owner shall be advised by the LHA of the work required to be done prior to the execution of the Housing Assistance Payments Contract.

(3) In order to ensure that housing under lease remains in decent, safe, and sanitary condition for the duration of the Contract and the lease, the LHA shall make periodic inspections, not less than annually, to ascertain that the owner had adequately maintained the unit as required by the Contract and the lease. In those instances where the LHA determines that the unit is not being maintained satisfactorily, the LHA shall try to resolve the problem with the owner. If the LHA is unsuccessful, it may (i) abate payment of housing assistance until such time as the unit is brought into decent, safe, and sanitary condition, and/or (ii) give the owner a 30-day notice of termination in accordance with the provisions of the Contract and furnish a copy of such notice to the family together with information regarding continued assistance.

(g) *Amount of rents.* No dwelling unit shall be rented by an eligible family at an amount which is higher than the HUD established fair market rent (less utilities paid for directly by the family) for the housing market area in which the leased unit is located. Further, the LHA shall not approve rents that exceed rents for similar units after taking into consideration differences in location, facilities and services, and the amounts required to enable the owner to continue to maintain the housing satisfactorily. The family may request the LHA to assist it in negotiating an acceptable rent with the owner.

(h) *LHA record of units rejected.* LHA files shall include documentation as to the rent asked by the owner and condition of all units rejected and a notation as to the reason(s) for rejection.

(i) *Execution of Housing Assistance Payments Contract and approval of lease.* If a unit which is to be leased by an eligible family is determined by the LHA to be in decent, safe, and sanitary condition pursuant to the provisions of § 1274.106(f) and the proposed rent to owner is approvable by the LHA, the LHA shall indicate its approval of the Owner's Offer to Lease Dwelling Unit on that form, shall execute the Housing Assistance Payments Contract (see Appendix IV for prescribed form of Contract) and shall approve the lease.

(j) *Term of lease.* The term of lease shall be for not less than one year and shall generally be for not more than one year. The specified lease term, including specified renewal options, if any, shall in no case exceed three years or the term of the Annual Contributions Contract pertaining to the Lease, whichever is shorter.

APPENDIX I

ANNUAL CONTRIBUTIONS CONTRACT

This Contract is entered into as of the____ day of _____, 19____, by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1401, et seq., which Act as amended to the date of this Contract is herein called the "Act") and the Department of Housing and Urban Development Act (42 U.S.C. 3521), and_____ _____ (herein called the "Local Authority"), which is organized and existing under the laws of the State of_____ and is a "public housing agency" as defined in the Act. In consideration of the mutual convenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or Projects.* The Local Authority is undertaking to provide decent, safe, and sanitary housing for families of low income (further defined as "Family" or "Families" in Section 2.2) in privately owned accommodations pursuant to Section 23 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with the persons or entities having the legal right to lease or sublease such housing ("Owners"). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the type of housing and the number and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made, shall constitute a Project hereunder and shall be identified by a stated Project Number.

0.2 *Part I and Part II of this Contract.* (a) Certain provisions of this Contract, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing).[1] A separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this Contract.

(b) The remaining provisions of this Contract, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this Contract.

[1] The form for Part I applicable to Substantial Rehabilitation will be published when the Substantial Rehabilitation Regulation is published.

0.3 *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Such established Fiscal Year shall be the 12-month period ending _____ of each calender year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

Local Authority, by:

_____

The Government, by:

_____

PART I

EXISTING HOUSING PROJECT NO. ____

1.1. *The Project.* It is contemplated that the Local Authority will enter into Housing Assistance Payments Contracts ("Contracts") with respect to the following numbers and sizes of dwelling units:

Size of Unit	*Number of Units*

The Local Authority shall, to the maximum extent feasible, enter into Contracts in accordance with the numbers and sizes of units specified, but the Local Authority shall not enter into Contracts or take other actions which will result in a claim for a total Annual Contribution in respect to the Project in excess of the maximum amount stated in Section 1.3(b).

1.2 *Authorization of Actions by Local Authority.*

(a) In order to carry out the Project, the Local Authority is authorized to (i) enter into Contracts, (ii) make Housing Assistance Payments on behalf of Families, and (iii) take all other necessary actions, all in accordance with the forms, conditions, and requirements prescribed or approved by the Government: *Provided, however,* That neither the Local Authority nor the Government shall assume any obligation beyond that provided in Housing Assistance Payments Contracts in the form approved by the Government.

(b) The term of each Contract shall be coterminous with the term of the Lease between the Owner and the Family, which term shall be for not less than one year (subject to earlier termination in accordance with its provisions) and shall generally be for not more than one year: *Provided, however,* That the specified Lease term, including specified renewal options, if any, shall in no event exceed three years or the term of this Annual Contributions Contract, whichever is shorter.

1.3 *Annual Contributions.*

(a) Subject to the maximum dollar limitation in paragraph (b) of this Section and the other provisions of this Contract, the Government shall pay Annual Contributions to the Local Authority in respect to the Project in an amount equal to the sum of the following:

(1) The amount of housing assistance payments payable during the Fiscal Year (see Section 1.4) by the Local Authority pursuant to Contracts, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government for preliminary costs of administration and for security and utility deposits.

(3) The allowance for the cost of administration, in the amount approved by the Government.

(b) Notwithstanding any other provisions of this Contract or any provisions of any other Contract between the Government and the Local Authority, the Government shall not be obligated to make any Annual Contributions or any other payment in respect to the Project in excess of $_____.

(c) The Government will make periodic payments on account of the Annual Contributions upon requisition therefor by the Local Authority in the form prescribed by the Government. Following the end of each Fiscal Year, the Local Authority shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution for such Fiscal Year computed in accordance with paragraph (a) of this Section.

1.4. *Fiscal Year.* The Fiscal Year for the Project shall be the Fiscal Year established by Section 0.3 of this Contract; *Provided, however,* That the first Fiscal Year for the Project shall be the period beginning with the Date of Execution and ending on the last day of said established Fiscal Year which is not less than 12 months after the Date of Execution. If the first Fiscal Year exceeds 12 months, the maximum Annual Contribution in Section 1.3(b) may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5. *Term of This Contract.*

(a) The term of this Contract with respect to the Project shall be four years beginning with the Date of Execution; *Provided, however,* That this Contract shall continue in effect for one additional year with respect to Housing Assistance Payments Contracts entered into at any time during the four year period.

(b) In the event that units are added to the Project subsequent to the Date of Execution, the Date of Execution shall remain the same for all units including the additional units unless the term of this Contract with respect to the Project is expressly extended by amendment of Section 1.5(a).

1.6. *Federal and Local Government Approvals.*

(a) The making of this Contract and the undertaking by the Government of the Annual Contributions as herein provided has been duly approved on List No. ____ for Annual Contributions Contracts.

(b) The governing body of the locality in which the dwelling units are to be located has approved the application of Section 23 of the Act to the locality, by resolution or ordinance duly adopted on _____, 19____.

1.7. *Separate Accounts and Records.* The books of account and records of the Local Authority shall be maintained for the Project as separate and distinct from all other Projects and undertakings of the Local Authority.

1.8. *Expeditious Carrying Out of Project.* The Local Authority shall proceed expeditiously with the housing of Families through the use of housing assistance payments. If the Local Authority fails to proceed expeditiously, the Government, by notice to the Local Authority, may reduce the Project to the number and sizes of dwelling units under Contracts with Owners as of the date of the receipt of such notice by the Local Authority, with a corresponding reduction in the maximum amount of Annual Contributions specified in Section 1.3(b).

1.9. *Date of Execution.* The Date of Execution of this Contract with respect to this Project ("Date of Execution") is _____

Local Authority, by:

_____

The Government, by:

_____

TERMS AND CONDITIONS CONSTITUTING PART II OF AN ANNUAL CONTRIBUTIONS CONTRACT BETWEEN LOCAL AUTHORITY AND THE UNITED STATES OF AMERICA

2.1. *Low-Income Housing Use.* The Local Authority shall use the Annual Contributions solely for the purpose of providing decent, safe, and sanitary dwellings for families of low income, hereinafter further defined as "Families."

2.2. *Definitions.*

(a) *Families; Elderly Families; and Displaced Families.*

(1) The term "Families" means families of low income, includes Families consisting of a single person in the case of Elderly Families and Displaced Families, and includes the remaining member of a tenant Family.

(2) The term "Elderly Families" means Families whose heads (or their spouses), or whose sole members, have attained the age at which an individual may elect to receive an old-age benefit under Ttitle II of the Social Security Act (42 U.S.C. 301, et seq.); or are under a disability as defined in section 223 of that Act, or are handicapped within the meaning of Section 202 (12 U.S.C. 1701q) of the Housing Act of 1959, as amended.

(3) The term "Displaced Families" means Families displaced by urban renewal or other governmental action, or Families whose present or former dwellings are situated in areas as determined by the Government to have been affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster.

(b) *Project Receipts and Project Expenditures.*

an old-age benefit under Title II of the

(1) "Project Receipts" with respect to each Project shall mean the Annual Contributions payable hereunder and all other receipts, if any, accruing to the Local Authority from, out of, or in connection with such Project.

(2) "Project Expenditures" with respect to each Project shall mean all costs allowable under Section 1.3, Part I of this Contract with respect to such Project.

(c) *Substantial Default.* For the purpose of this Contract a Substantial Default is defined to be the occurrence of any of the following events:

(1) If the Local Authority shall default in the observance or performance of the provisions of Section 2.7; or

(2) If the Local Authority shall default in the observance or performance of the provisions of any Housing Assistance Payments Contract; or

(3) If the Local Authority shall fail or refuse to honor any duly issued Certificate of Family Eligibility in accordance with its terms; or

(4) Failure of the Local Authority to comply with the requirements of Sections 2.8, 2.9, 2.10, or 2.11; or

(5) If there is any default by the Local Authority in the performance or observance of any term, covenant, or condition of this Contract other than the defaults enumerated in subsections (1) through (4) of this paragraph (c) and if such default has not been remedied within a reasonable time, not to exceed thirty days, after the Government has notified the Local Authority thereof.

2.3. *Maximum Income Limits and Rents.*

(a) Subject to the approval of the Government, the Local Authority shall fix income limits for eligibility and rents after taking into consideration:

(1) The Family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the family, and

(2) The economic factors which affect the financial stability and solvency of the Projects.

(b) Income limits shall restrict eligibility to Families (as defined in Section 2.2) and shall assure the financial solvency of the Projects. Income limits and rents as fixed by the Local Authority shall meet the requirements of applicable local law.

(c) The Local Authority shall submit to the Government for its approval a schedule

or schedules of income limits and rents, together with such supporting data and documents as the Government may require.

(d) The Local Authority may at any time review and revise such schedules, and shall review and revise such schedules if the Government determines that changed conditions in the locality make such revisions necessary in achieving the purposes of the Act.

2.4. *Admission Policies.*

(a) The Local Authority shall duly adopt and promulgate, by publication or posting in a conspicuous place for examination by prospective tenants, regulations establishing its policies for the issuance of Certificates of Family Eligibility. Such regulations must be reasonable and give full consideration to its public responsibility for rehousing Displaced Families, to the applicant's status as a serviceman or veteran or relationship to a serviceman or veteran or to a disabled serviceman or veteran and to the applicant's age or disability, housing conditions, urgency of housing need, and source of income, and shall accord to Families consisting of two or more persons such priority over Families consisting of single persons as the Local Authority determines to be necessary to avoid undue hardship.

(b) The Local Authority shall promptly notify any applicant determined to be ineligible for housing assistance payments of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination. Any applicant determined to be eligible for housing assistance payments shall be given a Certificate of Family Eligibility or shall be notified of the date when such Certificate will be issued, insofar as such date can be reasonably determined.

2.5. *Continued Eligibility.*

(a) The Local Authority shall periodically reexamine the incomes of Families for whom housing assistance payments are being made; *Provided, however,* That the length of time between the issuance of a Certificate of Family Eligibility to a Family subject to yearly reexamination and the first reexamination of such Family may be extended by not more than six months if necessary to fit a reexamination schedule established by the Local Authority.

(b) If, upon such reexamination, it is found that Family income or composition has changed, the portion of rent payable by the Family and the amount of housing assistance payment shall be adjusted accordingly.

(c) If, upon such reexamination, it is found that the income of a Family increased beyond the approved income limits for the Project, housing assistance payments for such Family shall terminate.

2.6. *Applications and Certifications.*

(a) Prior to the issuance of a Certificate of Family Eligibility to each Family and thereafter on the date established by the Local Authority for each reexamination of the status of such Family, the Local Authority shall obtain a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary to enable the Local Authority to determine whether the Family meets the conditions of eligibility for housing assistance payments.

(b) The Local Authority shall establish policies governing the nature and extent of investigations to be made of applicants' and tenants' statements relating to their eligibility.

(c) A duly authorized official of the Local Authority shall, at times prescribed by the Government, make written certifications to the Government that each Certificate of Family Eligibility issued during the period covered by the certification was issued in accordance with its duly adopted regulations and approved income limits.

2.7. *Maintenance and Inspections.*

(a) The Local Authority shall require as a condition for the making of housing assistance payments, that the Owner at all times maintain the Project in decent, safe, and sanitary condition.

(b) The Local Authority shall make inspections of dwelling units prior to commencement of occupancy by Families, and of grounds, facilities, and areas for their benefit and use, and shall make subsequent inspections, adequate to assure that decent, safe, and sanitary housing accommodations are being provided.

2.8 *Nondiscrimination in Housing.*

(a) The Local Authority shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat, 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.;* the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The Local Authority shall, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

"This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.;* issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the [contractor or other] to comply therewith inures to the benefit of the United States, the said Department, and the Local Authority any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the [contractor or other.]"

(b) The Local Authority shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use or occupancy thereof, nor deny to any family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. In determining the eligibility of any family for admission, no family shall be automatically excluded because of membership in a class such as unmarried mothers, families having police records or poor rent-paying habits, etc.

2.9. *Affirmative Fair Housing Market Regulation.* In connection with invitations of applications for and issuance of Certificates of Family Eligibility, the Local Authority shall comply with the Affirmative Fair Housing Marketing Regulations, including the submission for Government approval of an Affirmative Marketing Plan and compliance with such approved Plan, as if the Local Authority were expressly subject to said Regulation.

2.10. *Equal Employment Opportunity.* The Local Authority shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The Local Authority shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2.11. *Employment of Project Area Residents and Contractors.* The Local Authority shall comply and shall require each of its contractors and subcontractors employed in the performance of this Contract to comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations and requirements of the Government thereunder, requiring that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and that contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

2.12 *Insurance and Fidelity Bond Coverage.*

(a) For purposes of protection against hazards arising out of or in connection with the administrative activities of the Local Authority in carrying out the Project, the Local Authority shall carry adequate (1) comprehensive general liability insurance, (2) workmen's compensation coverage (statutory or voluntary), and (3) automobile liability insurance against property damage and bodily injury (owned and non-owned).

(b) The Local Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

(c) Each insurance policy or bond shall be written to become effective at the time the Local Authority becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Local authority is subject to such risk or hazard. Such insurance and bonds shall (1) be payable in such manner, (2) be in such form, and (3) be for such amounts, all as may be determined by the Local Authority and approved by the Government, and shall be obtained from financially sound and responsible insurance companies.

(d) In connection with each policy, including renewals, for comprehensive general liability insurance the Local Authority shall give full opportunity for open and competitive bidding. The Local Authority shall give such publicity to advertisements for bids as will assure adequate competition and shall afford an opportunity to bid to all insurers who have indicated in writing to the Local Authority their desire to submit a bid and who are licensed to do business in the State. Such insurance shall be awarded to the lowest responsible bidder. The lowest bid shall be determined upon the basis of net cost to the Local Authority. Net cost, for the purposes of this subsection (d), shall mean the gross deposit premium, plus the cost of insurance against the hazards, if any, of assessments, less any anticipated dividend based on the dividend payment and assessment record of the insurer for the previous ten years. Nothing in this subsection (d) shall have the effect of requiring the Local Authority to purchase insurance from any insurer not licensed to do business in the State or to purchase insurance which involves any hazard of assessment unless insurance against such hazard is available.

(e) The Local Authority shall require that each liability insurance policy prohibit the insurer from defending any tort claim on the ground of immunity of the Local Authority from suit.

(f) The Local Authority shall submit certified duplicate copies of all insurance policies and bonds to the Government not less than forty-five days before the effective date thereof for review to determine compliance with this Contract. Unless disapproved by the Government within thirty days of the date submitted, the policies and bonds submitted shall be considered as approved by the Government.

(g) If the Local Authority shall fail at any time to obtain and maintain insurance as required by subsections (a), (b), (c), and (d) of this Sec. 2.12, the Government may obtain such insurance on behalf of the Local Authority and the Local Authority shall promply reimburse the Government for the cost thereof together with interest at the then going Federal rate as determined pursuant to Section 2 (10) of the Act.

2.13. *Procurement.* In the purchasing of equipment, materials, and supplies, and in the award of contracts for services, the Local Authority shall comply with all applicable State and local laws, and in any event shall make such purchases and award such contracts only to the lowest responsible bidder after advertising a sufficient time previously for proposals, except:

(a) When the amount involved in any one case does not exceed $2,500; or

(b) When the public exigencies require the immediate delivery of the articles or performance of the service; or

(c) When only one source of supply is available and the purchasing or contracting officer of the Local Authority shall so certify; or

(d) When the services required are (1) of a technical and professional nature, or (2) to be performed under Local Authority supervision and paid for on a time basis.

2.14. *Personnel.*

(a) The Local Authority shall adopt and comply with a statement of personnel policies comparable with pertinent local public practice. Such statement shall cover job titles and classifications, salary and wage rates for employees, weekly hours of work, qualification standards, leave regulations, and payment of expenses of employees in travel status.

(b) The Local Authority may charge contributions for participation in a retirement plan for its employees to Project Expenditures where such plan has been approved by the Government or is required by law.

(c) The Local Authority shall maintain complete records with respect to employee's leave, authorizations of overtime and official travel, and vouchers supporting reimbursement of travel expense.

(d) No funds of any Project may be used to pay any compensation for the services of members of the Local Authority.

2.15. *Books of Account and Records; Reports; Audits.*

(a) The Local Authority shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the Local Authority of the Annual Contributions and other Project Receipts, if any.

(b) The Local Authority shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(c) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the Local Authority that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(d) The Local Authority shall not charge as a Project Expenditure the cost or expense of any audit with respect to any Project for any Fiscal Year unless (1) the Government has approved such audit, or (2) such audit is required by law, or (3) the Government has failed to furnish the Local Authority with a report of its fiscal audit of the Local Authority's books of account for such Fiscal Year within six months after the end thereof and, subsequent to a notice by the Local Authority of such failure, the Government has failed to submit its report of such audit within three months after receipt of such notice.

2.16 *General Depositary Agreement and General Fund.*

(a) Promptly after the execution of this Contract, the Local Authority shall enter into, and thereafter maintain, one or more agreements, which are herein collectively called the "General Depositary Agreement," in form prescribed by the Government, with one or more banks (each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation) selected as depositary by the Local Authority. Immediately upon the execution of any General Depositary Agreement, the Local Authority shall furnish to the Government such executed or conformed copies thereof as the Government may require. No such General Depositary Agreement shall be terminated except after thirty days notice to the Government.

(b) All monies received by or held for account of the Local Authority in connection with the Projects shall constitute the General Fund.

(c) The Local Authority shall, except as otherwise provided in this Contract, deposit promptly with such bank or banks, under the terms of the General Depositary Agreement, all monies constituting the General Fund.

(d) The Local Authority may withdraw monies from the General Fund only for (1) the payment of Project Expenditures, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the Local Authority stating in proper detail the purpose for which such withdrawal is made.

(e) If the Local Authority (1) in the determination of the Government, is in Substantial Default, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this Contract or in any document or data submitted to the Government as a basis for this Contract or as an inducement to the Government to enter into this Contract, the Government shall have the right to require any bank or other depositary which holds any monies of the General Fund, to refuse to permit any withdrawals of such monies; PROVIDED, however, that upon the curing of such Default the Government shall promptly rescind such requirement.

2.17 *Pooling of Funds under Special Conditions and Revolving Fund.*

(a) The Local Authority may deposit under the terms of the General Depositary Agreement monies received or held by the Local Authority in connection with any other housing project developed or operated by the Local Authority pursuant to the provisions of any contract for annual contributions, administration, or lease between the Local Authority and the Government.

(b) The Local Authority may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the Local Authority, including any project or enterprise in which the Government has no financial interest; PROVIDED, however, that such deposits shall be lump-sum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the Local Authority operates other projects or enterprises in which the Government has no financial interest it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depositary Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the Local Authority: *Provided, however,* That all deposits in such revolving fund shall be lump sum transfers from the depositaries of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The Local Authority may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(e) In no event shall the Local Authority withdraw from any of the funds or accounts authorized under this Sec. 2.17 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.18. *Assignment of Interest in Project to Government; Continuance of Annual Contributions.* Upon the occurrence of a Substantial Default (as herein defined) with respect to any Project the Local Authority shall, if the Government so requires, assign to the Government all of its rights and interests in and to the Project, or such part thereof as the Government may specify, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this Contract until reassigned to the Local Authority. After the Government shall be satisfied that all defaults with respect to the Project have been cured and that the Propect will thereafter be operated in accordance with the terms of this Contract, the Government shall reassign to the Local Authority all of the rights and interests of the Government in and to the Project as such rights and interests exist at the time of such reassignment.

2.19. *Remedies not Exclusive and Non-Waivers of Remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, LHA and/or the Government from exercising any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to take any remedial action for the same or any subsequent default.

2.20. *Interest of Members, Officers, or Employees of Local Authority, Members of Local Governing Body, or Other Public Officials.*

(a) Neither the Local Authority nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project, in which any member, officer, or employee of the Local Authority, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Authority was activated or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Local Authority, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Local Authority and such disclosure is entered upon the minutes of the Local Authority, the Local Authority, with the prior approval of the Government may waive the prohibition contained in this subsection: *Provided, however,* That any such present member, officer, or employee of the Local Authority shall not participate ing any action by the Local Authority relating to such contract, subcontract, or arrangement.

(b) The Local Authority shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:

"No member, officer, or employee of the Local Authority, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which the Local Authority was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof."

(c) The provisions of the foregoing subsections (a) and (b) of this Section 2.20 shall not be applicable to the General Depositary Agreement, or utility service the rates for which are fixed or controlled by a governmental agency.

2.21. *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

APPENDIX II

CERTIFICATE OF FAMILY ELIGIBILITY

1. *Family.* This is to certify that _____ (head of _____, herein referred to as the eligible family) Family, is eligible for housing assistance payments under the Section 23 Housing Assistance Payments Program operated by _____ (name _____, herein referred to as the of local Housing Authority) LHA, as set forth more fully below. This Certificate shall automatically expire at the end of 45 days from _____ (date of Certificate) unless the Family has provided the LHA with a written offer by an owner as described in 3 b below. This Certificate may be extended by the LHA, at its discretion, upon submission by the Family of this Certificate to the LHA.

2. *Housing Assistance Payments.*

a. The LHA has determined that the Family can afford to pay $_____[1] toward gross rent (including the cost of utilities). The LHA will pay on behalf of the Family a housing assistance payment in the amount of the difference between the rent chargeable by the Owner and that portion of the rent payable by the Family, provided that the rent chargeable by the Owner shall not exceed the fair market rent established by the Department of Housing and Urban Development (HUD) for a _____[2] bedroom unit suitable to the Family's needs, less any allowance for utilities payable directly by the Family.

b. The amount payable by the Family shall be subject to change by reason of changes in Family income or Family composition, as determined by the LHA, effective as of the date stated in a notification of such change to the Family and the Owner. Any increase or decrease in the amount payable by the Family shall be offset by a corresponding decrease or increase in the amount of Housing Assistance Payment.

3. *Authorization to Family.* The Family is authorized by the LHA to:

a. find a dwelling unit which is suitable to the Family's needs and is decent, safe, and sanitary as determined by the LHA; and

b. obtain a written offer by the Owner of said unit to lease the unit to the Family in accordance with the provisions of this Certificate of Family Eligibility, and to submit such offer, in the prescribed form (Owner's Offer to Lease Dwelling Unit) attached hereto, to the LHA for its approval.

4. *Action by the LHA.* The LHA shall, as promptly as possible, inspect, or cause to be inspected, the offered unit, and, if the LHA determines that (a) the unit is suitable for the Family's needs and is in decent, safe, and sanitary condition, (b) the proposed rent is acceptable, and (c) the LHA has sufficient funds available under its Annual Contributions Contract, the LHA shall execute a Housing Assistance Payments Contract (prescribed form attached hereto) for the approved dwelling unit and approve the Lease for said unit.

5. *Conditions.*

a. Breach or noncompliance with any of the following conditions may terminate eligibility for housing assistance payments:

(1) The dwelling unit shall continue to be decent, safe, and sanitary as determined by the LHA.

(2) The term of the Lease between the Owner and the Family shall be for not less than one year and shall generally be for not more than one year but may contain an option of either party to terminate upon 30 days advance notice in writing. The Lease may be renewed upon expiration of the original term; however, the specified lease term, including specified renewal options, if any, shall in no event exceed three years or the term of the Annual Contributions Contract pertaining to the Lease, whichever is shorter.

(3) The Lease shall include the special provisions attached hereto as Attachment 1.

(4) The Family shall make timely rental payments to the Lessor under the LHA-approved Lease.

(5) The Family shall provide such Family income information and records as may be required in the administration of the program, and shall permit inspections of its dwelling unit, provided that such inspections are made at a reasonable time and after reasonable notice has been given.

b. The Family must continue to occupy its approved unit to remain eligible for housing assistance payments except that:

(1) If the Family (a) wishes to vacate its unit at the end of the Lease term, or prior thereto in accordance with the provisions of the Lease, in order to move to another approvable unit, or (b) is required to move for reasons other than violation of the Lease on the part of the Family, as determined by the LHA, and wishes to move to another approvable unit, the Family shall be given a new Certificate of Family Eligibility providing for housing assistance payments for occupancy of such other unit, if:

(i) the Family provides reasonable notice to the LHA of its intention to vacate; and

(ii) the LHA determines that the Family is in compliance with the provisions of the Lease, including provisions requiring notice to the Owner, if applicable; and

(iii) the LHA has sufficient funds under its Annual Contributions Contract.

(2) If the Family wishes to vacate the unit prior to the termination of the Lease other than in accordance with the provisions of the Lease, in order to move to another approvable unit, the Family may be given a new Certificate providing for housing assistance payments for occupancy of such other unit if:

(i) the Family provides reasonable notice of its intention to vacate and the reason(s) therefor to both the LHA and the Owner; and

(ii) the LHA determines that the Family is otherwise in compliance with the provisions of the Lease; and

(iii) the LHA determines that the Family has good reasons to vacate; and

(iv) the LHA has sufficient funds under its Annual Contributions Contract, after meeting its obligations for housing assistance payments to the owner of the unit to be vacated.

6. *Equal Housing Opportunity.* If the Family has reason to believe that, in its search for suitable housing, it has been discriminated against on the basis of race, color, creed, religion, sex, or national origin, or because of membership in a class such as unmarried mothers or families having police records or poor rent-paying habits, etc., it may file a complaint with the HUD Regional Office of Equal Opportunity. Fair Housing Complaint Forms (HUD 903(s)) are available in this LHA Office.

7. *Availability of Funds.* It is the LHA's best judgment that it will have funds available to honor this Certificate when the Family locates an acceptable unit. However, honoring of this Certificate by the LHA is subject to the availability of funds to the LHA at that time.

I agree to the foregoing conditions in order to have housing assistance payments made in my behalf under the Section 23 Housing Assistance Payments Program.

_____
Signature of Head of Family

_____
Signing for the LHA

_____
Date

ATTACHMENT 1

LEASE PROVISIONS REQUIRED FOR PARTICIPATION IN THE HOUSING ASSISTANCE PAYMENTS PROGRAM

"a. The total rent to the Lessor for this unit shall be $_____ per month. Inasmuch as the Lessor has contracted with _____

[1] Enter appropriate amount consistent with the applicable rent to income ratio, not to exceed 25 percent of the Family's adjusted income.

[2] Enter the unit size, by number of bedrooms, for which the Family is eligible pursuant to the occupancy standards of the LHA.

(Housing Authority), herein referred to as the LHA, for housing assistance payments on behalf of the Lessee, the amount of rent payable by the Lessee shall be $_____. This amount shall be subject to change by reason of changes in family income or family composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Lessee and Lessor. However, any increase or decrease in the rent payable by the Lessee shall be offset by a corresponding decrease or increase in the amount of the housing assistance payments.

"b. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

"c. The Lessor shall not evict nor give an eviction notice to the Lessee without having notified the LHA of the grounds and obtained the LHA's authorization for the proposed eviction.

"d. The Lessee shall permit inspections of his dwelling unit, provided such inspections are made at a reasonable time and after reasonable notice has been given.

"e. The Lessor covenants that the Lessee shall have peaceful possession of his unit.

"f. The Lessor shall continue to maintain the dwelling unit in a decent, safe, and sanitary condition, as determined by the LHA.

"g. The Lessor shall perform all maintenance, repair, and replacement services for the Premises (including the equipment, grounds, and common areas thereof). Minimum standards of maintenance under this Lease shall include at least the following:

"(1) Custodial services (including, but not limited to: cleaning of hallways, garbage storage areas, and all public or common areas on a regularly scheduled basis, but not less frequently than _____; and provision of an adequate supply of trash and garbage storage equipment, and/or adequate trash and garbage disposal);

"(2) Grounds maintenance (including, but not limited to: exterior custodial services on a regularly scheduled basis; maintenance of lawns and outdoor plantings, including lawn cutting and reseeding);

"(3) Prompt response to Lessee service calls (including, but not limited to: calls with respect to refrigerators, ranges, plumbing, heating, electrical and hot water fixtures and systems, and broken, stuck, or damaged doors, screens or windows);

"(4) Repainting and redecorating dwelling space and nondwelling space surfaces on a regularly scheduled basis as appropriate;

"(5) Prompt replacement of light bulbs and other lighting equipment in nondwelling spaces, common areas, and outdoor areas;

"(6) Exterminating services on a regularly scheduled basis, but not less frequently than _____;

"(7) Where applicable, removal of snow and ice from walkways, exterior stairs, and parking areas on a timely basis;

"(8) Repair of walkways and parking lot surfaces;

"(9) Where applicable, repair of garbage disposals, dishwashers, air conditioners, and laundry equipment;

"(10) Where applicable, regular maintenance and prompt repair of elevators, incinerators, compactors, and laundry equipment and facilities;

"(11) Such other maintenance services as are generally supplied to tenants in the housing market area.

"h. The Lessor shall provide at least those security services generally supplied to tenants in the housing market area.

"i. The sole financial obligation of the LHA shall be to make housing assistance payments on behalf of the Lessee. Neither the LHA nor the Federal Government has assumed any obligation whatsoever for the amount of rent payable by the Lessee or the satisfaction of any claim by the Lessor against the Lessee.

"j. If the Lease contains a notice-to-vacate provision and the Lessee vacates the dwelling unit without giving the required 30-day notice to the Lessor, the Lease shall terminate on the date when it would have terminated if the Lessee had given notice on the date that he vacated the dwelling unit. If the Lease does not contain a notice-to-vacate provision and the Lessee vacates the dwelling unit before the end of the Lease term, the Owner's rights to continue to receive housing assistance payments are governed by the Housing Assistance Payments Contract.

"k. If any of these required Lease provisions should conflict with any other provisions of this Lease, the required provisions shall prevail."

APPENDIX III

SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM

Owner's Offer To Lease Dwelling Unit

I _____
(name of owner/lessor)
hereby offer the following dwelling unit

_____
(street address/apartment number, if any)
for lease by _____
(name of head of family)
for a period of __ months (not less than one year) beginning _____.
The unit, consisting of _____ bedrooms, is to be leased at $_____ per month. Such amount includes the cost of the utilities checked below:

☐ heat ☐ electricity ☐ gas ☐ water
☐ other (specify) ☐ none

The most recent rent charged for the above dwelling unit was $_____ per month. The difference between this amount and the proposed rent, if any, is due to the following reasons:

_____
_____
_____

The above dwelling unit is currently:

☐ Vacant and I hereby certify that the unit was vacant prior to the date of execution of this Offer to Lease.
☐ Occupied by the above-named family.
☐ Occupied by other than the above-named family but it shall have been vacated prior to the execution of a lease with the above-named family as a result of (1) voluntary decision of occupant or (2) action by landlord for cause or (3) reasons clearly unrelated to the proposed leasing to the above-named family.

I have read the proposed Housing Assistance Payments Contract and, if such Contract is entered into, will comply with the provisions contained therein.

This offer shall expire _____ days from the date entered below.

_____ _____
Owner/Lessor Date

Accepted by: _____ _____
Signing for LHA Date

APPENDIX IV

EXISTING HOUSING

Housing Assistance Payments Contract

This Housing Assistance Payments Contract ("Contract") is made and entered into on this ____ day of _____ 19__, by and between _____, the person or entity having the legal right to lease the unit (hereinafter called the "Owner"), and _____, ("LHA") a public body, corporate and politic, organized and existing under and by virtue of the laws of the State of _____.

The Owner and the LHA agree as follows:

1. *Purpose of contract.* a. The LHA hereby agrees to make housing assistance payments on behalf of (*name of family*) ("Family") for the following described dwelling unit (*"assisted unit"*), to enable such Family to lease decent, safe, and sanitary housing pursuant to Section 23 of the United States Housing Act of 1937.

b. The assisted unit is to be leased by the Owner to the Family for use and occupancy by the Family solely as a private dwelling.

2. *Annual contributions contract.* a. The LHA has entered into an Annual Contributions Contract dated _____, with the United States of America (hereinafter called the "Government"), with respect to Project No. ____ ("ACC"), under which the Government will provide financial assistance to the LHA pursuant to Section 23 of the United States Housing Act of 1937, for the purpose of making housing assistance payments, which ACC is attached hereto.

b. The LHA hereby pledges such annual contributions to the payments of housing assistance payments made pursuant to the Housing Assistance Payments Contract.

3. *Housing assistance payments.* a. Housing assistance payments shall be made by the LHA to the Owner, under the terms and conditions of this Contract, only for the period during which the assisted unit is leased by the Family under the lease for the dwelling unit approved by the LHA ("Lease"). If the Family vacates its unit in violation of the provisions of its Lease, the Owner may continue to receive housing assistance payments with respect to such unit in accordance with the terms of the Contract, not beyond the termination of the Lease (in accordance with its terms), but only if the Owner (1) has promptly (within 30 days) notified the LHA of the vacancy and (2) has not rejected, except for good cause acceptable to the LHA, any substitute Family provided by the LHA.

b. The LHA has determined that the Family can afford to pay $_____ per month toward the rent chargeable by the Owner. The LHA will pay on behalf of the Family a housing assistance payment in the amount of $_____ which represents the difference between the rent chargeable by the Owner and that portion of said rent payable by the Family. The amount of housing assistance payment and the amount of rent payable by the Family shall be subject to change by reason of changes in the Family income or composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Family and Owner. However, any increase or decrease in the amount payable by the Family shall be offset by a corresponding decrease or increase in the amount of housing assistance payment.

c. The sole financial obligation of the LHA shall be to make housing assistance payments on behalf of the Family. Neither the LHA nor the Government has assumed any obligation whatsoever for the amount of rent payable by the Family or the satisfaction of any claim by the Owner against the Family.

d. A housing assistance payment shall not be made for a unit: (1) which is vacant, except as provided in Section 3a above; (2) which is leased by other than the Family; or (3) for which the owner has failed to comply with his obligation to maintain and operate the unit so as to provide decent, safe, and sanitary housing as provided in Section 4c.

e. (1) The Owner shall submit a monthly request to the LHA for the housing assist-

ance payment. Upon the determination of the LHA that the amount of the request is correct and that the Owner is in compliance with the provisions of this Contract, the LHA shall pay to the Owner the amount requested.

(2) If the Owner receives any excessive payment, the LHA, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(3) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowlingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years or both.

4. *The premises*—a. *Definition.* The term "Premises", as used in this Contract, means the dwelling unit leased by the Family and areas, facilities and grounds which are for its benefit or use.

b. *Legal interest.* The Owner warrants that he has the legal right and power to execute this Contract and to lease the dwelling unit covered by this Contract.

c. *Maintenance and operation of premises.* The Owner agrees to maintain and operate the Premises so as to provide decent, safe, and sanitary housing, including the provision of all services and maintenance under the Lease. If, at any time during any term of the Contract, the Owner fails to comply with this obligation with respect to the unit leased by the Family, either: (1) housing assistance payments on behalf of such Family shall be abated, effective upon written notification to the Owner, until such time as the obligation is complied with; or (2) this Contract shall be terminated in accordance with Section 10b of this Contract.

d. *LHA Inspections.* The LHA may inspect, or cause to be inspected, at least annually, the Premises to determine that they are in decent, safe, and sanitary condition.

5. *Term of contract.* The term of this Contract shall be _____. The term of the Lease, including renewals, if any, as approved by the LHA shall not extend beyond the term of this Contract. The Contract shall be subject to termination in accordance with the provisions of Section 10 hereof.

6. *Utilities.* The Owner agrees to provide and to pay promptly when due the following utilities for the Premises:

7. *Nondiscrimination in housing.* a. Neither the Owner nor the LHA shall, in the selection or approval of Families, in the provisions of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. In determining the eligibility of Families for admission, no person shall be automatically excluded because of membership in a class such as unmarried mothers, families having police records or poor rent-paying habits, etc.

b. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination.

8. *Eviction.* The Owner shall not evict, nor give an eviction notice to, the Family without having notified the LHA of the grounds and obtained the LHA's authorization for the proposed eviction. In the event the Owner requests such LHA authorization, the LHA shall grant the authorization unless the circumstances are such that in the LHA's judgment the granting thereof would be an abuse of the LHA's discretion.

9. *Owner-family lease.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

"a. The total rent to the Lessor for this unit shall be $_____ per month. Inasmuch as the Lessor has contracted with _____ _____ (Housing Authority), herein referred to as the LHA, for housing assistance payments on behalf of the Lessee, the amount of rent payable by the Lessee shall be $_____. This amount shall be subject to change by reason of changes in family income or composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Lessee and Lessor. However, any increase or decrease in the rent payable by the Lessee shall be offset by a corresponding decrease or increase in the amount of the housing assistance payments.

"b. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

"c. The Lessor shall not evict nor give an eviction notice to the Lessee without having notified the LHA of the grounds and obtained the LHA's authorization for the proposed eviction.

"d. The Lessee shall permit inspections of his dwelling unit, provided such inspections are made at a reasonable time and after reasonable notice has been given.

"e. The Lessor covenants that the Lessee shall have peaceful possession of his unit.

"f. The Lessor shall continue to maintain the dwelling unit in a decent, safe, and sanitary condition, as determined by the LHA.

"g. The Lessor shall perform all maintenance, repair, and replacement services for the Premises (including the equipment, grounds, and common areas thereof). Minimum standards of maintenance under this Lease shall include at least the following:

"(1) Custodial services (including, but not limited to: cleaning of hallways, garbage storage areas, and all public or common areas on a regularly scheduled basis, but not less frequently than _____; and provision of an adequate supply of trash and garbage storage equipment, and/or adequate trash and garbage disposal);

"(2) Grounds maintenance (including, but not limited to: exterior custodial services on a regularly scheduled basis; maintenance of laws and outdoor plantings, including lawn cutting and reseeding);

"(3) Prompt response to Lessee service calls (including, but not limited to: calls with respect to refrigerators, ranges, plumbing, heating, electrical and hot water fixtures and systems, and broken, stuck, or damaged doors, screens or windows);

"(4) Repainting and redecorating dwelling space and nondwelling space surfaces on a regularly scheduled basis as appropriate;

"(5) Prompt replacement of light bulbs and other lighting equipment in non-dwelling spaces, common areas, and outdoor areas;

"(6) Exterminating services on a regularly scheduled basis, but not less frequently than _____;

"(7) Where applicable, removal of snow and ice from walkways, exterior stairs, and parking areas on a timely basis;

"(8) Repair of walkways and parking lot surfaces;

"(9) Where applicable, repair of garbage disposals, dishwashers, air conditioners, and laundry equipment;

"(10) Where applicable, regular maintenance and prompt repair of elevator, incinerators, compactors, and laundry equipment and facilities;

"(11) Such other maintenance services as are generally supplied to tenants in the housing market area.

"h. The Lessor shall provide at least those security services generally supplied to tenants in the housing market area.

"i. The sole financial obligation of the LHA shall be to make housing assistance payments on behalf of the Lessee. Neither the LHA nor the Federal Government has assumed any obligation whatsoever for the amount of rent payable by the Lessee or the satisfaction of any claim by the Lessor against the Lessee.

"j. If the Lease contains a notice-to-vacate provision and the Lessee vacates the dwelling unit without giving the required 30-day notice to the Lessor, the Lease shall terminate on the date when it would have terminated if the Lessee had given notice on the date that he vacated the dwelling unit. If the Lease does not contain a notice-to-vacate provision and the Lessee vacates the dwelling unit before the end of the Lease term, the Lessor's rights to continue to receive housing assistance payments are governed by the Housing Assistance Payments Contract.

"k. If any of these required Lease provisions should conflict with any other provisions of this Lease, the required provisions shall prevail."

10. *Default by the owner.* a. A Default by the Owner under this Contract shall result if:

(1) the Owner has violated or failed to comply with any provisions of this Contract or of the Lease; or

(2) the Owner has failed to perform any of its obligations under this Contract or under the Lease; or

(3) the Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under the Lease.

b. Upon the determination by the LHA that a Default has occurred, the LHA, with approval of HUD, may notify the Owner that the LHA is terminating the Contract effective 30 days from the date of notice, unless within that period the Owner cures any noncompliance, or initiates a course of corrective action which will cure the non-compliance within such minimum additional time as may be necessary and agreed to by the LHA with the approval of HUD. If the LHA so notifies the Owner, it shall also send a copy of such notice to the Family, together with information regarding continued assistance.

11. *Remedies not Exclusive and Non-waiver of remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, LHA and/or the Government from exercising any other remedy available under this Contract or under any provisions of Law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to taken any remedial action for the same or any subsequent default.

12. *Disputes.* a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the LHA and Owner may be submitted by either party to the HUD Area Director who shall make a decision and shall mail or otherwise furnish

a written copy thereof to the Owner and the LHA.

b. The decision of the Area Director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Area Director a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of the Area Director.

c. This Section does not preclude consideration of questions of law in connection with decisions rendered under paragraphs a and b of this Section; *PROVIDED*, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

13. *Interest of members, officers, or employees of local authority, members of local governing body, or other Public officials.* No member, officer, or employee of the LHA, no member of the governing body of the locality (city and county) in which the Premises are situated, no member of the governing body of the locality in which the LHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Premises, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising from it.

14. *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

15. *Nonassignability.* a. The Owner agrees that it has not made, and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the Premises, or any part thereof, or any of its interest therein, except with the prior consent of the LHA and the Government.

b. The Owner agrees to notify the LHA and the Government promptly of any proposed action covered by paragraph c of this section, and to request the written consent of the LHA and the Government in regard thereto.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner or any other similarly significant change in the ownership of such stock or in the relative distribution thereof in or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract or the Premises. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

16. *Relocation certification.* This Contract is not valid unless the Relocation Certification below is completed by the Owner.

17. *Entire agreement.* This Contract constitutes the entire agreement of the parties in respect to the Premises, and there are no oral agreements between the parties. No changes in this Contract shall be made except in writing signed by both the Owner and the LHA.

Local Housing Authority

By:

Owner:

By:

Relocation certification. a. The Owner hereby certifies that _____ (identify the unit): ☐ has been vacated as a result of voluntary decision of occupant, ☐ has been vacated as a result of action by landlord for cause, or ☐ is vacant or has been vacated for reasons clearly unrelated to leasing of the unit by the Family under the Housing Assistance Payments Program (check box which is applicable), and the Owner further certifies that the specific circumstances were as follows: _____

_____

Failure to complete this paragraph satisfactorily may subject the Owner to the provisions of paragraph b below.

b. This certification is made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly or willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

c. The Owner agrees to hold harmless and to indemnify the LHA for any cost incurred under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 in connection with the vacation of said units, and the Owner further agrees that the LHA shall have the right to be reimbursed for any such costs by withholding from housing assistance payments payable to the Owner.

Owner:

By:

Date:

SHELDON B. LUBAR,
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.74-1490 Filed 1-16-74;8:45 am]

federal register

TUESDAY, JANUARY 22, 1974

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

GLASS MANUFACTURING POINT SOURCE CATEGORY INSULATION FIBERGLASS SUBCATEGORY

Effluent Limitations Guidelines

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 426—GLASS MANUFACTURING POINT SOURCE CATEGORY

Insulation Fiberglass Subcategory

On August 22, 1973 notice was published in the FEDERAL REGISTER (38 FR 22606), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the insulation fiberglass subcategory of the glass manufacturing category of point sources. The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the insulation fiberglass subcategory of the glass manufacturing category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new part 426. This final rulemaking is promulgated pursuant to sections 301, 304(b) and (c), 306(b) and (c), 307(c) and 316(b) of the Federal Water Pollution Control Act, as amended (the Act) 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92–500.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the insulation fiberglass subcategory. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Insulation Fiberglass Manufacturing Segment of the Glass Manufacturing Point Source Category" (August 1973), and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Insulation Fiberglass Industry" (August 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties was described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received, and a discussion of these comments with the Agency's response thereto follows in this document.

The regulation as promulgated contains minor but significant departures from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not made.

(a) *Summary of comments.* The following responded to the request for written comments contained in the preamble to the proposed regulation: The State of Illinois Environmental Protection Agency; Certain-Teed Products Corporation; The U.S. Department of Commerce; and Owens-Corning Fiberglass Corporation.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to those comments.

(1) It was suggested that noncontact cooling water should be addressed by a guideline covering noncontact cooling water from all industrial categories. It was further pointed out that under certain conditions noncontact cooling water cannot be recycled. For this reason it was urged that a discharge of noncontact cooling water be allowed, since only a relatively small volume of water can be evaporated on the fiberglass as overspray or as binder dilution water.

The case for allowing the discharge of noncontact cooling water, particularly under irregular and emergency operating conditions, is sufficiently valid, that the final regulation allows discharges of noncontact cooling water. It should be noted, however, that the Agency proposes to develop guidelines regulating the discharge of noncontact cooling water at a future date and that that regulation, when promulgated, will apply to discharges of noncontact cooling water from point sources in the insulation fiberglass subcategory.

(2) It was requested that provision be made in the regulation for discharge during emergency situations or manufacturing shutdowns of selected process waste water. In particular, where cullet retention ponds are impractical the need to discharge cullet water was emphasized.

Cullet water is needed to solidify molten glass drawn from a furnace when the glass spinning portion of the operation is interrupted or discontinued. Cullet water by itself contains only suspended solids in the form of finely divided glass particles and heat. There is reason to believe that the discharge of these particles to navigable waters could cause substantial harm to aquatic life. However, the discharge of cullet water to a publicly owned sewage treatment works would be expected to cause no problems. Section 426.16 has been revised to allow the discharge of cullet water to publicly owned treatment works without pretreatment.

(3) The point was made that as a result of the installation of advanced air emission control devices to meet Federally approved State standards, the raw waste load of the process and the quantity of waste water has increased substantially. According to the commenter, this excess volume cannot be disposed of during the normal production cycle as binder dilution and overspray water. The commenter, therefore, has requested a variance from the no discharge of process waste water pollutants to navigable waters guideline.

It should be pointed out that the other two major producers of insulation fiberglass have indicated that they are or will be in compliance with the air emission standards for particulates and odor while maintaining a closed cycle process water recirculation system which results in no discharge of process waste water pollutants to navigable waters. However, they also pointed out that process changes were required to accomplish this. Although best practicable control technology may include in-process control changes, it principally involves end-of-pipe treatment systems. Both best available technology and best available demonstrated control technology, applicable to 1983 and new source performance requirements respectively, clearly include internal process revisions. On this basis, the Agency has determined that a discharge of process waste water pollutants resulting from the mandatory application of advanced air pollution control systems will be allowed in the 1977 limitation for that amount of air pollution control water which cannot be absorbed in the process water recirculation system after such excess water has been adequately treated.

(4) One commenter indicated that one plant had been unable to achieve total recycle after a few months of system operation and shakedown. On this basis, the company concluded that total recycle of process waste waters could not be achieved by 1977.

Another plant of the same company is achieving, with some difficulty, total recycle of process waste water with a less elaborate treatment scheme than the inoperable one referred to above. No valid reasons have been presented to indicate why the no discharge requirement is not properly applicable to the subject plant, and the Agency believes that the company in question can adjust the treatment system to function properly in advance of the July 1, 1977 deadline.

(5) One commenter stated that a no discharge guideline legally could not be applied until 1985.

This issue was previously cited and answered in the preamble to the proposed regulation (38 FR 22606).

(6) It was mentioned that the EPA cost estimates for waste treatment and recycle systems were less than the industry cost estimates, especially for small plants. The Development Document contains cost estimates prepared by EPA and the insulation fiberglass industry. These

two estimates are generally in close agreement.

(7) It was commented that textile fiberglass has not been explicitly excluded from these effluent limitatons guidelines and standards.

As indicated in section 426.10, this regulation applies only to insulation fiberglass, and no exclusionary language relative to textile fiberglass is necessary.

(b) Revision of the proposed regulation prior to promulgation.

As a result of public comments and continuing review and evaluation of the proposed regulation by the EPA, the following changes have been made in the regulation.

(1) Minor adjustments have been made to reflect the fact that an increased number of definitions and analytical methods have been included in 40 CFR 401 and are incorporated by reference in this subpart.

(2) A discharge of waste water has been allowed which cannot be reused in the waste water recycle circuit because of the installation of advanced air pollution control devices. The technology for achieving this level of pollutant control was set forth in the Development Document to support the proposed regulation and is also contained in the Development Document supporting this final rule-making. Basically the technology is that of biological treatment, using a biota which has been acclimated to the particular waste stream. The technology on which this allowance is based was originally applied to the entire waste stream of an insulation fiberglass plant. Although technically successful, additional treatment to meet anticipated water quality standards proved too costly, and the entire system was replaced by the total recirculation system. Because it is being applied only to the effluent from air pollution control devices, the waste loading should be substantially lower and the treatment technology should be at least as effective as when it was applied to the total waste stream.

This allowance for discharge from air pollution control devices is neither contained in the 1983 standard nor in the new source performance standard. The amount of time available for compliance with the July 1, 1983, guideline is adequate to allow for such process revisions as are necessary to ensure meeting the 1983 requirement which is no discharge of process waste water pollutants to navigable waters. Similarly, no allowance is made for new source performance standards since the options available to new plants include process modifications and plant siting.

(3) The discharge of cullet water to a publicly owned treatment works is specifically allowed for new sources even though other process waste water pollutants from new sources are proscribed from discharge to navigable waters or to publicly owned treatment works. This discharge is allowed because cullet water contains only finely divided silica particles in suspension and heat. Suspended solids are readily treated in a publicly owned treatment works, and the thermal component, which is relatively minor, will be adequately diffused in a treatment plant of suitable capacity. A similar allowance for cullet water is contained in the regulation establishing pretreatment standards for existing sources which is being proposed in conjunction with promulgation of the regulation below.

(4) Noncontact cooling water has been excluded from this regulation as discussed previously.

(c) Economic impact.

The above listed changes will not significantly affect the conclusions of the economic study of the proposed regulation. The allowances described in subparagraphs (3) and (4) above will decrease the initial cost estimates less than ten percent. Because of these variances, a noncontact cooling water recirculation system and a cullet water recirculation system may not have to be installed.

The effect of allowing a discharge of water used for advanced air emission control devices is more difficult to predict. It is estimated that only that company which requested the variance will be affected. The cost of the process water recirculation system on a unit product basis is lower for this company than for the others, as a smaller quantity of pollutants is to be treated. The capital cost of biologically treating the additional raw waste load after the addition of an electrostatic precipitator is estimated to be forty-eight percent more than if that volume were to be included in the process water recirculation system, as is done by the rest of the industry. The capital costs of biological treatment will be reduced if these wastes are pretreated and discharged to a publicly owned treatment works. However, if these wastes are to be discharged directly to navigable waters, the incentive exists to use that technology which is employed by the rest of the industry and to make the necessary process changes to operate a total waste water recirculation system.

(d) *Cost-benefit analysis.* The detrimental effects of the constituents of waste waters now discharged by point sources within the insulation fiberglass segment of the glass manufacturing point source category are discussed in Section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the INSULATION FIBERGLASS Manufacturing Segment of the Glass Manufacturing Point Source Category" (July 1974). It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in Section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines INSULATION FIBERGLASS INDUSTRY" (August 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the insulation fiberglass industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of Section 304(c), a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Insulation Fiberglass Manufacturing Segment of the Glass Manufacturing Point Source Category," has been published and is available for purchase from the Government Printing Office, Washington, D.C. 20401 for a nominal fee.

(f) *Final rulemaking.* In consideration of the foregoing, 40 CFR Chapter I, Subchapter N is hereby amended by adding a new Part 426, Glass Manufacturing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective on March 25, 1974.

Dated: January 14, 1974.

RUSSELL E. TRAIN,
Administrator.

Subpart A—Insulation Fiberglass Subcategory

Sec.

AUTHORITY: Secs. 301, 304 (b) and (c); 306 (b) and (c), 307(c) and 316(b), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 and 1317(b)) 86 Stat. 816 et seq., Pub. L. 92-500.

Subpart A—Insulation Fiberglass Subcategory

§ 426.10 Applicability; description of the insulation fiberglass subcategory.

The provisions of this subpart are applicable to discharges resulting from the

production of insulation fiberglass in which molten glass is either directly or indirectly made, continuously fiberized and chemically bonded into a wool-like material.

§ 426.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "cullet water" shall mean that water which is exclusively and directly applied to molten glass in order to solidify the glass.

(c) The term "advanced air emission control devices" shall mean air pollution control equipment, such as electrostatic precipitators and high energy scrubbers, that are used to treat an air discharge which has been treated initially by equipment including knock-out chambers and low energy scrubbers.

§ 426.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) There shall be no discharge of process waste water pollutants to navigable waters, except as permitted in subparagraph (b) below.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in process waste water from advanced air emission control devices, when such water cannot be consumed in the process.

Effluent characteristic	Effluent limitations: Maximum for any one day	Effluent limitations: Average of daily values for thirty consecutive days shall not exceed
(Metric units)—Kilograms per thousands of kilograms of product		
Phenol	0.0006	0.0003
COD	.33	.165
BOD	.024	.012
TSS	.03	.015
pH	(1)	
(English units)—Pounds per thousands of pounds of product		
Phenol	0.0006	0.0003
COD	.33	.165
BOD	.024	.012
TSS	.03	.015
pH	(1)	

[1] Within the range 6.0 to 9.0.

§ 426.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 426.14 [Reserved.]

§ 426.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: there shall be no discharge of process waste water pollutants to navigable waters.

§ 426.16 Pretreatment standards for new sources.

(a) Applicability: The provisions of this section shall apply to discharges of process waste water pollutants into publicly owned treatment works except for that portion of the waste stream which constitutes cullet water.

(b) Pretreatment standards for incompatible pollutants: The pretreatment standards under section 307(c) of the Act for any new source within the insulation fiberglass subcategory, which is a 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 the navigable waters, shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 426.15; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permits, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

[FR Doc.74-1860 Filed 1-21-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 426]

GLASS MANUFACTURING POINT SOURCE CATEGORY, INSULATION FIBERGLASS SUBCATEGORY

Application of Effluent Limitations Guidelines for Existing Sources to Pretreatment Standards for Incompatible Pollutants

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act) 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 426—GLASS Manufacturing Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the insulation fiberglass subcategory of the glass manufacturing point source category. The latter regulation applies to the portion of a discharge which is direct to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 426) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants). Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides 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 not subject to Section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to Sections 301(b) and 304(b) of the Act; 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; and provided further that *when the effluent limitations guidelines for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.*" (Emphasis added).

The regulation proposed below is intended to implement that portion of section 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is appropriate to support the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Section 426.15 of the proposed regulation for point sources within the insulation fiberglass subcategory (August 22, 1973; 38 FR 22610), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains section 426.16 which states the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document is now being published. The economic analysis report was made available at the time of proposal. Copies of the final Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia, 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653) The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) the identification of pollutants present in waste waters resulting from the manufacture of insulation fiberglass, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of insulation fiberglass. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing

effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the insulation fiberglass subcategory of the glass manufacturing category (38 FR 22609; August 22, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 426) which currently is being published in the Rules and Regulations section of the FEDERAL REGISTER (p. 2564).

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the insulation fiberglass subcategory, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

The first option, which would leave the introduction of incompatible pollutants unregulated by a national pretreatment standard, is inappropriate in view of the information available to the Agency concerning the effects of those pollutants in the insulation fiberglass subcategory and the available treatment technologies. In general, the Agency believes that treatment levels required of plants utilizing municipal systems should be comparable to those applicable to direct dischargers so that use of such systems does not result in higher levels of ultimate pollutant discharge to the navigable waters or in any unjustified economic advantage.

As described in the Development Document the process waste waters from the insulation fiberglass subcategory contain high concentrations of phenols, formalins and other hazardous materials which could interfere with the operation of publicly owned treatment works, pass through such works untreated or inadequately treated or otherwise be incompatible with such treatment works. The information available to the Agency does not indicate differences between plants which discharge directly to navigable waters and those which utilize municipal systems significant enough to warrant varying the effluent limitations guidelines except as described below. Accordingly, it is the opinion of the EPA that these process waste waters should be treated to the level required by the application of the best practicable control technology currently available before discharge of these materials to publicly owned treatment works.

The single exception to this requirement is process waste water which is used only for the purpose of making cullet. "Cullet water" contains only finely divided silica particles in suspension and heat. The silica particles are amenable to treatment in a publicly owned treatment works and therefore may be discharged to such works without the requirement for pretreatment. The thermal component, which is relatively minor, will be adequately diffused in a treatment plant of suitable capacity.

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 pretreatment standards for existing sources, 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 and 307(b) 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, S.W., Washington, D.C. 20460. The EPA information regulation, 40 CFR 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR 426 be amended to add section 426.14. All comments received on or before February 21, 1974, will be considered.

Dated: January 14, 1974.

RUSSELL E. TRAIN,
Administrator.

40 CFR Part 426 is proposed to be amended as follows:

§ 426.14 Pretreatment standards for existing sources.

(a) For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in § 426.12 shall apply and, subject to the provisions of 40 CFR 128 concerning pretreatment, process waste water pollutants from this subcategory, except process waste water pollutants contained in cullet water, may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

[FR Doc.74-1861 Filed 1-21-74;8:45 am]