



## highlights

### "THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for February are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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	CSC			CSC
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	HEW/ADAMHA			HEW/ADAMHA
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

**ATTENTION:** For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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(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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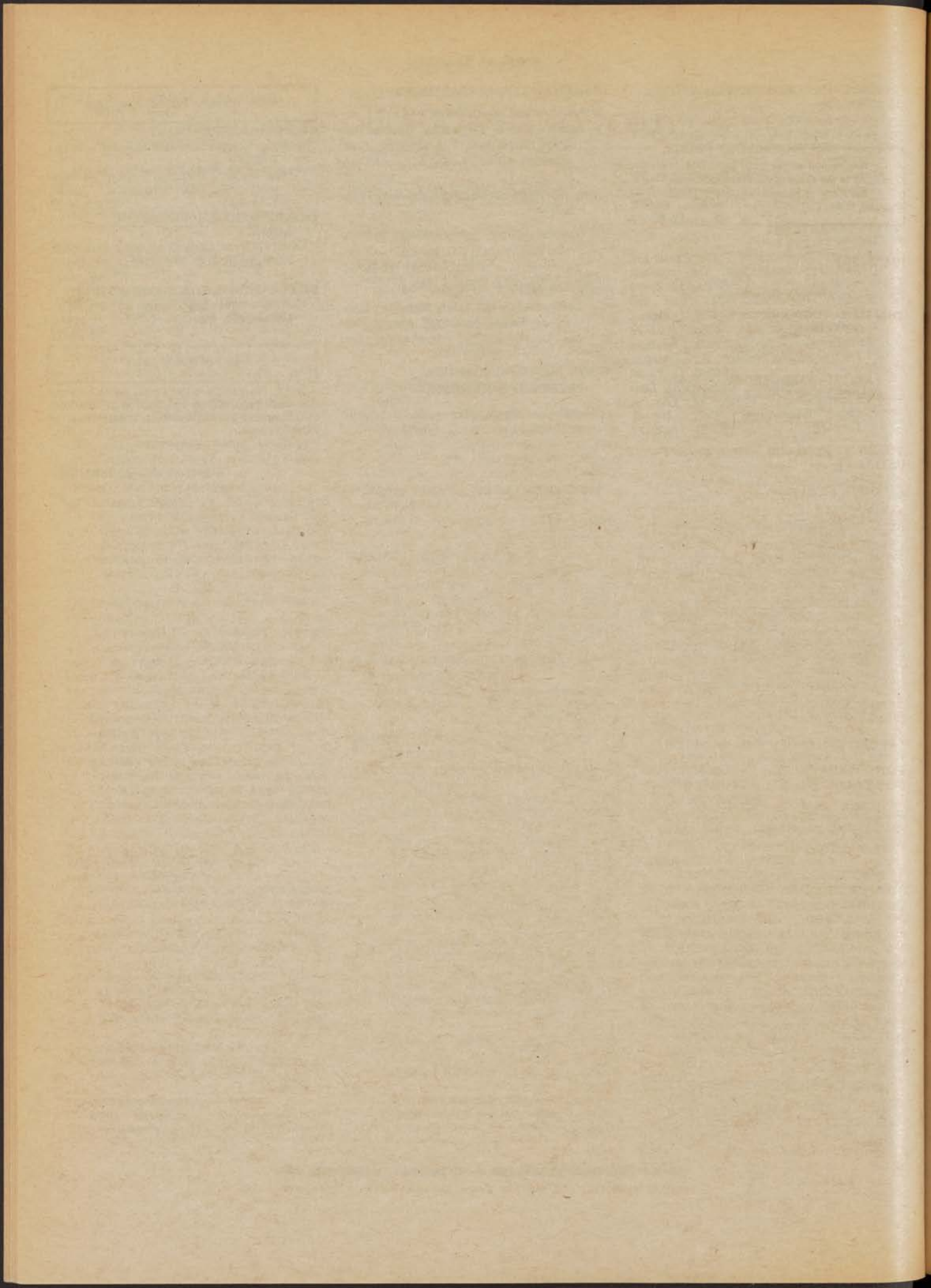
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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST of PUBLIC LAWS.



# rules and regulations

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

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

[3410-30]

## Title 7—Agriculture

### CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 129]

#### PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

##### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

**SUMMARY:** This rule amends the final regulation (7 CFR 271.3(f)) issued on November 30, 1977 (42 FR 60916) which changed the method of counting utility costs for the food stamp excess shelter deduction. This amendment deletes the requirement that State agencies certify within 10 days households documenting increases of more than \$25 at initial application or at subsequent certification and modifies the notice requirements imposed by 7 CFR 271.3(f)(9), as amended. This change is in response to the comments.

EFFECTIVE DATE: January 1, 1978.

#### FOR FURTHER INFORMATION CONTACT:

William R. Tlucek, Chief, State Agency Operations Branch, Food Stamp Division, 500 12th Street SW., Washington, D.C. 20250 (202-447-8360).

**SUPPLEMENTAL INFORMATION:** On November 30, 1977, there was published a final rule changing the method of counting utility costs from "as paid" to "as billed" for the food stamp excess shelter deduction and requiring expedited certification and processing of interim changes for households reporting increases of more than \$25 in heating and utility bills. That regulatory amendment responded to testimony presented at food stamp public hearings sponsored by the Department during October 1977. Eight hundred and sixty-two persons testified at the 17 public hearings, generating a total of 6,152 transcript pages. Testimony relevant to the November 30 rulemaking indicated

participant concern over high winter utility costs caused by the unusually harsh winter of 1976-77. To avoid hardships resulting from anticipated increases in utility costs during this winter, the Department published the November 30 amendment. In light of the need to implement before winter, the Department determined it was contrary to the public interest to give notice of proposed rulemaking. Delaying the rule until this winter was partly or entirely past would have defeated the very purpose of the rulemaking. For the same reasons, this rulemaking is in final form.

However, because the Department believed that public and State agencies and other interested parties should have an opportunity for comment, comments were solicited even though the regulation was published as a final rule.<sup>1</sup> These comments were carefully considered, just as in a normal proposed rulemaking process, and based on these comments the Department is hereby making some modifications in the final rule. Letters received pursuant to the November 30 rulemaking are available for public inspection and copying, during regular business hours, in Room 698, 500 12th Street, SW., Washington, D.C.

This rulemaking generated twenty-one letters; nineteen from State and local welfare agencies and one each from the Peace and Justice Commission of the Catholic Diocese of Albany, N.Y. and the American Public Welfare Association (APWA). In addition, the public file contains relevant letters from Food and Nutrition Service (FNS) Regional Offices and summaries of significant meetings between State and FNS officials. Also contained in the file are State responses to the FNS telegram of November 8, 1977, which provided State Welfare Commissioners and FNS Regional Administrators with advance notice of the nature of the imminent utility allowance changes.<sup>2</sup>

<sup>1</sup>Final rulemaking without a notice and comment period is permitted by Federal law. See section 553(b)(B) Administrative Procedures Act.

<sup>2</sup>Three State agencies, the Food Action and Community Education Project of Ohio and the FNS New England regional office wrote letters pertinent to the utility allowance in advance of the FEDERAL REGISTER notice, but after the November 8, telegram.

Generally, State agencies regarded the November 30 regulatory changes as inequitable, untimely and extremely difficult to implement. Virginia<sup>3</sup> and Texas emphasized that the ten day certification requirement (7 CFR 271.3(f)(2)), for households with increased utility costs, could unfairly divert critical time and resources from households more in need of prompt assistance. Virginia noted that "it should not be assumed that every incident of a \$25 increase in shelter costs will automatically constitute an emergency condition." Texas specifically criticized the "preferential treatment to households with higher than normal utility bills over those in need of prompt emergency assistance." In addition to these inequities, South Carolina, Alabama and Mississippi felt it would be "virtually impossible" to meet the ten day deadlines; New York considered it "impossible."

7 CFR 271.3(f)(2) is withdrawn to avoid program inequities, to foster the timely delivery of benefits to all households, and to avoid program dissatisfaction stemming from the promise of timeliness of service which some States may be unable to deliver. Households with increases in utility bills, which "are in need of emergency certification," will still be entitled to preferential treatment in most States (7 CFR 271.4(a)(2)(iii)). Moreover, State agencies will still be required to adjust allotments for households reporting increases in utility billings according to 7 CFR 271.3(f)(6), as amended.

The APWA, along with Missouri, Kansas, South Dakota, Mississippi, Michigan and New York, asserted that notice to the entire caseload, by January 15 (7 CFR 271.3(f)(9), as amended), would inundate local offices with requests for increases in benefits and information; thus increasing waiting lines, delaying normal and emergency certification activities, creating false expectations and unnecessarily increasing participant frustration and dissatisfaction. The APWA stated that mass notice would "swell the numbers of persons contacting food stamp offices, [and] . . . set up many partici-

<sup>3</sup>Each reference to correspondence from a State normally refers to a letter from the department of the State government with overall Food Stamp Program responsibilities.

pants for a rather serious disappointment." New York anticipates "from past experience" that the notice would mean that "... tens of thousands will seek increased benefits who are not entitled to them. ..." Missouri fears that "... notification to all clients will cause the majority of Missouri's total Food Stamp population to call or come into our county offices during that month."

To resolve these problems, New York recommended that since "... only those who pay for their own heat are apt to benefit from a recalculation ... only they should receive a copy of the notice." Michigan and the APWA endorsed this suggestion. Accordingly, the revised amendment provides for a longer notification period and allows States, with the "capability of identifying and notifying only those households which pay utility costs separately from rent and mortgage payments," to do only that. While modifying the individual notice requirement, the new amendment requires that "States must make every effort to mail the notice with the January 1, ATP [card]. ..." This compromise strikes a fair balance between the participant interest in immediate individual notification and the participant and State agency interests in protecting the timely delivery of benefits to the entire caseload.

Almost all State agencies and the APWA were concerned that the lead time, prior to the January 1 implementation deadline, would not allow adequate opportunity to prepare instructions, train staff, print forms and secure FNS interpretations. However, all State agencies were given advance notice, by telegram of November 8, of the general nature of the imminent regulatory changes. FNS regional offices were advised to provide State agencies with assistance and advice regarding the amendment. More critically, except for 7 CFR 271.3(f) (6) and (8), as amended, the regulatory package does not seem to require extensive preparations.

State agencies were already required to provide a deduction for utility costs based on anticipated payment of bills during the certification period (7 CFR 271.3(c)(1)(iii)(h)). However, we found that some State agencies were erroneously averaging the household's past utility payments to project payments for the current certification period.

<sup>4</sup>A December 14, 1977, N.Y. Department of Social Services press release states that, "[r]ather than aiding the citizens that qualify, many will be hurt [by the regulatory amendment.]" That press release notes that "more than 90 percent of New York City's more than one million recipients would be ineligible for the additional food stamp benefits since heat is included in their rent."

This practice did not accurately reflect the household's current bills as originally intended by the regulation. Further, State agencies are presently required to make adjustments in benefit levels, based on reported changes (7 CFR 271.3(a)(1)(iii)); to restore lost benefits (7 CFR 271.1(q)) and to assign short certification periods (7 CFR 271.4(a)(4)(iii)(a)). Based on the "need for timely implementation to benefit households experiencing higher utility costs this winter" (42 FR 60917), and on the determination that adequate advance notice was given, State agencies are accountable for failure to timely implement these regulatory changes.

To provide State agencies with notice of changes in the November 30 regulatory language, in advance of the January 1 implementation date, all State Welfare Commissioners were sent telegrams on December 23, 1977. FNS believes that the advance telegraphic warning was justified, eight days prior to the end of the voluntarily imposed comment period, to avoid unnecessary waste of State agency time, effort and money, especially in light of the significant and convincing commentary received by the day the telegram was sent.<sup>5</sup> The text of the telegram is published with this amendment.

Continuing the discussion of the comments, there is no significant commentary on provisions concerning projections, "based on the most recent actual [utility] bills" (7 CFR 271.3(f)(2)(ii), as amended) and conversions, from and to the standard allowance (7 CFR 271.3(f)(7), as amended). Those sections remain unchanged by this rulemaking. Using the most recent bills, instead of averaging past costs, should more accurately reflect the household's immediate utility costs and, therefore, food stamp need. Moreover, the provision for conversions to and from the standard allowance gives the household an opportunity to use the most advantageous approach.

Some commentators suggested that the burden of winter increases in utility costs be reduced through universal or regional adjustments in the standard utility allowances, allotment amounts, or purchase requirements. However, these adjustments, because of varying and unpredictable climatic and weather conditions, would benefit many households not needing the additional assistance and not benefit certain households in greater need.

<sup>5</sup>Twelve of the twenty-one public or State agency letters were received prior to, or on, December 20, 1977. This final amendment reflects all comments received during the full comment period. This amendment differs from the telegraphic advance warning by allowing for State agency notice after January 15, 1978.

Because residents of Puerto Rico and the Virgin Islands do not experience substantial increases in utility costs in the winter months, these State agencies are exempted from providing individual notices to households. FNS does not believe the expense and burden of providing individual notices, especially considering the size of the food stamp population involved, are warranted. However, Puerto Rico and the Virgin Islands are still required to comply with all other provisions of the amendment, including all other means of publicizing the changes.

Accordingly, § 271.3 of Chapter II, Title 7, Code of Federal Regulations is amended as follows.

1. In § 271.3(f) delete paragraph (2) and renumber all subsequent paragraphs accordingly.

2. In the renumbered § 271.3(f)(8) strike all language and substitute the following:

#### § 271.3 Household Eligibility

##### (f) Utility Costs Deduction

(8) State agencies shall publicize the provisions of this paragraph in the media in each project area and by a notice posted in each welfare office. The notice shall be posted as soon as possible but no later than December 31, 1977, shall remain posted through April 30, 1978, and shall be in language other than English where appropriate. In addition, the State agency shall notify each of their outreach contact groups. With the exception of Puerto Rico and the Virgin Islands, the State agency shall also notify each participating household individually unless it has the capability of identifying and notifying only those households which pay utility costs separately from rent or mortgage payments. Although States must make every effort to mail the notice with the January 1 ATP card, States unable to mail the notice with the January 1 ATP card must send the notice with an additional January ATP card if such is issued. Otherwise States must mail the notice with the February 1 ATP card. In jurisdictions that satisfy FNS they have no mechanism to mail FNS approved notices, such notices must be handed individually to all households at issuance points starting no later than January 15 and continuing through the end of February.

3. In the renumbered subparagraph § 271.3(f)(9), strike out the words "January 15, 1978" and insert the words "in accordance with this amendment."

(78 Stat. 703, as amended; (7 U.S.C. 2011-2026).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: January 10, 1978.

CAROL TUCKER FOREMAN,  
Assistant Secretary.

[FR Doc. 78-884 Filed 1-10-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION<sup>1</sup>

PRICE AND ALLOCATION INTERPRETATIONS

AGENCY: Department of Energy.

ACTION: Notice of interpretations indexes.

SUMMARY: Attached are new and updated indexes to Interpretations issued and published by the Federal Energy Administration (FEA), and the Department of Energy (DOE), through the end of 1977.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Department of Energy, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461, 202-566-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F ("Interpretations"), are published from time to time in the FEDERAL REGISTER in accordance with editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977. Indexes to Interpretations 1974-1 through 1977-6 were published at 42 FR 27984, June 1, 1977. Today's notice: (1) Republishes and updates the general subject index (appendix A); (2) adds as appendix B an alphabetical listing of all Interpretations published to date; (3) expands the previous regulatory cross-index for price Interpretations by CFR Subpart into a cross-index for all Interpretations by specific regulation interpreted (appendix C); and (4) republishes and updates the table of statutes and FEA/DOE rulings interpreted (appendix D).

Appendix A contains a general index of approximately 100 informal price and allocation subject entries, such as

<sup>1</sup>Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

"Base Period Supplier," "Class of Purchaser," "Stripper Well Lease Exemption," and "Wholesale Purchaser-Reseller." These entries are followed in each case by the reference number of the published Interpretation(s) which construe or otherwise directly relate to the subject entry concerned.

Appendix B contains an alphabetical listing of all firms to whom or on whose behalf an Interpretation has been issued and published, followed in each case by the Interpretation number (e.g., 1975-17).

Appendix C provides a sequential list of regulation sections from § 205.2 through § 215.5 which are construed by or relate directly to published Interpretations. The cited regulation sections are followed in each case by the number of the Interpretation(s) which relate thereto.

Appendix D provides an index of Interpretations which construe or comment on FEA/DOE Rulings and statutes relating to FEA/DOE regulatory authority.

Interpretations have been published as indicated in the following tables.

1974-1 through 1974-29: 42 FR 25648, May 18, 1977.

1975-1 through 1975-74: 42 FR 23722, May 10, 1977.

1976-1 through 1976-23: 42 FR 7923, February 8, 1977.

1976-24: 42 FR 10963, February 25, 1977.

1976-25: 42 FR 23722, May 10, 1977.

1977-1 through 1977-5: 42 FR 10963, February 25, 1977.

1977-6: 42 FR 17100, March 31, 1977.

1977-7 through 1977-16: 42 FR 31143, June 20, 1977.

1977-17 through 1977-21: 42 FR 39959, August 8, 1977.

1977-22 through 1977-27: 42 FR 41095, August 13, 1977.

1977-28 through 1977-33: 42 FR 46270, September 15, 1977.

1977-34 through 1977-38: 42 FR 54268, October 5, 1977.

1977-39 through 1977-44: 42 FR 61271, December 2, 1977.

1977-45 through 1977-53: 43 FR 1479, January 10, 1978.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)), and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations indexed herein have been published only for general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., January 5, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration,  
Department of Energy.

APPENDIX A

Subject Index for Interpretations (1974-1 through 1977-53)

Subject	Interpretation
Acquisition rule .....	1975-9.
Affiliated entities, def .....	1976-4.
Allocation entitlement .....	1974-17; 1975-37.
Allocation entitlement, method of .....	1974-19.
Allocation entitlement, transfer of .....	1974-29; 1975-35; 1977-47.
Allocation levels .....	1974-1.
Average daily production, def. ....	1974-22; 1975-41, -43.
Assignment by FEA .....	1976-25.
Base period supplier .....	1974-6, -15; 1975-31, -73.
Base period supplier, designation of .....	1974-21.
Base period supply obligations .....	1974-25; 1976-11; 1977-19, -20.
Base period use, adjustments to .....	1977-28, -32.
Base period volume .....	1975-50.
Base price .....	1975-5.
BPCL .....	1975-27; 1976-16; 1977-12, -37.
Base rent rule .....	1974-24, -28.
Base rent rule, lease termination .....	1975-58.
Benzene and toluene, special rules for .....	1976-10.
Blending costs, retailer .....	1975-74.
Bonded fuel, def .....	1975-8, -26, -46.
Bonded fuel exemption .....	1975-8, -26, -46.
Borrow-pay back rule .....	1975-30.
Burning of petroleum products by power generators .....	1975-25.
Certification .....	1977-33, -52.
Class of purchaser .....	1974-7; 1975-5, -6, -22, -31, -47, -63; 1976-1, -6, -7, -20; 1977-10, -11, -19, -31, -33, -48; 1977-8, -27.
Commission agents or consignees .....	1974-10; 1975-13, -17, -19, -31, -33, -48; 1977-8, -27.
Competitive bids .....	1975-56.
Cost of crude oil, def. ....	1976-4.
Covered products, def. ....	1976-24; 1977-9, -50.
Crude oil buy/sell program .....	1977-34.
Crude oil, def. ....	1975-29; 1977-3, -22, -31.
Crude oil ceiling price rules, long-term contracts (premiums) .....	1977-2, -14.
Current cumulative deficiency .....	1974-8; 1976-16.
Customary discounts .....	1975-66.
D, subpart; part 212 .....	1974-20; 1975-29; 1977-3.
December 1 rule .....	1974-2, -3, -4; 1975-45; 1976-15, -20; 1977-7, -13, -14, -15, -42.
EPAA supercession of other Federal laws .....	1974-27; 1975-15.
Entitlements program .....	1975-21; 1976-22; 1977-5, -22, -31, -45.
Equal application rule .....	1975-5; 1976-17.
Export sales deduction .....	1975-21; 1977-16, -21, -30, -36, -44.
Export sales def .....	1977-16.
F, subpart; part 212 .....	1976-6; 1977-3.
Field .....	1977-43.
Firm, def .....	1975-3, -32, -52, -55, -69; 1976-3, -8; 1977-5, -18, -29.
First sale, def. ....	1976-4; 1977-38.
Five percent rule .....	1974-14; 1977-6, -24.
G, subpart; part 212 .....	1974-24, -28; 1975-69.
Guam .....	1975-8, -26, -46.
Import exemption .....	1975-24.
Inventories .....	1975-23.

## APPENDIX A—Continued

Subject index for interpretations (1974-1 through 1977-53)

Subject	Interpretation
K, subpart; part 212	1976: -2, -5; 1977-3.
Naphtha allocation	1975-44.
N.G.L. products	1974-13; 1977-3.
New and released crude oil.	1975-2; 1977-42.
New item and new market rule.	1974: -23, -24; 1975: -3, -9; 1976: -5, -7.
"New" motor gasoline retail sales outlet.	1975-61.
"New" wholesale purchaser-reseller.	1975-57; 1977-28.
Non-product cost increases.	1975: -48, -59, -74.
Normal business practices.	1974: -3, -16, -27; 1975: -49, -62; 1977: -8, -11, -19, -26, -35.
Once-a-month rule	1975-64.
Over-recoupment	1975-12.
Passenger transportation services.	1975-65.
Posted price, def.	1976-4; 1977: -26, -43.
Price increase	1977-53.
Price/octane number information and posting.	1976-9.
Procedural requirements	1975-40; 1976-12; 1977-28.
Processing agreements	1974-6.
Producer, def.	1974-20.
Product cost increases	1974-5.
Product cost increases, carryover of; contracts entered into on or before September 1, 1974.	1975-16.
Propane allocation	1975-14; 1976: -19, -21.
Property, def.	1974-22; 1975: -2, -4, -27, -42; 1977: -1, -37, -42, -46.
Refined petroleum products, def.	1975-1.
Refiner, def.	1974-13; 1976-2; 1977: -6, -29.
Refiner, price formula:	
"V" factor	1975-7.
"H" factor	1977-23.
Refiner price rule	1977-53.
Refinery yield	1976-23.
Refunds	1975-12.
Rent, def.	1975-51.
Rent regulations (see also base rent rule).	1975-69.
Reporting requirements, refiner.	1975-11; 1977-24.
Reseller, def.	1974-12; 1976-2; 1977: -3, -8, -29.
Residual fuel oil, def.	1975-29.
Retailer, def.	1974-12; 1976-2.
Retaliatory actions	1975-63.
Retroactive increase	1977-14.
Sales by Federal, State, and local governments.	1974-4; 1975-15.
Sanitation services, def.	1974-1; 1975-39.
Seller, def.	1976-8.
State tax increase pass-through.	1975-18.
Stripper well lease exemption.	1974: -22, -26; 1975: -4, -10, -41, -43; 1977-48.
Supplier, def.	1976-23.
Supplier/purchaser relationship.	1974: -17, -18, -19; 1975: -20, -54; 1976: -13, -14, -18; 1977: -20, -49.
Supplier substitution	1976-25.
Surplus product, purchase of.	1974-19; 1975-20; 1977-41.
S.N.G. feedstock allocation.	1975-34.
Temporary discounts on May 15, 1973.	1975-6.
Transfer pricing	1974-20.
Transportation costs to reseller/retailer inventory.	1977: -4, -51.
Transportation cost, refiner.	1977-25.
United States, def.	1975: -8, -26, -46.
Utilization.	1974-22; 1975: -2, -4, -10, -27.

## APPENDIX A—Continued

Subject index for interpretations (1974-1 through 1977-53)

Subject	Interpretation
Unleaded gasoline	1976-3.
Waste crude oil, reclamation of.	1974: -11, -20; 1977-22.
Wholesale purchaser-consumer def.	1975: -37, -52.
Wholesale purchaser-reseller, def.	1974: -10, -12; 1975: -13, -17, -19, -33, -37, -38, -53, -60, -67, -68, -70, -71, -72; 1977: -17, -27, -39, -40.

## APPENDIX B

Alphabetical Listing of Interpretations (1974-1 through 1977-53)

Issued to	Interpretation
Agents Alliance, Inc.	75-17
Alaska, State of	77-7
Albina Fuel Co.	75-74
Amoco Oil Co. (Indiana)	74-16
Atlantic Richfield Co.	74-8
Do	76-4
Do	77-13
Do	77-30
Atlas Aircraft Corp.	74-15
Babcock & Wilcox Co.	75-25
Ball Marketing Enterprise, et al.	77-18
Baltimore Gas & Electric Co.	75-34
Beacon Oil Co.	77-23
Do	77-24
Berry Holding Co., et al.	75-43
Beukema Petroleum Co.	75-73
Body Beautiful Car Wash	75-57
Boron Oil Co.	75-62
Boston Gas Co.	76-19
Boston Housing Authority	75-54
Bronson, William S.	75-67
California, State of	77-14
Callahan Oil Co.	76-25
Calumet Industries, Inc.	75-11
Campbell Oil Co., Inc.	75-63
Can Manufacturers Institute	75-14
Carter, Carl, Agency, Inc.	75-67
Castor, Joseph L.	75-72
Celanese Corp.	74-17
Champlin Petroleum Co.	76-22
Charter Oil Co.	74-6
Cheker Oil Co.	75-6
Cities Service Oil Co.	76-10
City of Long Beach, Calif.	77-2
Clark Oil & Refining Corp.	77-25
Commonwealth Oil Refining Co., Inc.	77-45
Consolidated Paper, Inc.	75-23
Continental Airlines	75-8
Continental Oil Co.	74-26
Do	75-30
Do	75-31
Cook & Cooley, Inc.	75-50
Do	77-32
Cyr Oil Co.	75-69
Damson Oil Corp.	77-38
Danielson, E. L.	76-70
Day & Zimmerman, Inc.	75-56
DeBlois Oil Co.	75-66
Department of Army and Air Force	76-14
Department of Defense	74-27
Department of the Navy	75-15
Derby Refining Co.	75-64
Diversified Chemicals & Propellants Co.	76-24
Dollar Rent-a-Car Systems	75-65
Dyer Oil Service	75-67
East Oil, Inc.	75-51
Empire Gas Corp.	76-6
England, C. R., Oil & Gas Properties	77-33
Enterprise Products Co.	75-3
Estron Oil Corp., et al.	74-12
Expo Car Wash, Inc.	74-29
Exxon Corp.	74-14
Do	77-10
Do	77-52
Farnland Industries, Inc.	75-37
Flying Tiger Line, Inc.	74-21
Ford Motor Co.	76-21
Fresh, R. C., et al.	77-8
Gas Club, Ltd.	75-49
Golden Oil Co.	75-67

## APPENDIX B—Continued

Alphabetical Listing of Interpretations (1974-1 through 1977-53)

Issued to	Interpretation
Greenbelt Consumer Services, Inc.	74-7
Greene Bros. LP Gas & Oil Co.	74-5
Guam Oil & Refining Co.	76-22
Do	77-5
Do	77-36
Gulf Oil Corp.	77-44
Hamilton Brothers Oil Co.	74-3
Harrison, Charles	75-67
Hattenhauer, John Douglas	77-20
Hauer, James	75-67
Hicks Oil Co.	77-9
Husky Oil Co.	77-15
Idaho Transportation Department	75-52
Independent Drivers Organization	75-53
Independent Oil Compounds Association	77-50
Inexco Oil Co.	76-5
Jackson, Darrell	74-22
Japanese Air Lines Co., Ltd.	75-40
Johnson, A. & Co.	75-24
J&W Refining Inc.	75-45
Kadane, G. E. & Sons	75-29
K.C.H. Flying Service, Inc.	76-13
Kellermeyer's Inc.	77-39
Koch Oil Co.	77-49
Kramer Service Center, Inc.	75-59
Latimer, D. C.	76-16
Liquid Waste Disposal Co.	74-11
Longview Refining Co.	75-12
McCulloch Gas Processing Corp.	74-13
Do	77-3
McNair, Charles W.	77-40
Meridian Oil Corp.	77-46
Mid-State Oil Co., Inc.	75-68
Midwest Oil Co.	75-33
Mobil Oil Corp.	76-9
Do	77-16
Do	77-28
Do	77-31
Do	77-34
Monsanto Co.	75-2
Moore-McCormack Resources, Inc.	75-44
Murphy Oil Corp.	75-16
National Airlines, Inc.	77-11
National Association of Texaco Consignees, Inc.	75-19
National Convenience Stores, Inc.	74-25
Do	76-11
National Institute of Infant Services	75-39
National Life & Accident Insurance Co.	74-24
Navajo Refining Co.	77-26
Nelson Oil Co.	77-41
Northeast Petroleum Corp.	75-22
Oil Transit Corp.	77-35
Oregon Department of Transportation	75-18
Owsley, J. M.	77-27
Pacemaster, Inc.	75-47
Pacific Lighting Exploration Co.	75-27
Paine, Joseph J. C., & Associates	77-37
Pan American World Airways, Inc.	75-26
Pasco, Inc.	75-7
Peerless Distributing Co.	77-29
Peters, B. R., Inc.	75-38
Petrolane, Inc.	76-18
Petroleum, Inc.	75-42
Petro US, Inc.	74-20
Phillips Petroleum Co.	75-5
Do	77-12
Pleasant Street Co.	75-55
Portable Sanitation Association	74-1
Pru Lease, Inc.	74-23
Pyrofax Gas Corp.	77-4
Rookwood Oil Terminals, Inc.	76-8
Rotary Gasoline Dealers	75-48
Rounds, Don M., Co.	75-42
Saber Petroleum Corp.	76-7
Scarpulla, Frances O., Esq.	77-17
Sea Horse Marine, Inc.	77-22
Shell Oil Co.	75-4
Do	75-21
Do	76-15
Shields, Herman F.	75-67
Signal Oil & Gas Co.	74-4
Signore, Anna, Estate of	75-58
Simmons Oil Corp.	75-61
Skelly Oil Co.	75-1
Sky Harbor Air Services, Inc.	74-15
Sohio	76-17
Sohio-BP Oil Inc.	76-3
Sound Refining, Inc.	74-2
Southern Gulf Oil Distributors Association, Inc.	75-13

APPENDIX B—Continued

Alphabetical Listing of Interpretations (1974-1 through 1977-53)

Issued to	Interpretation
Standard Oil Co. (Indiana)	74-10
Do	77-43
Sterling Stations, Inc	77-19
Suburban Propane Gas Corp	77-21
Sun Oil Co	76-12
Sundance Oil Co	77-1
Swann Oil, Inc	74-19
System Fuels, Inc	75-18
Tesoro Petroleum Corp	75-32
Tesoro-Alaskan Petroleum Corp	74-21
Texaco, Inc	77-42
Texas City Refining, Inc	77-6
Thurman, F. D.	75-70
Trans World Airlines	75-46
Twin Montana, Inc	75-10
U.S.A. Petroleum Corp	76-20
U.S. Oil & Refining Co	75-41
Union Oil Co. of California	77-53
United Oil Co., Inc	74-28
United Refining Co	76-1
U.S. Marine Corps	75-20
Vickers Petroleum Corp	77-47
Wallace, Gordon H	75-71
Wanda Petroleum Co	76-2
Ward, L. O.	77-48
Weber Tanks, Inc	77-51
WESO Corp	75-60
Wickland, Inc	75-35
Williams Energy Co	74-18
Wooten, Norman, Inc	75-9

APPENDIX C

Regulation index for interpretations (interpretations 1974-1 through 1977-53)

Regulation interpreted	Interpretation
205.2	1976-12; 1977-28.
205.26(d)	1975-40.
205.33(a)	1976-12; 1977-28.
205.194	1975-12.
210.21	1975-8, -26, -46; 1977-5.
210.32	1974-22, -26; 1975-4, -10, -41, -43.
210.33	1975-8, -26, -46.
210.61	1975-63.
210.62	1974-3, -27; 1975-49; 1977-8, -19, -26.
210.62(a)	1974-16; 1975-62, -63; 1977-35.
210.62(c)	1976-18; 1977-11.
210.77	1975-51.
210.91	1977-24.
211.1(a)	1977-8.
211.9	1974-15, -19; 1975-58, -62; 1976-25; 1977-19, -49.
211.9(a)	1974-18; 1975-20, -54, -56, -73; 1977-8.
211.9(c)	1977-20.
211.10	1975-20, -56, -73.
211.10(a)	1975-35.
211.10(b)	1974-17.
211.10(e)	1974-29.
211.10(g)	1974-19; 1976-14, -21; 1977-41.
211.11	1974-17; 1975-61; 1976-19.
211.11(b)	1974-6.
211.11(d)	1975-35.
211.12	1975-50, -57; 1976-11.
211.12(e)	1974-17; 1976-19; 1977-28, -49.
211.12(h)	1976-18.
211.12(g)	1976-21.
211.13	1975-50.
211.13(c)	1976-12; 1977-28, -32.
211.13(f)	1977-28.
211.22	1975-23.
211.24(a)	1974-25; 1976-11.
211.25	1975-31; 1976-25.
211.25(a)	1977-20.
211.25(c)	1975-30.
211.29	1975-34; 1976-19.
Special rule No. 1 to subpt. A of pt. 211.	1975-34; 1976-19.
211.31	1977-8.
211.51 (definitions)	See corresponding subject entry, app. A.

APPENDIX C—Continued

Regulation index for interpretations (interpretations 1974-1 through 1977-53)

Regulation interpreted	Interpretation
211.62 (definitions)	Do.
211.63	1974-2, -3, -4; 1975-45; 1976-14, -20; 1977-7, -13, -14, -15, -42.
211.64	1974-2, -3.
211.65	1974-6; 1977-34.
211.67	1977-5, -22, -31.
211.67(d)(2)	1975-22; 1976-22; 1977-18, -30, -36, -44.
211.67(d)(5)	1977-45.
211.71(c)	1976-23.
Special rule No. 7 to subpt. C of pt. 211.	1976-22.
211.82	1976-21.
211.83	1975-14.
211.83(c)	1976-19.
211.96(b)	1977-49.
211.102	1975-20, -73.
211.103	1975-65.
211.103(a)	1974-1.
211.104	1974-6.
211.106	1975-58, -61, -73; 1976-11; 1977-19, -47.
211.106(b)	1974-12, -25.
211.106(c)	1974-29; 1975-53.
211.106(d)	1974-25.
211.106(e)	1975-57.
211.145	1976-13.
211.145(c)	1974-21.
211.145(d)	1974-21.
211.162	1975-54.
211.166	1974-19.
211.183	1975-44.
211.201	1975-37.
211.202	1975-37.
211.203(c) (2) (iii)	1975-37.
212.2	1975-24.
212.31 (definitions)	See corresponding subject entry, app. A.
212.52	1974-4; 1975-15.
212.53	1975-24; 1976-22.
212.53(a)	1977-16, -21, -36, -44.
212.53(c)	1977-30.
212.54	1974-22, -26; 1977-2, -48.
212.55	1977-2.
212.71	1974-11.
212.72	1974-8, -11; 1975-2, -4, -27; 1976-16; 1977-1, -3, -12, -33, -37, -38, -42, -46, -52.
212.73	1974-11; 1975-42; 1977-2, -3.
212.74	1974-8, -11; 1975-2, -4, -42; 1977-2, -3.
212.74(c)	1977-14.
212.81	1977-29.
212.82	1975-5, -47; 1976-3, -4, -5; 1977-6, -18.
212.82(a)	1976-1.
212.82(b)	1975-22, -31.
212.83	1974-20; 1975-3, -5, -7; 1976-10; 1977-23, -53.
212.83(b)	1976-4.
212.83(e)	1975-12, -16.
212.83(h)	1976-17.
212.85	1977-25.
212.91	1974-14; 1975-3, -59; 1977-3, -6, -24, -29.
212.92	1975-48, -74; 1976-6, -8; 1977-4, -51.
212.93	1974-5, -6, -12; 1975-6, -9, -18, -59, -74; 1976-6; 1977-4.
212.93(a)	1976-7; 1977-3.
212.93(b)	1975-48, -54, -64.
212.101	1975-58.
212.102	1974-24; 1975-51, -58.
212.103	1975-51.
212.111	1974-23, -24; 1975-3, -9; 1976-5, -7.
212.112	1976-3.
212.126	1975-11.
212.129	1976-9.
212.131	1977-33, -52.
212.161	1976-2.
212.162	1977-3.

APPENDIX C—Continued

Regulation index for interpretations (interpretations 1974-1 through 1977-53)

Regulation interpreted	Interpretation
212.163(a)	1976-5; 1977-3.
212.164(a)	1976-5.
215.3	1975-25.
215.5	1975-25.

APPENDIX D

Statutes and FEA or DOE rulings construed by interpretations (interpretations 1974-1 through 1977-53)

Rulings	Interpretations
1974-3	1975-61, -62; 1976-25.
1974-4	1975-18.
1974-10	1974-16.
1974-11	1976-15.
1974-15	1975-39.
1974-17	1975-66.
1974-18	1975-6, -66; 1976-20.
1974-19	1974-15; 1975-52, -56.
1974-20	1974-24.
1974-22	1977-7.
1974-24	1974-28.
1974-29	1975-41, -43.
1975-1	1975-74; 1977-4, -51.
1975-2	1975-22, -47, -63, -66; 1976-1, -7, -20.
1975-4	1977-11.
1975-8	1975-33, -60, -67, -70, -71, -72; 1976-23; 1977-17, -27, -39, -40.
1975-9	1975-74; 1977-4, -51.
1975-10	1977-4, -51.
1975-11	1977-11.
1975-12	1975-41, -43; 1977-48.
1975-14	1976-8.
1975-15	1975-42.
1977-1	1977-1, -26, -37, -43.

Statutes	Interpretations
Economic Stabilization Act of 1970, as amended.	1975-12; 1976-24.
Energy Policy and Conservation Act of 1975, as amended.	1977-7, -12, -22, -26, -38, -42.
Emergency Petroleum Allocation Act of 1973, as amended.	1974-6, -13, -22, -26, -27; 1975-1, -5, -8, -12, -15, -56, -66; 1976-4, -6, -12, -20, -21, -22, -23, -24; 1977-3, -5, -7, -11, -28, -42.
Federal Energy Administration Act of 1974.	1974-13.

[FR Doc. 78-648 Filed 1-6-78; 2:46 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D; Docket No. R-0137]

PART 204—RESERVES OF MEMBER BANKS

Definition of Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

**SUMMARY:** This rule amends Regulation D to exempt from the definition of the term deposit a member bank's borrowings from a member bank whose head office is located outside the United States. This action is taken in order to avoid the maintenance of double reserves on deposits by member banks and to apply the provisions of regulation D equally to member bank borrowings from other member banks.

**EFFECTIVE DATE:** Immediately.

**FOR FURTHER INFORMATION, CONTACT:**

Allen L. Raiken, Assistant General Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3625.

**SUPPLEMENTARY INFORMATION:** Section 204.1(f) of Regulation D provides that the term deposit includes a member bank's liability on any promissory note or similar obligation (written or oral) issued as a means of obtaining funds to be used in its banking business except any such obligation that is issued to and held for the account of a domestic banking office of another bank. The exemption for interbank borrowings is commonly referred to as the Federal funds exemption. A footnote contained in Regulation D provides that a domestic banking office is "any banking office in any State of the United States or the District of Columbia of a bank organized under domestic or foreign law." Consequently, a member bank's borrowings from another bank's banking office in one of the 50 States of the United States or the District of Columbia are not considered to be deposits and are, therefore, exempt from the reserve requirements imposed by Regulation D and interest rate restrictions of Regulation Q. Member bank borrowings from foreign offices of other banks are subject to a 4 percent Eurodollar reserve requirement imposed by § 204.5(c) of Regulation D. Such borrowings are not, however, subject to Regulation Q.

The interbank borrowing (Federal funds) exemption provided for in Regulation D was adopted, in part, to facilitate reserve adjustments by member banks. Such borrowings have long been exempt from the Board's reserve requirements and interest rate limitations. The exemption also serves, in part, to avoid the maintenance of double reserves by member banks since the member bank selling the funds may already be maintaining reserves against them.

Section 19(h) of the Federal Reserve Act (12 U.S.C. § 466) provides that a national bank located in a dependency or insular possession of the United States may remain a nonmember bank if it so desires. However, if such bank becomes a member of the Federal Re-

serve System, it is subject to all of the provisions of the Act, including the requirement of maintaining reserves against its deposits. Although a member bank headquartered outside the United States is required to maintain reserves against its deposits pursuant to Regulation D, under the current provisions of Regulation D borrowings by another member bank from such bank are also subject to reserve requirements.

In order to eliminate the possibility of double reserves being held by two separate member banks against such funds, the Board has determined that it is appropriate to amend Regulation D to exempt from deposit treatment, a member bank's borrowings from a member bank whose main office is located outside the States of the United States and the District of Columbia.

In view of the substantial public benefits that will result immediately from exempting member bank borrowings from member banks headquartered outside the United States, the Board has determined that the notice and public procedure provisions of 5 U.S.C. § 553(b) are unnecessary and contrary to the public interest. Since the Board's action grants an exemption to the provisions of Regulation D, the deferred effectiveness provisions of 5 U.S.C. § 553(d) are inapplicable.

Pursuant to section 19(a) of the Federal Reserve Act (12 U.S.C. § 461), effective immediately, section 204.1 of Regulation D (12 CFR 204.1) is amended to read as follows:

§ 204.1 Definitions.

(f) *Deposits as including certain promissory notes and other obligations.* For the purposes of this Part, the term "deposits" also includes a member bank's liability on any promissory note, acknowledgment of advance, due bill, banker's acceptance, or similar obligation (written or oral) that is issued or undertaken by a member bank as a means of obtaining funds to be used in its banking business, except any such obligation that:

(1) Is issued to (or undertaken with respect to) and held for the account of (i) a domestic banking office<sup>1</sup> of another bank or (ii) an agency of the United States or the Government Development Bank for Puerto Rico;

<sup>1</sup> Any banking office (i) in any State of the United States or the District of Columbia of a bank organized under domestic or foreign law or (ii) of a member bank whose head office is located outside the States of the United States or the District of Columbia provided, reserves are required to be maintained by such member bank under this Part against the deposit liabilities of such office.

Board of Governors of the Federal Reserve System, December 23, 1977.

THEODORE E. ALLISON,  
Secretary of the Board.

[FR Doc. 78-621 Filed 1-10-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-125, Amdt. 67]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation of Authority to the Managing Director—Target Dates

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

**SUMMARY:** This rule delegates to the Managing Director the Board's responsibility to establish or change target dates for the issuance of Board decisions. The Managing Director's decisions may be appealed to the Board under the ordinary review procedures established in the Board's rules. This rulemaking, undertaken on the Board's own initiative, is designed to improve the management of the Board's caseload responsibilities.

**DATES:** Effective: January 5, 1978.

Adopted: January 5, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Gary J. Edles, Deputy General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 202-673-5203.

**SUPPLEMENTARY INFORMATION:**

DELEGATION TO THE MANAGING DIRECTOR

Section 399.62 now provides that the Board will announce a target date for its decision with respect to (i) petitions for discretionary review of an initial or recommended decision, (ii) Board action on review following the receipt of briefs or (where applicable) oral argument, and (iii) petitions for reconsideration of Board decisions. Target date notices are acted upon by the Board itself on the basis of a recommendation from its staff. We have decided to delegate this responsibility to the Managing Director.

The managing director assists the chairman and the board in discharging their administrative functions. He coordinates and directs the activities of the staff and has responsibility for assuring that the Board's program objectives are achieved in the most effective manner. He is therefore in an even better position than the board to have

initial responsibility for the establishment of target dates for completion of the board's hearing work. Moreover, since the advent of new procedures under the Government in the Sunshine Act, which, among other things, require one week's advance notice of matters to be discussed by the board, it has become difficult for the Board to arrange open meetings at which to decide on proper target dates; it is nevertheless desirable that the parties know, as promptly as possible, the likely target date for Board decision in a particular case. Finally, the requirement that the Board pass on numerous staff recommendations on target dates, generally on short notice, interrupts the Board members and their immediate staffs in the performance of their substantive duties and does not permit a meaningful evaluation of a particular target date in light of all other Board responsibilities. These considerations lead us to delegate to the Managing Director the initial responsibility for establishing target dates.

The board will continue to exercise ultimate responsibility for ordering its priorities through the establishment of target dates. Board review of decisions of the managing director shall be available under the usual standards set out in subpart C of part 385, except that the filing of a petition for review of the Managing Director's decision shall not stay the effectiveness of that decision. This delegation of authority shall apply only to target dates set by the board and not to target dates set by administrative law judges.

Since this amendment affects a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the board amends part 385 of its Organization Regulations (14 CFR Part 385) as follows:

1. Section 385.12 is amended by adding a new paragraph (f), to read as follows:

§ 385.12 Delegation to the Managing Director.

(f) Issue a notice of the target date, and changes in the target date, for the completion by the Board of a final decision or a decision on a petition for review or reconsideration. The filing of a petition for review of staff action shall not stay the staff action pending disposition of the petition by the board.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-737 Filed 1-10-78; 8:45 am]

[1505-01]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

PART 50—NOTIFICATION, INVESTIGATION, REPORTS, AND RECORDS OF ACCIDENTS, INJURIES, ILLNESSES, EMPLOYMENT, AND PRODUCTION IN MINES

Correction

In FR Doc. 77-37334, appearing at page 65534 in the issue of Friday, December 30, 1977, make the following changes:

1. On page 65534, third column, the fifth word in the 11th line of the last complete paragraph should read, "now".

2. On page 65535, third column, the first word in the last line of the paragraph immediately following the signature should read, "added".

3. On page 65536, a comma should appear between the first and second words in line 11 of § 50.1 and the first word in paragraph (d) of § 50.2 should read, "Miner".

4. On page 65537, the second word in the eighth line of § 50.12 should read, "prevent" and the heading of § 50.20-1 should read, "General Instructions for Completing MESA Form 7000-1".

5. On page 65538, third column, the last line of § 50.20-6(b)(2) should read, "ple: 'shuttle car operator'."

6. On page 65539, first column, the first word in the first line of § 50.20-6(b)(7) should read, "Item".

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER E—DEFENSE CONTRACTING

PART 166—REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

DoD Contractors Receiving Negotiated Contract Awards of \$10,000,000 or More

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule is the fiscal year 1977 update of the section listing DoD contractors receiving negotiated contract awards of \$10,000,000 or more. The regulation is published to comply with the provisions of section 410, Pub. L. 91-121, November 19, 1969.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Cynthia V. Springer, Office of the Director for Information, Operations and Reports, Washington Headquarters Service, The Pentagon, Washington, D.C. 20301. Telephone 202-697-3182.

SUPPLEMENTARY INFORMATION: In FR Doc. 70-15846 published in the FEDERAL REGISTER on November 25, 1970 (35 FR 18040) the Office of the Secretary of Defense published a final rule establishing criteria, prescribing procedures, and assigning responsibilities for monitoring the program within the Department of Defense. Subsequently, paragraph (a) and (d) of § 166.11, which constitutes the list of DoD contractors receiving negotiated contract awards for \$10 million or more, was updated for Fiscal Years 1971 (36 FR 18464); 1972 (37 FR 18727); 1973 (38 FR 25990); 1974 (39 FR 32985); 1975 (40 FR 44135); and 1976 (41 FR 20466).

Accordingly, § 166.11 is amended as follows:

By revising § 166.11 to read as follows:

§ 166.11 Department of Defense Contractors Receiving Negotiated Contract Awards of \$10,000,000 or More.

Fiscal Year 1977:

- AAI Corp.
- AJ Industries, Inc.
- AM General Corp.
- ARO, Inc.
- Action Mfg. Co.
- Adobe Refining Co.
- Aerojet-General Corp.
- American Air Filter Co., Inc.
- American Airlines, Inc.
- American Electronic Laboratories, Inc.
- American Home Products Corp.
- American Telephone & Telegraph Co.
- Amoco Oil Co.
- Amron Corp.
- Applied Devices Corp.
- Arinc Research Corp.
- Ashland Oil, Inc.
- Atlantic Richfield Co.
- Atlas Processing Co.
- Automation Industries, Inc.
- Avco Corp.
- Avco Everett Research Laboratory, Inc.
- Avondale Shipyards, Inc.
- Ayer, N. W., ABH International, Inc.
- BDM Corp.
- Ball Brothers Research Corp.
- Bates, Ted, & Co., Inc.
- Bath Iron Works Corp.
- Battelle Memorial Institute
- Beech Aircraft Corp.
- Bendix Corp.
- Bernard Clay Systems International, Ltd.
- Bethlehem Steel Co.
- Boeing Co.
- Boeing Services International, Inc.
- Boeing Vertol Co.
- Bolt Beranek & Newman, Inc.
- Booz, Allen & Hamilton, Inc.
- Borg-Warner Corp.
- Braswell Shipyards, Inc.

- Brown & Williamson Tobacco Corp.  
 Brunswick Corp.  
 Bulova Watch Co., Inc.  
 Bunker Ramo Corp.  
 Burroughs Corp.  
 CFE Air Cargo, Inc.  
 California, University of  
 Calspan Corp.  
 Caltex Oil Products Co.  
 Campbell Soup Co.  
 Carnation Co.  
 Chamberlain Manufacturing Corp.  
 Charles Stark Draper Laboratories, Inc.  
 Chemetics International, Inc.  
 Cherokee Industries, Inc.  
 Chesapeake & Potomac Telephone Co.  
 Chevron Oil Co.  
 Chromalloy American Corp.  
 Chrysler Corp.  
 Cincinnati Electronics Corp.  
 Cities Service Oil Co.  
 City Public Service Board  
 Coastal Dry Dock Repair  
 Coastal States Marketing, Inc.  
 Coastal States Trading, Inc.  
 Coca-Cola Co.  
 Colt Industries, Inc.  
 Communications Satellite Corp.  
 Computer Sciences Corp.  
 Continental Oil Co.  
 Control Data Corp.  
 Cooper Airmotive Co.  
 Cubic Corp.  
 Curtiss-Wright Corp.  
 Cutler-Hammer, Inc.  
 Datron Systems, Inc.  
 Day & Zimmerman, Inc.  
 De Laval Turbine, Inc.  
 Delta Refining Co.  
 Derby & Co., Inc.  
 Dynallectron Corp.  
 Dynell Electronics Corp.  
 EG & G, Inc.  
 ESL, Inc.  
 E-Systems, Inc.  
 Eastman Kodak Co.  
 Edgington Oil Co.  
 Edo Corp.  
 Emerson Electric Co.  
 Energy Specialists, Inc.  
 Envirogenics Systems Co.  
 Etowah Manufacturing Co., Inc.  
 Exxon Corp.  
 FMC Corp.  
 Fairchild Camera & Instrument Corp.  
 Fairchild Industries, Inc.  
 Federal Electric Corp.  
 Felec Services, Inc.  
 Flinchbaugh Products, Inc.  
 Florida Power & Light Co.  
 Folger Coffee Co.  
 Ford Aerospace & Communications Corp.  
 GTE Sylvania, Inc.  
 Garrett Corp.  
 General Dynamics Corp.  
 General Electric Co.  
 General Foods Corp.  
 General Motors Corp.  
 General Research Corp.  
 General Time Corp.  
 Georgia Power Co.  
 Getty Oil Co.  
 Global Associates  
 Gold Pak Meat Co., Inc.  
 Golden Eagle Refining Co., Inc.  
 Goodrich, B. F., Co.  
 Goodyear Aerospace Corp.  
 Gould, Inc.  
 Greenbrier Industries, Inc.  
 Grumman Aerospace Corp.  
 Guam Oil & Refining Co., Inc.  
 Gulf Oil Corp.  
 HRB Singer, Inc.  
 Hamilton Technology, Inc.  
 Harris Corp.  
 Harsco Corp.  
 Hawaiian Independent Refinery, Inc.  
 Hayes International Corp.  
 Hazeltine Corp.  
 Heckethorn Manufacturing Co.  
 Hercules, Inc.  
 Hess Oil Virgin Island Corp.  
 Hewlett-Packard Co.  
 Honeywell, Inc.  
 Honeywell Information Systems, Inc.  
 Hughes Aircraft Co.  
 Hydrosystems, Inc.  
 ICI United States, Inc.  
 IIT Research Institute  
 ITT Arctic Services  
 ITT Gilfillan, Inc.  
 ITT World Communications, Inc.  
 Ingersoll-Rand Co.  
 Institute for Defense Analysis  
 International Business Machines Co.  
 International Harvester Co.  
 International Laser Systems, Inc.  
 International Telephone & Telegraph Corp.  
 Interstate Electronics Corp.  
 Itek Corp.  
 Johns Hopkins University  
 Kaman Aerospace Corp.  
 Kennametal, Inc.  
 Kentron Hawaii, Ltd.  
 Kollmorgen Corp.  
 Kraft, Inc.  
 La Crosse Garment Manufacturing Co., Inc.  
 Lanson Industries, Inc.  
 Lear Siegler, Inc.  
 Litton Industries, Inc.  
 Litton Systems, Inc.  
 Lockheed Aircraft Corp.  
 Lockheed Electronics Co., Inc.  
 Lockheed Missiles & Space Co., Inc.  
 Lockheed Shipbuilding & Construction Co.  
 Logicon, Inc.  
 Loral Corp.  
 M. K. National Corp.  
 Magnavox Government & Industrial Electronics Co.  
 Man Barrier Corp.  
 Maremont Corp.  
 Marhofer Packing Co., Inc.  
 Marion Corp.  
 Marquardt Co.  
 Martin Marietta Aluminum Sales, Inc.  
 Martin Marietta Corp.  
 Mason & Hanger, Silas Mason Co.  
 Massachusetts Institute of Technology  
 Mayer, Oscar, & Co., Inc.  
 McDonnell Douglas Corp.  
 Metric Systems Corp.  
 Mine Safety Appliances Co.  
 Mitre Corp.  
 Mobile Oil Corp.  
 Motorola, Inc.  
 National Presto Industries, Inc.  
 National Steel & Shipbuilding Co.  
 Navajo Refining Co.  
 Nestle Co., Inc.  
 Newport News Shipbuilding & Dry Dock Co.  
 Ni Tec  
 Norris Industries, Inc.  
 Northrop Corp.  
 Northrop Worldwide Aircraft Services, Inc.  
 Northwest Airlines, Inc.  
 Okmulgee Refining Co.  
 Olin Corp.  
 Overseas National Airways, Inc.  
 PPG Industries, Inc.  
 Pacific Gas & Electric Co.  
 Page Airways, Inc.  
 Pan American World Airways, Inc.  
 Perkin-Elmer Corp.  
 Peterson Builders, Inc.  
 Philip Morris, Inc.  
 Phillips Petroleum Co.  
 Planning Research Corp.  
 Pneumo Corp.  
 Polaron Products, Inc.  
 Powerline Oil Co.  
 Pratt & Whitney Aircraft of West Virginia  
 Pride Refining, Inc.  
 Procter & Gamble Distributing Co.  
 R & D Associates  
 RCA Alaska Communications, Inc.  
 RCA Corp.  
 RCA Global Communications, Inc.  
 Rand Corp.  
 Raytheon Co.  
 Raytheon Service Co.  
 Reflectone, Inc.  
 Remington Arms Co.  
 Reynolds, R. J., Industries, Inc.  
 Rochester, University of  
 Rockwell International Corp.  
 Rohr Industries, Inc.  
 SRI International  
 Salem Packing Co., Inc.  
 Sanders Associates, Inc.  
 Santa Barbara Research Center  
 Saturn Airways, Inc.  
 Science Applications, Inc.  
 Selma Apparel Corp.  
 Shell Oil Co.  
 Simplex Wire & Cable Co.  
 Singer Co.  
 Southern California, University of  
 Southwest Truck Body  
 Southwestern Refining Co., Inc.  
 Sparton Corp.  
 Sperry Rand Corp.  
 Standard Manufacturing Co.  
 Standard Oil Co. of California  
 Summa Corp.  
 Sun Chemical Corp.  
 Sun Co., Inc.  
 Sundstrand Corp.  
 Supreme Beef Co., Inc.  
 Swift & Co.  
 System Development Corp.  
 Systems Consultants, Inc.  
 Systems Research Laboratories, Inc.  
 TRW Colorado Electronics, Inc.  
 TRW, Inc.  
 Tacoma Boatbuilding Co., Inc.  
 Talley Industries, Inc.  
 Taylor, R. W., Construction Co.  
 Teledyne Brown Engineering  
 Teledyne CAE  
 Teledyne Pirth Sterling  
 Teledyne, Inc.  
 Teledyne Industries, Inc.  
 Teletype Corp.  
 Tesoro Alaskan Petroleum Corp.  
 Tesoro Petroleum Corp.  
 Texaco, Inc.  
 Texas Instruments, Inc.  
 Texas, University of  
 Textron, Inc.  
 Thiokol Corp.  
 Tiger International, Inc.  
 Titan Atlantic Construction Corp. & Gallegos Corp. (Joint Venture)  
 Todd Shipyards Corp.  
 Total Leonard, Inc.  
 Tracor, Inc.  
 Trans International Airlines, Inc.  
 Triple A Machine Shop  
 Turner Construction Co. & Ecoscience, Inc. (Joint Venture)  
 Union Carbide Corp.  
 Union Oil Co. of California  
 Uniroyal, Inc.  
 United States & South American Enterprises, Inc.  
 United Technologies Corp.  
 Universal Maritime Services Corp.  
 Varian Associates

Varo, Inc.  
 Vought Corp.  
 Vulcan Industries, Inc.  
 Watkins-Johnson Co.  
 Western Electric Co., Inc.  
 Western Union International, Inc.  
 Western Union Telegraph Co.  
 Westinghouse Electric Corp.  
 White Engines, Inc.  
 Whittaker Corp.  
 Wilcox Electric Co., Inc.  
 Williams Research Corp.  
 Wilson & Co., Inc.  
 World Airways, Inc.  
 Xerox Corp.

JANUARY 6, 1978.

MAURICE W. ROCHE,  
 Director, Correspondence and  
 Directives, Washington Head-  
 quarters Services.

[FR Doc. 78-736 Filed 1-10-78; 8:45 am]

[3910-01]

CHAPTER VII—DEPARTMENT OF THE AIR  
 FORCE

SUBCHAPTER G—BOARDS

PART 865—PERSONNEL REVIEW BOARDS

Air Force Board for Correction of Military  
 Records

AGENCY: Department of the Air  
 Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the  
 Air Force is amending the rule cover-  
 ing the Air Force Board for Correction  
 of Military Records. A review by the  
 Board of its procedures revealed an  
 apparent need for elaboration in cer-  
 tain paragraphs of this rule. The  
 amendments are intended to result in  
 clearer understanding by persons desir-  
 ing correction of their military rec-  
 ords.

EFFECTIVE DATE: September 12,  
 1977.

FOR FURTHER INFORMATION  
 CONTACT:

Frank S. Dispenza, Deputy Execu-  
 tive Secretary, Air Force Board for  
 the Collection of Military Records,  
 Office of the Assistant Secretary of  
 the Air Force, Washington, D.C.  
 20330, 202-697-2391.

SUPPLEMENTARY INFORMATION:  
 This amendment is issued under the  
 authority of sections 1552, 8012, 70A  
 Stat. 116, 488; 10 U.S.C. 1552, 8012.

On August 8, 1977, the Department  
 of the Air Force, DOD, published a  
 proposed amendment to 32 CFR Part  
 865 (42 FR 39999), inviting public par-  
 ticipation. This amendment is to fur-  
 ther clarify by addition of information  
 to the sections on Actions by the Sec-  
 retary of the Air Force, Release of Rec-  
 ords of Proceedings to the Applicant,  
 counsel, and the public. Since no com-

ments were received regarding our  
 proposal, 32 CFR, Part 865 is amended  
 as follows:

1. In § 865.7, a new paragraph (d) is  
 added to read as follows:

§ 865.7 Review of application.

(d) *Written proceedings.* When the  
 Board determines that the record  
 should be corrected or that the appli-  
 cation be denied, the determination of  
 the Board will be made in writing. The  
 writings (proceedings) will include, but  
 not be limited to, all facts of record,  
 and statement of ground(s) upon  
 which the Board's determination is  
 based. Where the Board concludes  
 complete relief should not be granted,  
 written proceedings will address appli-  
 cant's claim(s) of constitutional, statu-  
 tory, and/or regulatory violation re-  
 jected by the Board and/or reviewing  
 authority. In those cases involving the  
 characterization of an individual's dis-  
 charge or dismissal from the military  
 service, the factors required by Air  
 Force regulations to be considered for  
 determination of the character of and  
 reason for the discharge or dismissal  
 in question shall be included.

2. Section 865.13 is revised to read as  
 follows:

§ 865.13 Action by the Secretary of the Air  
 Force.

All records of proceedings, except  
 those finalized by the Board under the  
 authority contained in § 865.12(a)(5) or  
 denied by the Board without a hear-  
 ing, will be forwarded to the Secretary  
 of the Air Force who will direct such  
 action in each case as he determines to  
 be appropriate, which may include the  
 return of the record to the Board for  
 further consideration when deemed  
 necessary. Those cases returned for  
 further consideration will be accompa-  
 nied by a brief statement setting out  
 the reasons for such action and any  
 specific instructions. If the Secretary's  
 decision is to deny relief, such decision  
 shall be in writing and, unless he ex-  
 pressly adopts in whole or in part the  
 findings, conclusions and recommen-  
 dations of the Board, he shall include  
 a brief statement of the ground(s) for  
 denial. All Secretarial decisional docu-  
 ments shall be furnished to the appli-  
 cant and counsel.

3. Section 865.14 is amended by re-  
 vising paragraphs (f) and (g) to read as  
 follows:

§ 865.14 Staff action.

(f) *Release of record of proceedings  
 to the applicant and counsel.* After  
 action on the record by the Secretary  
 of the Air Force, his designee, by the  
 Board acting under the authority in

§ 865.12(a)(5), or when the Board  
 denies an application without a hear-  
 ing, the Board will furnish applicant  
 and counsel a copy of the record of  
 proceedings and all decisional docu-  
 ments. Privileged or classified material  
 may be deleted only if a written state-  
 ment of the bases for deletion is pro-  
 vided. The statement will not reveal  
 the nature of the withheld material.

(g) *Release of record of proceedings  
 to the public.* After action on the  
 record by the Secretary of the Air  
 Force, his designee, by the Board  
 acting under the authority contained  
 in § 865.12(a)(5), or when the Board  
 denies an application without a hear-  
 ing, the Board will release for public  
 inspection and copying, at a designat-  
 ed reading room within the Washing-  
 ton, D.C. Metropolitan Area, a sani-  
 tized and indexed copy of the record  
 of proceedings and all decisional docu-  
 ments. To the extent required and to  
 prevent a clearly unwarranted inva-  
 sion of personal privacy, identifying  
 details of applicant and other persons  
 will be deleted from all documents.  
 Privileged or classified material may  
 be deleted only if a written statement  
 of the bases for deletion is provided.  
 The statement will not reveal the  
 nature of the withheld material. An  
 index of record of proceedings shall be  
 formulated so as to enable those who  
 represent applicants to isolate from all  
 those decisions that are indexed those  
 cases that may be similar to an appli-  
 cant's case and which indicate the  
 grounds for which the Board and/or  
 the Secretary granted or denied relief.  
 The index will be published quarterly  
 and available for public inspection and  
 sale at the reading room. Inquiries  
 concerning the index or reading room  
 should be addressed to Air Force  
 Board for Correction of Military Rec-  
 ords, Department of the Air Force,  
 Washington, D.C. 20330.

FRANKIE S. ESTEP,  
 Air Force Federal Register Liai-  
 son, Directorate of Adminis-  
 tration.

[FR Doc. 78-660 Filed 1-10-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON  
 POSTAL SERVICE

Handling Business Reply Mail With Postage  
 Affixed

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The rule adopted speci-  
 fies that business reply mail (BRM)  
 bearing postage will be handled the  
 same way as all other BRM, i.e., appli-  
 cable business reply postage and fees

will be charged without deducting the amount of any postage stamps affixed. However, BRM permit holders may request a credit or refund of the postage affixed by submitting to the postmaster appropriate evidence of the amount of excess postage paid. Evidence of payment must be in the form of banded packages of 100 pieces of BRM, with identical amounts of postage affixed. BRM processing fees will not be refunded.

The practice of some BRM permit holders of encouraging their correspondents to place stamps on BRM has created difficulties for the Postal Service. Post offices across the country have responded in various ways to the practice. The purpose of this final rule is to adopt a uniform postal procedure for handling this mail.

EFFECTIVE DATE: February 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Clent Crocker, 202-245-4394.

**SUPPLEMENTARY INFORMATION:** On July 29, 1977, the Postal Service published for comment in the FEDERAL REGISTER (42 FR 38606) a proposal to add a new provision to 131.233 of the Postal Service Manual, which would have specifically prohibited mailers from affixing postage to business reply mail (BRM) and would have prohibited BRM permit holders from encouraging mailers to affix postage to business reply pieces. In addition, BRM with postage affixed was to be processed the same way as BRM without postage affixed. Finally, no refunds for the amount of postage affixed to business reply pieces were to be made after March 15, 1978.

Interested persons were invited to submit written data, views, or arguments concerning the proposed new requirements. Written comments were received from a total of 40 individuals and organizations. Thirty-six of the commenters opposed the proposal; four favored it. Twenty-nine or 80 percent of the thirty-six were from charitable organizations, which rely heavily on business reply mail for soliciting contributions. Four of the thirty-six were from individuals not identified with specific organizations. All comments were carefully considered by the Postal Service in adopting the amendments to the regulations set forth below.

Several commenters stated that considerable effort has been expended by charitable and nonprofit organizations to encourage contributors to affix postage to BRM, and that considerable momentum in that direction has been established. It is said that many contributors would continue to affix postage even if no longer requested to do so. This is said to be so because contributors want their gifts to be as free

from overhead expense to the charity as possible.

All of the opposing commenters stated that prohibiting the affixing of postage to BRM would cost them significant amounts of money, since the cost of postage is a significant part of their fund raising costs. Four commenters estimated the percentage of their donors who put stamps on BRM. The estimates were 20 percent, 30 percent, 40 percent, and 50 percent. Several commenters said that enclosing ordinary envelopes in solicitations instead of BRM and requesting donors to apply the stamps would cost them even more money, since, in the words of one commenter, "as all professional fund raisers know" using a BRM increases response by bringing in more gifts sooner. One commenter said that including a stamped envelope for a reply would be extremely costly since the stamps could be removed and used for other correspondence.

Although placing postage stamps on BRM is basically inconsistent with the concept of postage payment for BRM, we are persuaded by the commenters not to prohibit it, as was proposed. Accordingly, we will modify the rule to remove the prohibition against placing postage stamps on BRM and we will continue to provide refunds for such postage.

One commenter suggested that putting a stamp on BRM changes its character to prepaid mail and it should be thereafter treated as such. If putting a stamp on BRM covered an envelope's BRM markings so that postal employees and machinery could not see the markings, we would agree with the commenter. The distinctive BRM markings enable employees and machinery easily to separate BRM from all other mail. It would be counterproductive of this system and would cause the Postal Service to incur additional sorting costs if an exception were to be made for BRM that bears postage.

Most of the commenters did not take exception to the practice of treating BRM with postage affixed the same as all other BRM. They agreed that the Postal Service must do so as a matter of "operational necessity."

Two commenters made the erroneous statement that all BRM mail and box mail is handsorted at the final stage "and hence there are no mechanical problems complicating the solution." The "solution" proposed by both commenters is that when the Postal Service employee counts the BRM in order to determine the amount of charges to the permit holder he should merely "skip over" BRM bearing postage. It is said that this would have the effect of giving the organization full credit for the stamps affixed. In the first place, all BRM is not handsorted at the final stage. Where volume warrants it, ma-

chines do the sorting, and cannot just "skip over" BRM with postage affixed. Instead of counting BRM another procedure used is to weigh it, if the mail is identical and in quantity. No "skip over" is possible in that case either. Since "skip over" would not be possible in the situations mentioned, BRM permit holders would, in effect, be paying double postage. Furthermore, the "skip over" idea could not be adopted by the Postal Service, since the extra costs of sorting out BRM from the rest of the mail, i.e., the processing fees, would not be recovered if BRM with postage affixed were merely "not counted."

The commenters generally do not oppose the continuing of a procedure in which the postage is refunded upon application by permit holders. Such a procedure will, of course, cause the Postal Service to spend some time dealing with each request for refund, verifying the number of items, and crediting a trust fund account or paying cash. In order to minimize costs BRM permit holders will be required to present evidence of the right to a refund in the form of properly faced and banded packages of 100 pieces of BRM, with identical amounts of postage affixed.

For the above reasons the Postal Service hereby adopts the following revisions of the Postal Service Manual, effective February 10, 1978:

#### PART 131—FIRST CLASS

In 131.23 of the Postal Service Manual, add new .233i reading as follows:

131.23 Business Reply Mail.

.233 Postage and Fees.

i. Business reply mail (BRM) having postage affixed shall be handled the same as other BRM. No effort will be made to identify or separate pieces having postage affixed. Applicable BRM postage and fees will be charged without deducting the amount of any postage stamps affixed. However, business reply permit holders may request a credit or refund as provided in 147.22 for the amount of postage affixed to BRM pieces by submitting a completed Form 3533, Application and Voucher for Refund of Postage and Fees, to the postmaster along with evidence of payment of the amount of excess postage for which a credit or refund is desired. In order to receive a refund, business reply permit holders must present to the designated office properly faced and banded packages of 100 business reply envelopes, with identical amounts of postage affixed. A postmaster may accept a package of less than 100 business reply envelopes if necessary to prevent loss or hardship to a mailer. The address side of the envelope may be separated and submitted as evidence in lieu of the entire envelope. Note, however, that the BRM processing fees shall not be refunded.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR Part 111.3.

(39 U.S.C. 401(2).)

LOUIS A. COX,  
General Counsel.

[FR Doc. 78-653 Filed 1-10-78; 8:45 am]

[3510-03]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION  
DEPARTMENT OF COMMERCE

SUBCHAPTER C—REGULATIONS AFFECTING  
SUBSIDIZED VESSELS AND OPERATORS

PART 251—APPLICATION FOR SUBSIDIES AND  
OTHER DIRECT FINANCIAL AID

Construction-Differential Subsidy For  
Machinery and Electric Plant Spare Parts

AGENCY: Maritime Administration,  
Commerce.

ACTION: Final rule.

**SUMMARY:** Present policy restricts award of construction-differential subsidy (CDS) for spare parts to those which are carried aboard ship; except for propellers and tail shafts, shore-based spares are not included. Recent experience indicates that this policy no longer adequately addresses the nature of machinery breakdowns and the long lead times associated with procuring replacement parts. The purchase of a single shore-based replacement part, which can be used to repair the same machinery on two or more ships, is economically and operationally more desirable than buying a spare part for each ship or risking extended machinery down-times if no spare part is stocked at all. This regulation specifies a predetermined limit on the amount of CDS for the cost of machinery and electric plant spare parts, in addition to those required by all cognizant regulatory bodies, and permits such spare parts to be based ashore.

**EFFECTIVE DATE:** January 3, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. William G. Bullock, Chief, Division of Engineering, Office of Ship Construction, 202-377-3488, Room 4409, Main Commerce Building, Washington, D.C. 20230.

**SUPPLEMENTARY INFORMATION:** On June 13, 1977, in 42 FR 30231, the Maritime Subsidy Board (Board) published a proposed policy specifying a predetermined limit on the amount of CDS for the cost of machinery and

electric plant spare parts and permitting spare parts to be based ashore. (Correction of a typographical error in the notice of June 13, 1977 was published in 42 FR 43875 on Wednesday, August 31, 1977.) Interested persons were requested to file comments by July 15, 1977. Comments were received from five shipping companies, one shipyard, and one manufacturer.

1. Two commenters objected to not escalating the allowance for spare parts in accordance with the escalation provisions, if any, of the applicable contract. The Board considers that the prompt selection of spare parts during the early part of the contract reduces or eliminates the need to escalate the allowance for spare parts. Accordingly, the spare parts allowance is to be fixed and will not be escalated in accordance with the escalation provisions, if any, of the contract.

2. Two commenters requested clarification of the amount of shipping and shipyard handling costs which are included in the allowance. While such costs will vary depending on the nature and disposition of the spare parts themselves, the Board assumed that approximately 10 percent of the purchase price of the spare parts would be required for shipping and shipyard handling costs. For example, for a salt water evaporator (cost class 33) having a base cost of \$100,000, the allowance for spare parts (7.0 percent) is \$7,000, of which approximately \$700 represents shipping and shipyard handling costs, leaving approximately \$6,300 for the actual purchase price of spare parts. Exact shipping and shipyard handling costs eligible for CDS will be reviewed and processed by the Maritime Administration Staff on a case-by-case basis.

3. One commenter questioned the nature of the audit to be made at the end of the contract to determine total spare parts expenditures. The audit will be based on Maritime Administration review of a priced list, by shipyard purchase orders, of spare parts furnished pursuant to this section 251.1.

4. One commenter requested clarification of certain cost accounts, especially with respect to highly specialized ships such as LNG carriers.

a. LNG cargo containment systems—spherical tanks, membrane tanks, etc., are not part of the machinery and electric plant. Therefore, materials for repair of these special tank systems are beyond the intended scope of this regulation and have not been included. Such material is subject to separate consideration.

b. LNG cargo support systems—Since the base cost of material for LNG cargo support systems, such as inert gas and nitrogen systems, is included in cost class 18 "Hull Piping (Engineering)," an allowance for spare parts for this equipment has been provided.

c. LNG systems instrumentation—Since the base cost of material for instrumentation is included in cost class 39, "Instruments and Gauges," an allowance for spare parts for this equipment has been provided.

d. Firefighting systems—Since the base cost of material for firefighting systems is included in cost class 18, "Hull Piping, Engineering," an allowance for spare parts for this equipment has been provided.

e. Special life boat for LNG ships—This regulation, which covers machinery and electric plant spare parts, does not provide for a spare life boat. Spare special life boats are subject to separate consideration.

5. Two commenters indicated that the policy should include provision for the purchase of major machinery and electric plant spare parts such as a main turbine and turbo-generator rotor and buckets and a turbo-generator reduction gear. The percentages given for spare parts for cost class 25 "Main Engine" (3 percent) and cost class 22 "Electric Generation and Distribution" (5 percent) are considered sufficient to include the selection of buckets to reblade the first stage of the high pressure turbine rotor and one generator turbine rotor. Since this regulation is not intended to guard against extraordinary, catastrophic failures which require replacement of major propulsion system components, such items were excluded from consideration when the spare parts percentages were determined.

6. One commenter requested confirmation that the combination of cost class 18 "Hull Piping (Engineering)" and cost class 20 "Hull Piping (Domestic)" includes all hull piping systems both within and outside the engine room. That conclusion is confirmed.

7. One commenter requested confirmation that the allowance for spare parts is in addition to those required by all regulatory bodies, including ABS, USCG and FCC. That conclusion is confirmed. The first paragraph of the regulation has been revised for clarification.

8. One commenter noted that the base cost of material contained in certain cost classes may vary depending on yard production methods. For example, a ship's boiler may be purchased from a manufacturer with the material cost reflecting erection by either the yard or the manufacturer. If the yard erects the boiler, the material cost in the original estimate is less than the material cost if erection was accomplished by the manufacturer; however, the requirement for spare parts is the same in either case. The Board recognized this apparent problem, but concluded that when construction of the machinery and electric plant is considered in the aggregate, deficits in the allowance for

spare parts in some cost classes are recompensed by surpluses in other cost classes (which include, for example, preassembled machinery packages), such that any variation in the total allowance for all cost classes is minimal. This consideration was one factor in permitting a fair and reasonable overall allowance rather than specifying an exact amount for each cost class.

9. One commenter contended that the regulation does not take into consideration the difference between a single ship and multi-ship contract, stating that the average value of spare parts per vessel for a multi-ship contract is less than that of a single ship contract, since shore-based spares need not be duplicated. The Board notes that the regulation automatically compensates for part of this difference, since the base cost of material for a multi-ship contract is less than for a single ship contract due to economies of multiple procurement, and therefore, the allowance for spare parts is less. The balance of the savings realized by not having to duplicate shore-based spares for a multi-ship contract will serve to provide the increased depth of spare parts inventory necessary to support multiple machinery installations.

10. One commenter contended that the regulation does not reflect the installation of diesel engines as the prime mover, stating that the need for spare parts on a relatively more expensive steam turbine is considerably less than that of a diesel engine installation. The Board notes that this regulation establishes an allowance for spare parts which are in addition to those required by the regulatory bodies. (Spare parts required by the regulatory bodies are subsidized since they are included in the base cost of the equipment.) The list of spare parts required by the regulatory bodies for main internal-combustion engines is considerably more extensive than the list of spare parts required by the regulatory bodies for steam turbine prime movers. The Board considers that the more extensive regulatory body requirements for spare parts for diesel engines adequately accounts for the different natures of the two prime movers and that to more heavily bias the degree of subsidy participation in favor of a diesel engine installation by increasing its percentage allowance is not justified.

11. One commenter requested clarification regarding provisions in the regulation for special tools. This regulation addresses an allowance for spare parts which form a functioning part of the machinery and electric plant equipment. Special tools which may be required to operate and maintain the machinery and electric plant are not included in this spare parts allowance.

However, it should be noted that special tools are included in the base cost of the machinery and electric plant material and are therefore eligible for CDS on that basis.

12. One commenter stated that CDS should be awarded for the purchase of spare parts which the manufacturer has recommended as necessary for proper maintenance of equipment aboard the vessel. This regulation permits the Owner to expend the spare parts allowance as he deems appropriate, taking into account the particular machinery and electric plant, the Owner's experience, charter requirements, trade route, the availability of spare parts from various sources, availability of repair services, etc. Owners are therefore encouraged to consult manufacturers in the process of selecting the spare parts complement.

13. One commenter stated that, in cases involving the construction of two or more vessels, CDS should be awarded for the purchase of a spare rudder and, if applicable, a spare stabilizer fin. These components are beyond the scope of this regulation and are not included in the machinery and electric plant spare parts allowance. Such material is subject to separate consideration.

14. One commenter suggested that Marad allow the Owner to purchase all spares (except those required by the regulatory bodies) directly from the equipment manufacturer and still allow CDS. This procedure is prohibited by provision of 46 CFR 251.1, Appendix No. 1, paragraph 8, for the purpose of simplifying and improving pricing review in the CDS program.

15. One commenter proposed pooling of the CDS allowance, by owners of similar equipment, to purchase spare parts that are expensive, and/or have low failure experience and/or have no back-up available. As emphasized in paragraph 12 above, this regulation explicitly permits the Owner to select spare parts as he deems appropriate. Nothing in this regulation prohibits an Owner from making his spare parts selection based on the knowledge that certain spare parts can be obtained, through mutual agreement(s), from other owners.

In consideration of the foregoing, Part 251 of Title 46 of the Code of Federal Regulations is amended by adding an Appendix No. 3 to § 251.1 to read as follows:

**APPENDIX NO. 3—CONSTRUCTION-DIFFERENTIAL SUBSIDY FOR MACHINERY AND ELECTRIC PLANT SPARE PARTS**

1. The total cost of machinery and electric plant spare parts (whether shore-based or carried aboard ship), which are in addition to those spare parts required by all cognizant regulatory bodies (including ABS, Coast Guard and the FCC), which shall be eligible for CDS, shall not exceed the amount determined by application of the percentages shown in the Table below:

2. Table 2.—COST OF ADDITIONAL SPARE PARTS ELIGIBLE FOR CDS:

Cost class	Type of equipment covered <sup>2</sup>	Cost of spare parts <sup>1</sup>
12	Galley, pantry, and utility space equipment.....	1.0
15	Ventilation and heating.....	2.0
17	Air-conditioning machinery....	3.0
18	Hull piping (engineering).....	2.0
19	Cargo oil system.....	2.0
20	Hull piping (domestic).....	2.0
21	Deck machinery.....	8.0
22	Electric generation and distribution.....	5.0
23	Electronics.....	5.0
25	Main engine.....	3.0
26	Shafting and propellers.....	6.0
27	Condensers.....	1.0
28	Boilers.....	1.0
29	Fuel oil service piping.....	4.0
30	Steam piping.....	4.0
31	Feed, condensate, circulating, and drain piping.....	4.0
32	Lube oil piping.....	4.0
33	Salt water evaporator system..	7.0
34	Feed heaters and other heat exchangers.....	3.0
35	Pumps.....	13.0
36	Miscellaneous auxiliaries.....	7.0
39	Instruments and gauges.....	15.0
40	Engineers workshop.....	1.0

<sup>1</sup>Expressed as percentage of base cost of the equipment in each cost class.

<sup>2</sup>Cost of spare anchor, propeller, or tailshaft is not included in this allowance and is handled as a separate Maritime Subsidy Board action.

3. This regulation shall be implemented in accordance with the following procedures and guidelines:

(a) The allowance is to be calculated by the Maritime Administration and will be included in the contract price for all new contracts for which CDS is awarded after this regulation becomes effective. For ships under contract on the effective date of this regulation, the regulation shall form the basis for permitting a change under contract for additional spare parts to be subsidized, provided that a request for CDS participation is submitted to the Maritime Administration prior to delivery of the applicable ship.

(b) The allowance is to be fixed and will not be escalated under the escalation provisions (if any), of the contract. For changes to existing contracts, the allowance will be computed based on the original contract price.

(c) An audit, as deemed appropriate by the Maritime Administration, will be made at the end of the contract to determine total spare parts expenditures and a change under contract will be issued if actual expenditures are less than the allowance. The audit will be based on Maritime Administration review of a priced list, by shipyard purchase orders, of spare parts furnished pursuant to this section 251.1.

(d) Shipping and shipyard handling costs are to be included in the allowance.

(e) If the cost of material in a cost class is increased or decreased by reason of a change under contract, the total spare parts allowance will not be

increased or decreased unless included as part of the change under contract.

(f) The actual expenditure of funds for spare parts by the Owner need not correspond to the percentages shown in the table which are used to determine the total amount eligible for CDS.

(g) An owner may exceed the limit set by this regulation, provided such excess is for his sole account.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036); and Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).)

Dated: January 3, 1978.

So ordered by the Maritime Subsidy Board/Maritime Administration.

ROBERT J. PATTON, Jr.,  
Assistant Secretary.

[FR Doc. 78-538 Filed 1-10-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS  
COMMISSION

[Docket No. 20728; FCC 77-857]

PART 81—STATIONS ON LAND IN THE MARI-  
TIME SERVICES AND ALASKA—PUBLIC  
FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE  
MARITIME SERVICES

Implementing Changes in Frequencies and Op-  
erating Procedures Relating to the Use of  
Radiotelephony in the Maritime Services,  
Adopted at the ITU World Maritime Adminis-  
trative Radio Conference, Geneva, 1974, in  
the Bands 1605-4000 kHz and, as are Appli-  
cable to Limited Coast and Ship Stations, 4  
to 23 MHz, and Certain Consequential  
Changes

AGENCY: Federal Communications  
Commission.

ACTION: Final rule.

SUMMARY: For limited coast and  
ship stations, in the bands between 4  
and 23 MHz in the maritime mobile  
service, changes in frequencies and im-  
plementation schedule. Changes in the  
International Radio Regulations. To  
conform United States operations to  
its treaty obligations.

EFFECTIVE DATE: February 15,  
1978.

ADDRESSES: Federal Communica-  
tions Commission, Washington, D.C.  
20554.

FOR FURTHER INFORMATION  
CONTACT:

Walter E. Weaver, Safety and Spe-  
cial Radio Services Bureau, 202-632-  
7197.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of  
parts 2, 81 and 83 to implement  
changes in frequencies and operating  
procedures relating to the use of radio-  
telephony in the maritime services,  
adopted at the ITU World Maritime  
Administrative Radio Conference,  
Geneva, 1974, in the bands 1605-4000  
kHz and, as are applicable to limited  
coast and ship stations, 4 to 23 MHz,  
and certain consequential changes.  
Second report and order (proceeding  
terminated).

Adopted: December 21, 1977.

Released: December 30, 1977.

By the Commission: Commissioner  
White absent.

1. The Commission released its  
Notice of Proposed Rulemaking (FCC  
76-177) in the instant proceeding on  
March 4, 1976, which was published in  
the FEDERAL REGISTER on March 8,  
1976 (41 FR 9894). An Errata was re-  
leased on March 23, 1976 (41 FR  
13619). A First Report and Order  
(FCC 77-737) was released on Novem-  
ber 4, 1977, which was published in  
the FEDERAL REGISTER on November 9,  
1977 (42 FR 58406).

2. Comments were filed by: Ameri-  
can Telephone & Telegraph Co.  
(AT&T), Communication Associates,  
Inc. (CAI), Hawaiian Tug and Barge  
(HT&B), Northern California Marine  
Radio Council (NCMRC), and North  
Pacific Marine Radio Council  
(NPMRC). No reply comments were  
filed.

3. In the First Report and Order, as  
stated in paragraph 3, thereof, we  
treated all of the matters included in  
the Notice of Proposed Rule Making  
except for specific amendments<sup>1</sup> to  
the rules relating to frequencies avail-  
able to affected limited coast and ship  
stations. Specification of frequencies  
for limited coast/ship stations, in the  
bands between 4 and 23 MHz, and the  
implementation schedule for transi-  
tion from the existing frequencies to  
the new frequencies are set forth in  
the attached Appendix. Comments re-  
lating thereto were considered and in-  
cluded in paragraphs 17 through 23 of  
the above Report and Order. Final  
action on frequencies and implementa-  
tion schedule had to be held in abey-  
ance pending establishment of a se-  
quential plan whereby certain duplex  
frequencies were vacated in order to  
make room for the simplex frequency  
usage. The plan for shifting the  
duplex frequencies was set forth in  
the Commission's Order (FCC 77-785)  
in Docket No. 21349, released Novem-  
ber 16, 1977, which was published in  
the FEDERAL REGISTER November 25,  
1977 (42 FR 60145).

4. In response to the comments of  
NPMRC, we stated in paragraph 21 of

<sup>1</sup> Sections 81.381, 83.351 and 83.360.

the First Report and Order that we  
would provide a period of 45 days in  
which to effect transition from the ex-  
isting to the new (replacement) fre-  
quencies. Since releasing the Notice of  
Proposed Rulemaking and preparation  
of the First Report and Order, in the  
instant proceeding, we have received  
telephone calls<sup>2</sup> from a number of ser-  
vice organizations indicating that the  
transition period (from old to new fre-  
quencies) must be of greater duration.  
Typical of such telephone calls is that  
from Hull Electronics, San Diego,  
Calif., who advises us that once the  
frequencies are known, that is, finally  
designated by the Commission, there  
are specific actions which must be  
taken:

An order for crystals must be pre-  
pared and forwarded to the crystal  
manufacturer;

The crystal manufacturer must fit  
that order into his schedule, produce  
the crystals and age them, usually, for  
6 weeks;

The crystals must then be packaged  
and shipped to the ordering company  
(service organization); and

Upon receipt, the service organiza-  
tion must locate each vessel involved,  
if not at sea, install the crystals in  
transmitter(s) and receiver(s) and usu-  
ally, retune both units.

Hull Electronics indicates, for the  
large number of vessels which they  
service, that a realistic estimate of the  
time required to complete these ac-  
tions is 5 to 6 months.

5. In the attached Appendix we have  
provided a transition period of 3  
months (January 1 through March 31,  
1978). This has been done on the basis  
that: (1) many service organizations  
will routinely service a lesser number  
of vessels and can, therefore, complete  
their transition within that time  
period; and (2) where an organization  
requires additional time in which to  
complete the transition they can, to-  
wards the end of March 1978, request  
additional time.

6. Accordingly, *It is ordered*, That,  
pursuant to the authority contained in  
section 303 (c), (f), (g), and (r) of the  
Communications Act of 1934, as  
amended, and in the Final Acts of the  
World Maritime Administrative Radio  
Conference, Geneva, 1974, parts 81  
and 83 of the Commission's rules are  
amended effective February 15, 1978,  
as set forth below.

7. *It is further ordered*, That the pro-  
ceeding in Docket No. 20728 is termi-  
nated.

<sup>2</sup> A memorandum summarizing these tele-  
phone calls has been placed in the Docket  
file in this proceeding. Parties wishing to  
comment on the contents of the memoran-  
dum or take exception thereto may do so in  
a request for reconsideration. The Commis-  
sion will consider those comments in any  
further action relevant to this matter.

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

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Acting Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

In § 81.361, paragraph (a) is amended to read as follows:

§ 81.361 Frequencies available.

(a) \* \* \*

Old carrier frequency (kHz) <sup>1,2</sup>	New carrier frequency (kHz) <sup>1,2</sup>
2065	2065.0
2079	2079.0
2096.5	2096.5
4136.3	4125.0
4139.5	4143.6
4434.9	4419.4
6210.4	6218.6
6213.5	6221.6
6518.6	6521.9
8281.2	8291.1
8284.4	8294.2
8294.2	12429.2
12421	12432.3
12424.5	12435.4
12428	16587.1
16565	16587.1
16568.5	16590.2
16572	16593.3
22094.5	22124.0
22098	22127.1
22101.5	22130.2
22105	22133.3
22108.5	22136.4

<sup>1</sup>Authorization for use is withdrawn effective April 1, 1978.

<sup>2</sup>Available for use on and after January 1, 1978.

<sup>3</sup>During the implementation period, both the old and the new frequencies are available to each station for use interchangeably.

B. In § 83.351, paragraphs (a) table is amended and (b)(73), (b)(74), and (b)(75) are added to read as follows:

§ 83.351 Frequencies available.

(a) \* \* \*

Carrier frequency (kHz)	Conditions of use	
	Section	Limitations
2830	83.358, 83.362	7, 39, 41, 75.
3023.5	83.372	35, 71.
4125	83.360	13, 16, 74.
4136.3	83.360	13, 16, 73.
4139.5	83.360	13, 16, 73.
4143.6	83.360	13, 16, 74.

4419.4	83.360	13, 16, 74.
4434.9	83.360	13, 16, 73, 75.
5680		
6147.5	83.354	3, 5, 15.

6210.4	83.360	13, 16, 73.
6213.5	83.360	13, 16, 73.
6218.6	83.360	13, 16, 74.
6221.6	83.360	13, 16, 74.
6518.6	83.360	13, 16, 73.
6521.9	83.360	13, 16, 74.

8281.2	83.360	13, 16, 73.
8284.4	83.360	13, 16, 73.
8291.1	83.360	13, 16, 74.
8294.2	83.360	13, 16, 74.
12421	83.360	13, 16, 73.
12424.5	83.360	13, 16, 73.
12428	83.360	13, 16, 73.
12429.2	83.360	13, 16, 74.
12432.2	83.360	13, 16, 74.
12435.4	83.360	13, 16, 74.

16565	83.360	13, 16, 73.
16568.5	83.360	13, 16, 73.
16572	83.360	13, 16, 73.
16587.1	83.360	13, 16, 74.
16590.2	83.360	13, 16, 74.
16593.3	83.360	13, 16, 74.

22094.5	83.360	13, 16, 73.
22098	83.360	13, 16, 73.
22101.5	83.360	13, 16, 73.
22105	83.360	13, 16, 73.
22108.5	83.360	13, 16, 73.
22124	83.360	13, 16, 74.
22127.1	83.360	13, 16, 74.
22130.2	83.360	13, 16, 74.
22133.3	83.360	13, 16, 74.
22136.4	83.360	13, 16, 74.

(b) \* \* \*

(73) Authorization for use is withdrawn effective April 1, 1978.

(74) Available for use on and after January 1, 1978.

(75) The frequencies 3023.5 and 5680 kHz may be used by aircraft and ship stations for search and rescue scene-of-action coordination purposes, including communications between these stations and participating land stations. Ship stations communicating with aircraft stations shall employ emission 2.8A3H.

2. In § 83.360, paragraph (a) is amended to read as follows:

§ 83.360 Frequencies for business and operational purposes.

(a) \* \* \*

Old carrier frequency (kHz) <sup>1,2</sup>	New carrier frequency (kHz) <sup>1,2</sup>
2096.5	2096.5
4136.3	4125.0
4139.5	4143.6
4434.9	4419.4
6210.4	6218.6
6213.5	6221.6
6518.6	6521.9
8281.2	8291.1
8284.4	8294.2
12421	12429.2
12424.5	12432.3
12428	12435.4
16565	16587.1
16568.5	16590.2
16572	16593.3
22094.5	22124.0
22098	22127.1
22101.5	22130.2
22105	22133.3
22108.5	22136.4

<sup>1</sup>Authorization for use is withdrawn effective April 1, 1978.

<sup>2</sup>Available for use on and after January 1, 1978.

<sup>3</sup>During the implementation period, both the old and the new frequencies are available to each station for use interchangeably.

[FR Doc. 78-518 Filed 1-10-78; 8:45 am]

[6712-01]

PART 94—PRIVATE OPERATIONAL FIXED MICROWAVE SERVICE

Editorial Amendments Relating to the Private Operational Fixed Microwave Service

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Amendment of the FCC Rules and Regulations (part 94) Private Operational Fixed Microwave Service to effect certain minor modifications of an editorial nature.

EFFECTIVE DATE: January 9, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

A. C. King, Safety and Special Radio Services Bureau, 632-6497.

SUPPLEMENTARY INFORMATION: In the matter of amendment of the Commission's rules to make certain minor editorial changes in the Private Operational Fixed Microwave Service (part 94) Rules and Regulations. Order.

Adopted: December 15, 1977.

Released: December 21, 1977.

By the Executive Director.

1. This Order refers to the appendix of the Report and Order in Docket 19869, FCC 75-1244, released November 18, 1975 and published in the FEDERAL REGISTER at 40 FR 53393. The appendix detailed all of the rules and regulations relating to the then newly-established Private Operational Fixed Microwave Service (part 94).

2. The purpose of this Order is to make certain minor editorial corrections in part 94, the need for which became apparent since the publication of those rules.

3. The rule modifications in the attached appendix, are simply editorial, to make corrections, and therefore the prior notice requirement of 5 U.S.C. section 553 are not applicable to the changes adopted therein.

4. Accordingly, it is ordered, Pursuant to the authority contained in section 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, and section 0.231(d) of the Commission's Rules and Regulations that the captioned parts of the Commission's Rules are amended effective January 9, 1978, as set forth below.

For the Federal Communications Commission.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).

R. D. LICHTWARDT,  
Executive Director.

Part 94 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 94.63(b) introductory text is amended to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

(b) The interference protection criteria for operational-fixed stations, other than those licensed under the provisions of § 94.90 are as follows:

2. Section 94.65(g) tables are amended to read as follows:

§ 94.65 Frequencies.

(g) 6525-6875 MHz  
(1) 10 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive)	Receive (or transmit)
6545 <sup>1</sup>	6715
6555 <sup>1</sup>	6725
6565 <sup>1</sup>	6735
6585	6745
6595	6755
6605	6765
6615	6775
6625	6785
6635	6795
6645	6805
6655	6815
6665	6825
6675	6835
6685	6845
6695	6855
6705	6865
6335 <sup>2</sup>	6575

<sup>1</sup>These frequencies may be assigned for unpaired use.

<sup>2</sup> Available only for emergency restoration, maintenance bypass, or other temporary-fixed purposes. Such uses are authorized on a non-interference basis to other frequencies in this band. Interference analysis required by § 94.63(a) does not apply to this frequency pair.

(2) 5 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive)	Receive (or transmit)
6550	6730
6560	6740
6590	6750
6600	6760
6610	6770
6620	6780
6630	6790
6640	6800
6650	6810
6660	6820
6670	6830
6680	6840
6690	6850
6700	6860
6710	6870

UNPAIRED FREQUENCIES

6720<sup>3</sup>

<sup>1</sup> Use of this frequency is authorized on a non-interference basis to broadcast operations in the band 6875-7125 MHz.

<sup>2</sup> This frequency may be assigned for unpaired use.

[FR Doc. 78-523 Filed 1-10-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE [Docket No. 38778]

PART 1131—TEMPORARY AUTHORITY APPLICATIONS UNDER SECTION 210(a) OF THE INTERSTATE COMMERCE ACT

Exception to Competitive Rate Level Standards in Connection With Short Notice Authority to Establish Temporary Authority Rates; Republication

AGENCY: Interstate Commerce Commission.

ACTION: Correction; republication.

SUMMARY: In the above captioned proceeding published at 42 FR 65184, of December 30, 1977, several pages were inadvertently omitted. This document is being republished in its entirety to reflect the omission.

This document amends part 1131 for the purpose of providing an exception to the competitive rate, fare, and charge level standards. This exception is necessary in order that the competitive standards in Special Permission and Special Tariff Authority No. 78-1000-TA will apply instead of those in

part 1131 when Authority No. 78-1000-TA is used. That special authority authorizes the establishment on less than 30 days' notice of rates, fares, or charges to apply on shipments transported under temporary operating authority.

This document also updates part 1131 to take into account the term "Special Tariff Authority" as used in part 1310.

EFFECTIVE: February 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Geisenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7739.

SUPPLEMENTARY INFORMATION:

Section 1131.5(a) provides the competitive rate, fare, and charge level standards for the establishment on less than 30 days' notice of rates, fares, or charges applicable on shipments transported under temporary operating authority under section 210(a) of the Interstate Commerce Act. This section also includes requirements pertaining to the filing of special permission applications requesting authority to establish temporary authority rates, fares, or charges on less than 30 days' notice.

Section 1131.5(b) provides the requirements for the establishment of rates, fares, or charges applicable on shipments transported under emergency temporary operating authority. This section includes references to § 1131.5(a) for competitive standards and special permission application requirements.

The Commission has issued a special permission and special tariff authority order (No. 78-1000-TA), authorizing the establishment of temporary authority rates, fares, or charges on not less than 5 or 10 days' notice, depending on the circumstances. The competitive rate, fare, or charge level standards in the special authority differ from those in § 1131.5(a).

The regulations in part 1310 pertaining to applications requesting authority to publish on less than 30 days' notice are referred to as "Special Tariff Authority Applications" instead of "Special Permission Applications."

It is therefore necessary to amend § 1131.5(a) to provide an exception to the competitive standards therein in order that the standards in the special authority will prevail when publications are made under that authority, and to include reference to "Special Tariff Authority." It is necessary to also amend § 1131.5(b) to correct references therein to certain subparagraphs of § 1131.5(a), which have been renumbered.

Notice of proposed rulemaking under the Administrative Procedure

Act (5 U.S.C. 553), is unnecessary since the proposed amendment will relax existing regulations.

*It is ordered:*

§ 1131.5 [Amended]

Section 1131.5(a) is amended to read as follows:

(a) *Rates and fares requirements generally*—(1) *Publish on less than 30 days notice.* Rates, fares, charges, and related provisions may be established under the provisions of Special Permission and Special Tariff Authority Order No. 78-1000-TA upon not less than 5 or 10 days' notice, depending on the circumstances, to apply on shipments transported under temporary operating authority. When that permission is used, the carrier shall comply with the competitive rate, fare, and charge level standards therein and need not comply with the standards set forth in this paragraph (a).

(2) *Motor common carriers.* A motor common carrier of property may not lawfully perform transportation until effective rates or charges and provisions are published, posted, and filed with the Commission, as required by section 217 of the Interstate Commerce Act and the Commission's rules and regulations issued thereunder. Rates or charges to be established upon less than 30 days' notice must not be less than existing motor common carrier commodity rates or charges on the same commodities in like quantities from and to the same points, or in absence thereof not less than the motor common carrier commodity rates or charges in the same commodities in like quantities from and to nearby points for similar distances. In the absence of existing motor common carrier commodity rates, the rates to be established on less than 30 days' notice shall not be less than the applicable motor common carrier class rates from and to the same points except as otherwise authorized in paragraph (b) of this section. A motor common carrier of passengers, or a motor common carrier of express, baggage and/or other articles of commerce (hereinafter referred to singly and collectively as property), restricted to the transportation thereof in the same vehicle with passengers, may not lawfully perform transportation until effective fares, rates, and/or charges, as the case may be, together with supporting tariff provisions are published, posted, and filed with the Commission as required by section 217 of the Interstate Commerce Act and the Commission's rules and regulations issued thereunder. Fares, rates, and charges to be established upon less than 30 days' notice must not be less than existing passenger motor common carrier fares, rates, and/or charges, as the case may be, from and to the same points, or in the absence

thereof, not less than the passenger motor common carrier fares or passenger motor common carrier property rates or charges from and to nearby points for similar distances. Detailed instructions on rate, fare, or charge filings, may be obtained from any Bureau of Operation's field office.

(3) *Motor contract carriers.* A motor contract carrier may not lawfully provide transportation until executed transportation contracts (where required to be filed), and effective rates, fares, and/or charges, as the case may be, together with supporting schedule provisions are on file with the Commission as required by section 218 of the Interstate Commerce Act and the Commission's rules and regulations issued thereunder. The filing of contracts covering transportation of passengers is not required. Except as otherwise authorized in paragraph (b) of this section, the rates, fares, and charges, proposed to be established upon less than 30 days' notice shall not be lower than would be permitted under paragraph (a)(2) of this section if applicant were a common carrier. However, if any of points of origin, destination, or territory to be served are at the time served by a contract carrier transporting the same commodities or transporting passengers or property in the same vehicle with passengers, the rates, fares, and charges may be made on the same or higher basis as those of such contract carrier, except that if the applicant has on file effective rates, fares, or charges for transporting the same commodities or transporting passengers or property in the same vehicle with passengers between other points in the same area, the rates, fares, and charges may be made on the same or higher basis as those others maintained by the applicant.

(4) *Notice of rate publication required.* Carriers may establish the temporary authority rates on either 5 or 10 days' notice, depending on the circumstances (see paragraph (a)(1) of this section). In most cases there is outstanding special permission or special tariff authority to publish rates on less than 30 days' notice covering transportation service by and for the Railway Express Agency and the substitution of motor for rail service. Most tariff publishing agents also have outstanding special permission or special tariff authority to publish on short notice the scope of operating rights to be granted pursuant to a temporary authority application and to add new participating carriers to their tariffs. The temporary authority application must state who will make the tariff publication, and whether it is to be made on 30 days' notice or upon less than 30 days' notice.

(5) *Special permission or special tariff authority applications.* (i) If

publication is to be made on less than 30 days' notice by the carrier filing the temporary authority application and the carrier does not wish to use the general special permission or special tariff authorities referred to in this section, the temporary authority application must be accompanied by a special permission or special tariff authority application (three copies, only the original of which must be executed and bear the signature of the carrier or its agent officer, specifying title), setting forth the proposed rates, fares, charges, and other tariff, or schedule provisions clearly and completely. An accompanying exhibit may be used if identified by letter, such as exhibit "A", and so referred to in the application. If the proposed provisions consist of rates, fares, and/or charges, all points of origin and destination must be shown or definitely indicated. If authority is sought to establish a rule, the exact wording of the proposed rule must be shown. If relief from existing regulations is sought, the exact form of publication must be shown.

(ii) The special permission or special tariff authority application must contain the names of motor carriers known to maintain competitive rates, fares, and charges between the same points or points related thereto, together with adequate identification of tariffs containing such rates, fares, and charges. It must also state whether or not such carriers have been advised of the proposal and if they have been advised that it is proposed to establish such provisions on less than 30 days' notice. The rates, fares, charges, and other tariff schedule provisions proposed to be established should conform to the competitive rate, fare, and charge level standards of paragraph (a)(2) of this section for motor common carriers or paragraph (a)(3) of this section for motor contract carriers. In the absence of effective commodity rates via competing carriers on the commodity or commodities to be transported, the Special Permission Board, upon a proper showing, may authorize the establishment of rates on a different level.

Section 1131.5(b) is amended as follows:

In subparagraph (2), change the reference to "paragraph (a) (1) or (2)" to read "paragraph (a) (2) or (3)".

In subparagraph (3)(ii), change the reference to "paragraph (a)(4)" to read "paragraph (a)(5)", and change the reference to "paragraph (a) (1) or (2)" to read "paragraph (a) (2) or (3)" both places it is shown.

These amendments shall become effective February 10, 1978.

(Secs. 204, 217, 218, 49 Stat. 546, as amended, 560, as amended, 561, as amended, 52

Stat. 1238, as amended; (49 U.S.C. 304, 317, 318, 319a).)

A copy of this order shall be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and another copy shall be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

Decided: December 20, 1977.

By the Commission, Tariff Rules Board, Members Foley, Walker, and Geisenkotter.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-644 Filed 1-10-78; 8:45 am]

[1505-01]

Title 50—Wildlife and Fisheries

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

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Taking of Marine Mammals Incidental to Commercial Fishing Operations—Permits, Etc.

Correction

In FR Doc. 77-36381, appearing at page 64548 in the issue of Friday, December 23, 1977, make the following changes on page 64549:

1. In the table in column one, the entry for "Frazer's dolphin," now designated "3.," should be designated "13".

2. In column two, the third word in the fifth from last line of the last full paragraph should read, "species".

3. In column three, the last word in the second line should read, "depletion".

[1505-01]

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Taking and Related Acts Incidental to Commercial Fishing Operations

Correction

In FR Doc. 77-36382, appearing at page 64551 in the issue of Friday, December 23, 1977, make the following changes:

1. On page 64552, the second line of the third column should read, "number 202-634-7461."

2. On page 64555, the telephone number in the fifth line of § 216.24(d)(2)(ii)(D) should read, "714-293-6540" and the second line of § 216.24(d)(2)(iv)(A) should read, "and II Vessels: For Class II purse seiners".

3. On page 64559, the word "subsequently" should be removed from the 12th line of § 216.24(e)(4) and from the 11th line of § 216.24(e)(5)(i).

4. On page 64560, the 10th line of § 216.24(f)(3) should read, "letter was received at least five days in".

# 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 rule making prior to the adoption of the final rules.

[3410-11]

## DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 223]

### SALE AND DISPOSAL OF TIMBER

Sales—Awards

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** This is a proposal to revise 36 CFR 223.7 to permit the Forest Service to reject the high bid on a timber sale if the high bidder has failed to obtain EEO pre-award compliance within 45 days of bid opening. This proposal is necessary to permit the Forest Service to maintain an orderly program of timber sales when the high bidder cannot meet pre-award compliance requirements.

**DATES:** Comments must be received before February 10, 1978.

**ADDRESS:** Submit comments to:

Chief John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

**FOR FURTHER INFORMATION CONTACT:**

George Leonard or Peter Wagner, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

**SUPPLEMENTARY INFORMATION:** This is a proposal to revise 36 CFR 223.7 by adding a provision which will permit the Forest Service to reject the high bid on a timber sale if the high bidder cannot meet pre-award compliance requirements under 41 CFR 60-1.20(d) and 41 CFR 4-12.805-5 (Equal Employment Opportunity). The proposal reserves such authority to the Chief of the Forest Service.

This proposal is necessary to permit the Forest Service to maintain an orderly program of timber sales when the high bidder cannot meet pre-award compliance requirements.

(Sec. 14, Pub. L. 94-588, 90 Stat. 2958, 16 U.S.C. 472a.)

It is proposed to revise 36 CFR 223.7 to read:

#### § 223.7 Awards.

(a) Advertised timber will be awarded to the highest bidder upon satisfactory showing by him of ability to meet financial requirements and any other conditions of the sale offer unless:

(1) Determination is made to reject all bids.

(2) Two or more bidders, all of whom meet the requirements, submit equal bids which are the highest bids, in which case award may be by the drawing of lots. Equal bids from parties having direct or indirect common control or association in logging, processing, or marketing may be consolidated to the extent deemed necessary by the awarding officer in order to give to any others who have bid the same amount an equitable opportunity in the drawing of lots.

(3) The highest bidder is notoriously or habitually careless with fire or has failed to comply with the requirements of previous contracts for National Forest timber.

(4) Monopoly, injurious to the public welfare, would result from the control of large amounts of public or of public and private timber.

(5) The award would result in removing or materially lessening opportunities for gainful employment to local labor, or would be against the interests of local users dependent on National Forest timber, or would cause the abandonment or prevent the establishment of a local industry which should furnish a desirable permanent market for National Forest products.

(6) The high bidder has elected Forest Service road construction in response to an advertisement extending such an option, the Forest Service cannot perform the construction and in response to solicitation has not received a satisfactory bid for such construction within the period stated in the advertisement and the high timber sale bidder is unwilling to perform the construction.

(7) The high bidder has not been cleared for award by the compliance agency within established time limits when a pre-award compliance review is required by 41 CFR 60-1.20 (d) and 41 CFR 4-12.805-5. No bid may be rejected under this item except by the Chief, Forest Service.

(b) Any bidder or applicant for a sale may be required to furnish a statement of his relation to other bidders

or operators, including, if desired by the supervisor or Regional Forester, a certified statement of stockholders or members of the firm and the holders of bonds, notes or other evidences of indebtedness, insofar as known, so that the statement will show the extent of the interest of each in the bidder or applicant.

(c) If the highest bid is not accepted and the sale is still deemed desirable, all bids may be rejected and the timber readvertised; or, if the highest bidder cannot meet the requirements under which the timber was advertised or the withholding of award to him is based on one or more of paragraphs (a) (3), (4), (5), (6), and (7) of this section, award at the highest price bid may be offered to the next highest qualified bidder or to the other qualified bidders in order of their bids.

(d) If timber is advertised as set-aside for competitive bidding by small business concerns, award will be made to the highest bidder who qualifies as a small business concern and who has not been determined by the Small Business Administration to be ineligible for preferential award of set-aside sales. If there are no qualified small business bidders, any readvertisement shall be without restriction on the size of bidders.

(e) When necessary in the judgment of the approving officer, any applicant or bidder may be required to submit, before expense is incurred in acting on the application or before award is made in response to a bid, a satisfactory showing of financial ability, and bidder may be required to show that he has or can obtain equipment and supplies suitable for logging the timber and for meeting the resource protection provisions of the contract.

RICHARD L. DUESTERHAUS,  
Acting Deputy Assistant.

JANUARY 4, 1978.

[FR Doc. 78-634 Filed 1-10-78; 8:45 am]

[8320-01]

## VETERANS ADMINISTRATION

[38 CFR Part 1]

### NATIONAL CEMETERY SYSTEM

Regulatory Development

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

**SUMMARY:** The Veterans Administration proposed to publish regula-

tions relating to the operation of the National Cemetery System. The purpose is to inform the public of the eligibility criteria for headstones and markers, interments, and burial of remarried spouses and other matters related to national cemeteries.

**DATES:** Comments must be received on or before February 10, 1978. It is proposed to make this regulation effective the date of final approval.

**ADDRESSES:** Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until February 21, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Earl W. Zieg, Veterans Administration, National Cemetery System (40D), 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-5235.

**SUPPLEMENTAL INFORMATION:**

The proposed regulations will provide the rules for the Advisory Committee on Cemeteries and Memorials; the naming of national cemeteries and activities and features therein; acceptance of gifts and donations; law enforcement and standards of conduct; disinterments; eligibility for headstones or markers and the headstone application. The previously published regulation on eligibility for burial in a national cemetery is being moved from § 1.600 to § 1.620 and being amended to provide for the adjudication of the character of discharges under § 3.12 of this chapter and to add authority for burial of remarried spouses of veterans whose remarriage is terminated. Minor editorial changes have also been made to § 1.620.

**ADDITIONAL COMMENT INFORMATION**

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be considered and made available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 21, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

**NOTE.**—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Approved: December 30, 1977.

By direction of the Administrator.

RUFUS H. WILSON,  
Deputy Administrator.

Section 1.600 is revised and §§ 1.601, 1.602, 1.603, 1.604, 1.620, 1.621, 1.630, 1.631, and 1.632 are added so that the added and revised material reads as follows:

**Sec.**

- 1.600 The National Cemetery System.
- 1.601 Advisory Committee on Cemeteries and Memorials.
- 1.602 Names for national cemetery activities.
- 1.603 Gifts and donations.
- 1.604 Law enforcement and standards of conduct.
- 1.605-1.619 [Reserved]
- 1.620 Eligibility for burial.
- 1.621 Disinterments from national cemeteries.
- 1.622-1.629 [Reserved]
- 1.630 Headstones and markers.
- 1.631 Eligibility for headstone or marker.
- 1.632 Headstone and marker application required.

**AUTHORITY.**—§§ 1.600 to 1.632 issued under 72 Stat. 1114, as amended, 87 Stat. 75; 38 U.S.C. 210, Chapter 24.

**§ 1.600 The National Cemetery System.**

The National Cemetery System authorized by 38 U.S.C. Chapter 24 (the National Cemeteries Act of 1973) consists of all cemeteries under the jurisdiction of the Veterans Administration on June 18, 1973, and the national cemeteries, soldiers' lots, confederate plots, cemeteries and monuments, and a national monument site and the Government-owned lots in the Congressional Cemetery, Washington, D.C., which were transferred on September 1, 1973, from the Department of the Army to the Veterans Administration, and any additional cemeteries designated by the Administrator.

**§ 1.601 Advisory Committee on Cemeteries and Memorials.**

Responsibilities in connection with Committee authorized by 38 U.S.C. Chapter 24 are as follows:

(a) The Administrator shall appoint the Committee members and consult with the Committee with respect to the administration of the cemeteries, selection of cemetery sites, the erection of appropriate memorials and the adequacy of Federal burial benefits.

(b) The Director, National Cemetery System, will schedule the frequency of meetings, make presentations before the Committee, participate when requested by the Committee, evaluate Committee reports and recommenda-

tions and make recommendations to the Administrator based on Committee actions.

(c) The Committee will evaluate and study cemeterial, memorial and burial benefits proposals or problems submitted by the Administrator or Director, National Cemetery System, and make recommendations as to course of action or solution. Reports and recommendations will be submitted to the Administrator for transmission to Congress.

**§ 1.602 Names for national cemetery activities.**

(a) *Responsibility.* The Administrator is responsible for naming national cemeteries. The Director, National Cemetery System, is responsible for naming activities and features therein, such as drives, walks, or special structures.

(b) *Basis for names.* The names of national cemetery activities may be based on physical and area characteristics, the nearest important city (town), or a historical characteristic related to the area. Newly constructed interior thoroughfares for vehicular traffic in national cemetery activities will be known as "drives." To facilitate location of graves by visitors, drives will be named after cities, counties or States or after historically notable persons, places or events.

**§ 1.603 Gifts and donations.**

(a) *Policy.* The Administrator may prescribe restrictions and accept gifts, devise or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. The Administrator may make land available for this purpose, and may furnish such care and maintenance as deemed necessary. Gifts of a minor nature such as trees for placement in the burial area and privately purchased graved markers may be accepted by the Director, National Cemetery System.

(b) *Processing.* All offers of gifts for national cemetery activities will be referred to the Director, National Cemetery System, Veterans Administration, Washington, D.C. 20420. No commitment will be made to the donor regarding acceptance until the required approval has been obtained.

(c) *Restrictions.* (1) Gifts and donations will be accepted only after it has been determined that the donor has a clear understanding that title thereto passes to, and is vested in, the United States, and that the donor relinquishes all control over the future use or disposition of the gift or donation, with the following exceptions:

(i) Carillons will be accepted with the condition that the donor will pro-

vide the maintenance and the operator or the mechanical means of operation. The time of operation and the maintenance will be coordinated with the superintendent of the national cemetery.

(ii) Articles donated for a specific purpose and which are usable only for that purpose may be returned to the donor if the purpose for which the articles were donated cannot be accomplished.

(iii) If the donor directs that the gift is donated for a particular use, those directions will be carried out insofar as they are proper and practicable and not in violation of Veterans Administration policy.

(iv) When considered appropriate and not in conflict with the purpose of the national cemetery, the donor may be recognized by a suitable inscription on those gifts. In no case will the inscription give the impression that the gift is owned by, or that its future use is controlled by, the donor. Any tablet or plaque, containing an inscription will be of such size and design as will harmonize with the general nature and design of the gift.

(2) Officials and employees of the Veterans Administration will not solicit contributions from the public nor will they authorize the use of their names, the name of the Administrator, or the name of the Veterans Administration by an individual or organization in any campaign or drive for money or articles for the purpose of making a donation to the Veterans Administration. This restriction does not preclude discussion with the individual offering the gift relative to the appropriateness of the gift offered.

#### § 1.604 Law enforcement and standards of conduct.

The superintendent is charged with the responsibility for the enforcement of rules and regulations governing conduct on national cemetery property. These rules and regulations, which are recorded in §§ 1.218 through 1.220, will be posted in a conspicuous place on cemetery property.

#### § 1.605—1.619 [Reserved]

#### § 1.620 Eligibility for burial.

The following rules for eligibility for interment in national cemeteries apply to all former Veterans Administration cemeteries as of June 18, 1973. These rules of eligibility for interment also apply to all cemeteries transferred on September 1, 1973, from the Department of the Army to the Veterans Administration, and to any other cemetery later acquired or developed by the Veterans Administration. Burial is authorized in national cemeteries of the remains of the following:

(a) Any person who served on active duty in the Armed Forces of the United States (Army, Navy, Air Force,

Marine Corps, and Coast Guard) who was discharged or released therefrom under conditions other than dishonorable. The determination of the character of discharge is subject to adjudication under § 3.12 of this chapter.

(b) Any member of the Armed Forces of the United States who died while on active duty.

(c) Any member of the Reserve components of the Armed Forces, the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(d) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while

(1) Attending an authorized training camp or on an authorized practice cruise,

(2) Performing authorized travel to or from that camp or cruise, or

(3) Hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while

(i) Attending that camp or on that cruise,

(ii) Performing that travel, or

(iii) Undergoing that hospitalization or treatment at the expense of the United States.

(e) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the Armed Forces of any Government allied with the United States during that war, whose last such service terminated honorably, who was a citizen of the United States at the time of entry on such service and at the time of death.

(f) The spouse of any person listed in paragraphs (a) through (e) of this section or any interred veteran's unmarried surviving spouse. A surviving spouse of a veteran who has remarried and whose remarriage is void, terminated by death or dissolved by annulment or divorce by a court with basic authority to render such decrees regains eligibility for burial in a national cemetery unless it is determined that the decree of annulment or divorce was secured through fraud or collusion.

(g) A veteran's minor child (under 21 years of age or under 23 years of age if pursuing a course of instruction at an approved educational institution), or unmarried adult child who was physically or mentally disabled and incapable of self-support, in the same grave with the veteran or in an adjoining

grave if prior reservation for that grave was in effect.

(h) Such other persons or classes of persons as may be designated by the Administrator.

#### § 1.621 Disinterments from national cemeteries.

(a) Interments of eligible decedents in national cemetery activities are considered permanent and final. Disinterments will be permitted only for cogent reasons and then only with the prior written authorization of the Director, National Cemetery System. Disinterments and removal of remains from a national cemetery activity will be approved only when all living close relatives of the decedent give their written consent or in recognition of a court order directing the disinterment.

(b) All requests for authority to disinter remains will be submitted on VA Forms 40-4970 and 40-4970a, Request for Disinterment, and Disinterment Affidavit, and will include the following information:

(1) A full statement of reasons for the proposed disinterment.

(2) Notarized statements by all close living relatives of the decedent that they consent to the proposed disinterment. "Close relatives" are defined as surviving spouse, parents, adult brothers and sisters, and adult children of the decedent. Copies of VA Forms 40-4970 and 40-4970a will be furnished by the National Cemetery System.

(3) A sworn statement, by a person having knowledge thereof, that those who supplied affidavits comprise all the living close relatives of the decedent.

(c) In lieu of the documents required in paragraph (b) of this section, an order of a court of competent jurisdiction will be considered. The Veterans Administration or officials of the cemetery should not be made a party to the court action since this is a matter among the family members involved.

(d) Disinterment of the remains of the dependent of a veteran which were interred in a national cemetery, based on completion of an agreement by the veteran to be buried in the same or adjoining grave, may be authorized by the Director, National Cemetery System, upon receipt of a written request on VA Form 40-4983, Request for Disinterment (Dependent), from the veteran.

(e) Any disinterment that may be authorized under this section must be accomplished without expense to the Government.

#### §§ 1.622-1.629 [Reserved]

#### § 1.630 Headstones and markers.

(a) Types of Government headstones and markers and inscriptions will be in accordance with policies approved by the Administrator.

(b) Inscriptions on Government headstones, markers, and private monuments will be in accordance with policies and specifications of the Director, National Cemetery System. The National Cemetery section designation and grave number will be inscribed on the reverse side, near the top of the upright headstone. The section designation and grave number on flat granite markers will be inscribed on the front (face) of the stone in the upper right corner.

(c) All memorial markers furnished by the Government may be erected in private cemeteries or in national cemetery sections established for this purpose. The markers for national cemeteries will be of the standard design authorized for the cemetery in which they are to be erected. In addition to the authorized inscription, the words "In Memory Of" are mandatory.

**§1.631 Eligibility for headstone or marker.**

(a) An approved type of headstone or marker will be furnished at Government expense, upon request, for the unmarked graves of the following:

(1) Any individual buried in a national cemetery or in a post cemetery.

(2) Any individual eligible for burial in a national cemetery (but not buried there) under the provisions of §1.620, except for those persons or classes of persons enumerated in §1.620 (e), (f), (g) and (h).

(b) An approved type of memorial headstone or marker will be furnished at Government expense, upon request, to commemorate any veteran dying in service, and whose remains have not been recovered or identified or were buried at sea. Memorial headstones or markers may be placed in national cemeteries in areas reserved for such purposes or in any private or local cemetery.

**§1.632 Headstone and marker application required.**

(a) Headstones and markers for graves in national cemeteries shall be ordered from the Record of Interment (VA Form 40-4956) prepared by the national cemetery superintendent at the time of interment. No further application is required.

(b) Submission of VA Form 40-1330, Application for Headstone or Marker, is required for the purpose of:

(1) Ordering a Government headstone or marker for any unmarked grave of any eligible veteran buried in a private or local cemetery.

(2) Ordering a Government headstone or marker for any unmarked

grave in a post cemetery of the Armed Forces.

(3) Ordering a Government memorial headstone or marker for placement in a national cemetery, in a private or local cemetery and any post cemetery of the Armed Forces.

[FR Doc. 78-730 Filed 1-10-78; 8:45 am]

**[8320-01]**

**[38 CFR Part 2]**

**NATIONAL CEMETERY SYSTEM**

**Delegation of Authority**

**AGENCY:** Veterans Administration.

**ACTION:** Proposed regulation.

**SUMMARY:** The Administrator of Veterans Affairs proposes to delegate authority to the Director, National Cemetery System to act on matters not requiring the personal attention of the Administrator. The reason is to make specific delegations pertaining to the routine functions required in the day-to-day operations of the National Cemetery System.

**DATES:** Comments must be received on or before February 10, 1978. It is proposed to make this regulation effective the date of final approval.

**ADDRESSES:** Send written comments to:

Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until February 21, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Earl W. Zieg, Veterans Administration, National Cemetery System (40D), 810 Vermont Avenue, NW., Washington, D.C. 20420, 202-389-5235.

**ADDITIONAL COMMENT INFORMATION**

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be considered and made available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 21, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans

Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

**NOTE.**—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Approved: January 4, 1978.

By direction of the Administrator.

**RUFUS H. WILSON,**  
*Deputy Administrator.*

In §2.6, paragraph (f) is added to read as follows:

§2.6 Administrator's delegations of authority to certain officials (38 U.S.C. 212(a).)

(f) *National Cemetery System.* The Director, National Cemetery System, is delegated authority:

(1) To act on all matters assigned to the National Cemetery System by statute (38 U.S.C. Chapter 24) and by regulation except where specifically requiring the personal attention or action of the Administrator and to authorize supervisory personnel within the jurisdiction of the Director, National Cemetery System to perform such functions as may be assigned.

(2) To designate, as he deems necessary, Superintendents of National Cemeteries as special investigators under 38 U.S.C. 218(a)(3), however, such law enforcement authority is limited to enforcement of rules and regulations governing conduct on property under the charge and control of the Veterans Administration, as those rules and regulations apply to the cemetery over which the individual Superintendent exercises control and jurisdiction. Such designation will not authorize the carrying of firearms by any Superintendent.

(3) To accept donations of a minor nature, such as, individual trees for planting in burial areas and privacy purchased grave markers.

(4) To name features in national cemeteries, such as, roads, walks, and special structures.

(5) To establish policies and specifications for inscriptions on Government headstones, markers, and private monuments.

[FR Doc. 78-731 Filed 1-10-78; 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.

[4310-10]

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with Section 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on January 25, 1977, at 7:30 p.m. a public information meeting will be held at the Adams County Courthouse, Gettysburg, Pa. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views on the proposed granting of a flexible funding grant, an undertaking assisted by the Federal Disaster Assistance Administration, that will adversely affect the Kuhn's Fording Bridge, a property determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places.

The following is a summary of the agenda of the public information meeting:

- I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.
- II. A description of the undertaking and an evaluation of its effects on the property by the Federal Disaster Assistance Administration.
- III. A statement by the Pennsylvania State Historic Preservation Officer.
- IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.
- V. A general question period.

Speakers should limit their statement to 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, N.W., Suite 430, Washington, D.C., 20005, 202-254-3967.

ROBERT M. UTLEY,  
Deputy Executive Director.

[FR Doc. 78-733 Filed 1-10-78; 8:45 am]

[3410-07]

## DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A5471]

### INDIANA

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Parke County, Ind., as a result of a tornado, flood, and hail September 30, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Gov. Otis R. Bowen that such designation be made.

Applications for emergency loans must be received by this Department no later than June 22, 1978, for physical losses and December 25, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 30th day of December 1977.

JAMES E. THORNTON,  
Associate Administrator,  
Farmers Home Administration.

[FR Doc. 78-637 Filed 1-10-78; 8:45 am]

[3410-07]

[Notice of Designation No. A548]

### MISSOURI

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Howard County, Miss., as a result of heavy rains, flooding, and severe hailstorms October 31 and November 1, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of

the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Gov. Joseph P. Teasdale that such designation be made.

Applications for emergency loans must be received by this Department no later than June 22, 1978, for physical losses and December 25, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 30th day of December 1977.

JAMES E. THORNTON,  
Associate Administrator,  
Farmers Home Administration.

[FR Doc. 78-638 Filed 1-10-78; 8:45 am]

[3410-07]

[Notice of Designation No. A546]

### TEXAS

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas counties as a result of drought during periods ranging from April 1 to November 9, 1977, in Callahan, Parker, and Waller Counties; and intermittent hailstorms during May, June, and September 1977, in Crosby County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Gov. Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than June 22, 1978, for physical losses and December 22, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 4th day of January 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.

[FR Doc. 78-639 Filed 1-10-78; 8:45 am]

[3410-11]

Forest Service

COOPERATIVE GYPSY MOTH SUPPRESSION  
AND REGULATORY PROGRAM 1978 ACTIVITIES

Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, and Animal and Plant Health Inspection Service, Department of Agriculture, have prepared a Draft Environmental Statement for 1978 Activities for the Cooperative Gypsy Moth Suppression and Regulatory Program, USDA-FS-APHIS (Adm.) 78-01.

The Draft Environmental Statement concerns a cooperative suppression program with the States of Pennsylvania, and New Jersey, to treat approximately 210,000 acres of high-value forest land. Four insecticides will be used. Some areas will be treated with carbaryl, some with trichlorfon, some with diflubenzuron, and some with acephate, to protect forest resources from damage by the gypsy moth. The cooperative regulatory program is to prevent artificial, long-distance spread and to eradicate remote infestations in the United States.

This Draft Environmental Statement was filed with EPA on January 5, 1978.

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

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Animal and Plant Health Inspection Service, Administration Building, Room 302-E, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

USDA Forest Service, 370 Reed Road, Brookmall, Pa. 19008.

A limited number of single copies are available upon request to John R. McGuire, Chief, U.S. Forest Service, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

Copies of the Draft Environmental Statement 1978 Gypsy Moth Suppression and Regulatory Program have been sent to various Federal, State,

and local agencies as outlined in the EPA guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law of special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. John R. McGuire, Forest Service, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20250, telephone 703-235-1560. Comments must be received by March 5, 1978, in order to be considered in preparation of the final Environmental Statement.

Dated: December 30, 1977.

R. MAX PETERSON,  
Deputy Chief, Forest Service.

[FR Doc. 78-640 Filed 1-10-78; 8:45 am]

[3410-11]

Forest Service

DIRECTOR OF LANDS AND DEPUTY DIRECTOR  
OF LANDS

Delegation of Authority

Pursuant to the delegation of authority by the Secretary of Agriculture to the Assistant Secretary for Conservation, Research, and Education and the delegation of authority by the Assistant Secretary for Conservation, Research, and Education to the Chief, Forest Service, 7 CFR 2.60, authority is hereby delegated through the Deputy Chief for the National Forest System to the Director and Deputy Director of Lands, Forest Service to execute all documents for the acquisition and disposition of lands and interests in land as may be required in the program of the Forest Service and authorized by law.

Effective date: This delegation of authority supersedes those delegations published in 33 FR 10115 dated July 5, 1968, and 35 FR 15452 dated September 23, 1970, and shall be effective on January 11, 1977.

Done at Washington, D.C., this 5th day of January, 1978.

JOHN R. MCGUIRE,  
Chief, Forest Service.

[FR Doc. 78-739 Filed 1-10-78; 8:45 am]

[3410-11]

REGIONAL FORESTERS AND DEPUTY  
REGIONAL FORESTERS

Delegation of Authority

Pursuant to the delegation of authority by the Secretary of Agriculture to the Assistant Secretary for

Conservation, Research, and Education, and the delegation of authority by the Assistant Secretary for Conservation, Research, and Education, to the Chief, Forest Service, 7 CFR 2.60, authority is hereby delegated through the Deputy Chief for the National Forest System to the Regional Forester and Deputy Regional Forester of each Forest Service Region to perform the following Acts under the authority of the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 533), and in accordance with the Regulations of the Secretary, 36 CFR 212.10:

(1) Grant easements for road rights-of-way.

(2) Execute Road Right-of-Way Construction and Use Agreements and Supplements.

(3) Terminate easements granted under this authority with the consent of the owner of the easement.

Effective date: This delegation of authority supersedes those delegations published in 30 FR 5647 dated April 16, 1965, and 30 FR 15333 dated December 2, 1965, and shall be effective on January 11, 1978.

Done at Washington, D.C., this 5th day of January, 1978.

JOHN R. MCGUIRE,  
Chief, Forest Service.

[FR Doc. 78-738 Filed 1-10-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-1-14; Docket 29591]

DONALD L. PEVSNER

Refund Provisions for Unused Tickets; Order To  
Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of January, 1978.

In a complaint filed July 29, 1976, Donald L. Pevsner, Esq., requests the immediate suspension, pending investigation, of all tariff rules governing refunds for unused tickets in interstate, overseas, and foreign air transportation. The complainant alleges that these tariff rules establish unjust, unreasonable, arbitrary, and capricious time limits after which participating air carriers reserve the right to refuse to provide refunds for unused tickets; that such time limits vary significantly among carriers; that consumers are insufficiently informed of these refund deadlines; and that such time limitations violate section 404(a) of the Federal Aviation Act of 1958 (the Act).<sup>1</sup> Air New England, Inc. (ANE), Allegheny Airlines, Inc. (Allegheny), and Eastern Air Lines, Inc. (Eastern), filed answers to the complaint.

<sup>1</sup>Section 404(a) states: "It shall be the duty of every air carrier and foreign air carrier to establish, observe, and enforce . . . just and reasonable classifications, rules, regulations, and practices. . . ."

On June 21, 1977, the Board tentatively concluded that existing tariff provisions concerning refunds for unused tickets may warrant reexamination (Order 77-6-101). The Board found "substantial differences" among carriers in their refund rules and practices, and solicited public comments on the desirability of a uniform rule for the industry.

Comments in response to Order 77-6-101 were filed by Air New England, Braniff International Airways, Inc. (Braniff), certain member carriers of the International Air Transport Association (IATA), K.L.M. Royal Dutch Airlines (KLM), the Office of the Consumer Advocate of the Civil Aeronautics Board (OCA), Donald L. Pevsner, Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United). A number of informal comments and suggestions about ticket-refund rules were also received.

In general, the comments concur that a uniform tariff rule governing time limitations on refunds would be desirable. OCA, for example, argues that there is no justification for the imposition of time restrictions by some carriers while others apparently grant refunds *ad infinitum*, and that a uniform rule ". . . would be beneficial to consumers and would eliminate a source of consumer discontent and confusion." The informal comments submitted by the public express similar views, suggesting, for example, that consumers are likely to receive more equitable treatment if the question of refund periods is not left to the discretion of individual carriers. A majority of the carriers filing comments also support, or would not object to, a uniform tariff rule.

There is considerable disagreement, however, as to the precise form which such a refund rule should take. Air New England recommends that the Board set a maximum refund period of two years from date of ticket issue, in conformance with the two-year record-retention period stipulated by Part 249 of the Board's Economic Regulations. ANE opposes a more liberal or open-ended refund period on grounds that ". . . the record-keeping burden on carriers today is crushing, and any extension contemplated in this docket will make it worse."

Along the same lines, KLM argues that any uniform refund rule which would compel carriers to retain records beyond the period now required by law would create not only a "substantial financial burden" but a financial risk as well, since some records may no longer be available. KLM and the IATA carriers as a group propose that the Board adopt a uniform rule similar to the permissive refund provision set forth in IATA Recommended Practice 1013, which allows (but does

not require) carriers to refuse refund applications made more than 30 days after the expiration date of the ticket.<sup>2</sup> The IATA carriers contend that this refund provision is already applied in practice by a large number of carriers, and provides a flexible, established refund period with a uniform minimum time limit (30 days after ticket expiry) and no mandatory maximum. Like KLM and ANE, the IATA carriers oppose any uniform tariff rule which would abolish refund deadlines altogether.

United and TWA have established liberal refund policies. United provides refunds up to four years after expiry of the ticket and TWA imposes no time limit whatsoever. United opposes any uniform tariff rule which would require carriers to make refunds more than four years after ticket expiration, and argues that its present refund rules are not only responsive to the needs of both the consumer and the company, but reflect "practical business decisions" based on experiments with various time limits, and evaluation of the problem of duplicate refund applications, and adherence to the Board's recordkeeping requirements. TWA, on the other hand, recommends that the Board eliminate all refund deadlines. TWA would not object to the establishment of a mandatory minimum refund period, but strongly opposes the imposition of any maximum time limit, which would not only prevent carriers from providing unlimited refunds but would cause TWA the expense of modifying its existing procedures.

With respect to the issue of administrative burden, OCA contends that restrictive refund policies cannot be justified on the basis of the Board's limited recordkeeping requirements<sup>3</sup> and that, since some of the largest carriers continue to provide liberal refund periods, it is clear that consumers have not abused this practice.<sup>4</sup> Like TWA,

<sup>2</sup>General Conditions of Carriage (Passenger), IATA Recommended Practice 1013, Agreement C.A.B. 22068, R-37, approved by the Board in Order 71-2-2, February 1, 1971. Article XI, paragraph 4(a) states: "Carrier may refuse refund when application therefor is made more than 30 days after the expiry of the validity of the ticket." This recommended practice is not binding on the IATA carriers, and is applicable to all areas except to/from the U.S. and Canada.

<sup>3</sup>OCA argues that the Board's recordkeeping requirements are ". . ." wholly irrelevant to the question of creating an open-ended policy for refunding unused tickets," since nothing in the Board's regulations prohibits carriers from retaining ticket stock and other records beyond the required two-year period.

<sup>4</sup>In this connection, TWA notes that it has been able to develop satisfactory internal procedures to police dishonest attempts to obtain refunds, and suggests that other carriers could adopt similar controls.

OCA favors the complete elimination of time restrictions on refunds. As an alternative, however, OCA suggests that a uniform tariff rule which requires carriers to make refunds for a minimum of two years after ticket expiry, while leaving carriers free to provide longer refund periods, would not be inimical to consumers.

Braniff suggests that the Board approve a meeting of carriers under Paragraph 5 of the Tariff Publishing Agreement with the Airline Tariff Publishing Company, and permit the carriers themselves to develop a uniform domestic refund rule which the participating carriers could then apply to their overseas and international tickets as well. Braniff maintains that ". . ." only minor differences exist between carriers' rules and with some flexibility on the part of the carriers an agreement on a uniform rule should be easily achieved."

The complainant, Donald L. Pevsner, reaffirms his original allegations and contends that a uniform refund rule ". . ." can only meet the requirements of section 404(a) of the Act by eliminating all time limitations for refund of unused tickets in interstate, overseas, and foreign air transportation." Noting that most U.S. domestic carriers now impose no time limit on refunds, the complainant emphasizes that any uniform rule which establishes a closed, maximum refund period would negate such open-ended refund policies and be potentially harmful to those carriers' passengers.

The Board has tentatively concluded that a uniform tariff rule governing time limitations on refunds for unused tickets in domestic, overseas, and foreign air transportation is desirable. As the comments summarized above indicate, wide variations now exist among carriers' refund rules, with some carriers offering unlimited refund periods while others impose time limits as brief as 30 days after ticket expiration. Moreover, several carriers have indicated that they routinely make refunds beyond the period specified in their tariffs. Such a practice may well be beneficial to the consumers involved, but this disregard of filed tariff rules has great potential for abuse. The mere existence of informal refund policies underlines the need to develop refund procedures which the public can know and upon which it can rely. Deviation from publicly announced tariff rules has always been condemned as illegal because there is no guarantee that all members of the public will be dealt with equally. The requirement that common carriers adhere to their published rules is designed to prevent arbitrary treatment of persons in the same situation. As the IATA carriers suggest, in a competitive marketplace there may be no

incentive for carriers to apply their tariff rules in an unreasonable or capricious manner. On the other hand, given the less than perfectly competitive conditions which now exist and the multiplicity of refund rules, the possibility of arbitrary or inequitable treatment cannot be easily dismissed. At the very least, confusion and consumer dissatisfaction seem all but inevitable under present circumstances.<sup>4</sup> Some standardization of refund policies, by means of a uniform tariff rule governing refund deadlines, seems clearly in the public interest. The consumer should be readily able to know the rules of the game.

There is no doubt that the course of action most beneficial to consumers would be elimination of all time restrictions on refunds for unused tickets. The fact that many carriers now maintain such open-ended policies constitutes persuasive evidence that these carriers, at least, have not found the recordkeeping involved unduly burdensome, despite the fact that their refund policies make it necessary to retain some records well beyond the minimum period required by law. We recognize, however, that unlimited refund policies do entail some expense, which is ultimately borne by the consumer, and, in view of the objections raised by a number of carriers, we have decided not to establish a uniform refund rule which would require carriers to provide an unlimited refund period. A mandatory minimum refund period of two years from the date of expiration of the validity of the ticket, with no maximum time limit, would appear to meet the needs of both consumers and carriers by providing sufficient uniformity to minimize confusion and inequities and sufficiently safeguard consumers' interests, without imposing unnecessary recordkeeping costs on those carriers which do not opt to provide open-ended refunds, since this period conforms with the two-year minimum record-retention period stipulated by Part 249 of the Board's Economic Regulations.

We tentatively find that the refund provisions contained in currently effective U.S. air carrier tariffs are unjust, unreasonable, and unlawful under section 404(a) of the Act to the extent that they do not provide for a

<sup>4</sup>The availability of refund information is a factor here, since it appears that carriers rarely present detailed refund information on or with the ticket itself, where it would be most readily accessible to the public. Given the variation among carriers' refund policies, we are not persuaded that notification that a ticket is sold subject to tariff regulations or is valid for travel for only a limited period constitutes adequate notice that the ticket may also be subject to a specific refund deadline, as some carriers have argued.

mandatory minimum refund period of at least two years from the date of expiration of the validity of the ticket. We tentatively conclude, therefore, that all U.S. air carriers whose tariffs now permit refusal of refund applications within two years of ticket expiry should be required to revise their rules to stipulate that refunds for unused tickets in interstate, overseas, and international air transportation will be made for a period of not less than two years after the expiration date of the ticket.

For these same reasons, we also tentatively find that our approval of IATA Recommended Practice 1013, General Conditions of Carriage (Passenger), Agreement C.A.B. 22068, R-37 (Order 71-2-2, February 1, 1971) should be rescinded and that IATA Recommended Practice 1013 should be disapproved as adverse to the public interest insofar as it applies in air transportation within the meaning of the Act and provides that carriers may refuse refund applications within a period less than two years after ticket expiration. We urge the member carriers of IATA to amend Article XI, paragraph 4(a) of the General Conditions of Carriage (Passenger) to reflect at least this minimum refund period, while at the same time we recognize that requirements of certain foreign governments for the retention of records vary considerably, and that some foreign carriers may find it difficult to establish more extensive refund periods. We nevertheless conclude that the greatest uniformity possible among carriers will best serve the traveling public, and that a period of at least two years is reasonable, if a provision for unlimited refunds of unused tickets proves collectively too burdensome on the carriers.

Accordingly, it is ordered, That: 1. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions set forth here and why an order should not be issued directing all U.S. air carriers to file, by March 1, 1978 appropriate tariff revisions stipulating that refunds for unused tickets in interstate, overseas, and international air transportation will be provided for a period of at least two years after the date of expiry of the validity of the ticket;

2. All interested persons are directed to show cause why the Board should not rescind its approval of IATA Recommended Practice 1013, General Conditions of Carriage (Passenger), Agreement C.A.B. 22068, R-37, in Order 71-2-2, dated February 1, 1971, and disapprove IATA Recommended Practice 1013 as adverse to the public interest insofar as it provides that carriers may refuse refund applications less than two years after expiry of the validity of the ticket in air transportation;

3. Any interested person having objections to the issuance of an order making final these tentative findings and conclusions shall, within 25 days after the date of service of this order, file with the Board and serve on the persons named in paragraph 6 a statement of objections specifying the tentative findings or conclusions objected to and providing statistical data and/or other evidence to support the statement of objections;

4. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board: *Provided*, that the Board may proceed to enter an order in accordance with the tentative findings and conclusions here if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

5. If no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions here; and

6. This order shall be served upon all U.S. air carriers, foreign air carriers, the International Air Transport Association, the Office of the Consumer Advocate of the Civil Aeronautics Board, and Donald L. Pevsner, Esq.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.\*

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-735 Filed 1-10-78; 8:45 am]

### [3510-17]

#### DEPARTMENT OF COMMERCE

Office of the Secretary

#### ECONOMIC ADVISORY BOARD

#### Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. I, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Thursday, February 9, 1978, from 9:30 a.m. to 3:30 p.m. in Room 4832, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Board was established by the Secretary of Commerce on January 12, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

\*Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

\*All members concurred.

A review of the economic outlook by major sector

A discussion of the price outlook and strategies for dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-served basis. Public participation will be limited to requests for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Mr. Michael Chen, Office of the Chief Economist for the Department of Commerce, Room 4858, Department of Commerce, Washington, D.C. 20230 (202-377-3884).

Dated: January 4, 1978.

COURTENAY M. SLATER,  
Chief Economist for the  
Department of Commerce.

[FR Doc. 78-740 Filed 1-10-78; 8:45 am]

[6355-01]

**CONSUMER PRODUCT SAFETY  
COMMISSION**

[CP 77-91]

**LABELING FOR GAS FURNACES**

**Denial of Petition**

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of Petition.

**SUMMARY:** The Commission has denied a petition to require warning labels by 1980 for all gas furnaces for homes. The requested label would warn consumers of the hazard of carbon monoxide poisoning due to improper adjustment, improper installation, or blocked flue stack and would advise consumers to consult with local building officials or gas companies. The Commission denied the petition because, from the information available, including information concerning ongoing voluntary standards activities aimed at addressing risks of injury that may be associated with unlabeled gas furnaces, it does not appear that a mandatory labeling standard is necessary at this time.

**FOR FURTHER INFORMATION,  
CONTACT:**

Mark Gulak, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

**SUPPLEMENTARY INFORMATION:** Section 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2059, provides that any interested person may petition the Consumer Product Safety Commission to commence a

proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the **FEDERAL REGISTER**.

In a mailgram received by the Commission on March 29, 1977, Mr. Michael Smith of Elk Grove, Ill., petitioned the Commission to develop a consumer product safety rule requiring cautionary labeling for new gas furnaces for residential homes. The petitioner stated his belief that carbon monoxide poisoning from gas furnaces occurs because of improper adjustment, improper installation, collapsed chimney, blocked stack, or malfunction due to improper design. He believes, therefore, that a warning label should be placed in plain view on new gas furnaces in residential homes by 1980 and that the label should read:

Warning. Improper adjustment, improper installation, or blocked flue stack can cause carbon monoxide poisoning. Consult your local building official or call your gas company for details.

The Commission denied an earlier petition from Mr. Smith (CP 76-14) requesting that the Commission develop a consumer product safety standard for gas furnaces and gas conversion furnaces to reduce the hazard of carbon monoxide (CO) fumes. Mr. Smith stated in CP 76-14 that the carbon monoxide fumes resulted from the same factors enumerated in his request for a labeling rule. The Commission denied CP 76-14 (42 FR 4882, January 26, 1977) and stated:

From the Commission's analysis of the information available to it, it appears that while the consequences of exposure to high levels of CO from gas furnaces are severe and occur with a frequency that is not negligible, the principal causes of dangerously high concentrations of CO from gas furnaces do not appear to be correctable through the issuance of a mandatory safety standard.

Information available to the Commission indicates that over 33 million gas furnaces and gas wall furnaces are currently in use in the United States. In reviewing available injury data, it was found that data reported to the National Electronic Injury Surveillance System (NEISS) showed that approximately 425 instances of poisoning or anoxia that were associated with gas furnaces and required hospital emergency room treatment occurred during fiscal year 1976. The Directorate for Hazard Identification and Analysis, Division of Program Analysis (HIEA), analyzed 46 reports of carbon monoxide poisoning associated with gas furnaces, including 36 death certificates, 7 in-depth investigations, and 3 consumer complaints. There were a total of 43 deaths, 5 hospitalizations, 16 emergency room treated injuries, and 3 cases in which the extent of the

injury was not stated. Although in most cases the exact cause of the carbon monoxide poisoning was not specified, HIEA was able to determine that 6 deaths, 4 hospitalizations, and 4 emergency room treated injuries resulted from damaged, clogged, blocked, or improperly installed vents.

**VOLUNTARY STANDARD**

On April 20, 1977, the Z21 Committee of the American National Standards Institute (ANSI) adopted for submission to ANSI a proposed revised standard for gas-fired central furnaces (ANSI Proposed Standard Z21.47). This proposed standard includes requirements for specific information to be furnished to homeowners, including information for examining the system, installation, maintenance, and a recommendation for an annual check of the system by a qualified service company.

The Commission has been informed that the proposed standard, along with two related standards, will be submitted to ANSI by the end of 1977. There will be a 60-day period for public comment prior to ANSI's final approval decision.

As noted by the Commission in its denial of Mr. Smith's earlier petition, voluntary standards for gas appliances are universally complied with by domestic gas furnace manufacturers. Conformance with voluntary standards was again recognized by the Commission in its decision concerning gas-fired space heaters, published September 14, 1977 (42 FR 46072):

\*\*\* the Commission also noted that conformance by manufacturers to voluntary standards is very high because certification by industry associations of gas appliances (such as heaters) installed in homes, is widely recognized in state and local building codes and safety regulations.

The label requested by the petitioner contains information similar to that in the proposed ANSI standard except that the petitioner's label would be installed on the furnace rather than included in the operating instructions. Also, the proposed voluntary standard does not specifically warn of the consequences as requested by the petitioner.

Although the proposed voluntary standard does not include a requirement for a specific warning regarding carbon monoxide poisoning, Mr. J. P. Langmead, Director of Technical Services, GAMA, has indicated to the Commission that the industry would be willing to consider a carbon monoxide warning label for incorporation into the Z21 standards.

After carefully evaluating the petition and the information currently available to the Commission, including advice on the likelihood of a carbon monoxide warning label being incorporated into a voluntary standard with

which there is a very high degree of conformance, the Commission concludes that a mandatory labeling requirement is not needed at this time to address the possible hazard associated with improperly maintained gas furnaces. In reaching this decision, the Commission also considered the resources available to the Commission for rulemaking for all consumer products.

Copies of the petition, the staff briefing package to the Commission, and the proposed voluntary standard may be seen in, or obtained from, the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Dated: January 5, 1978.

RICHARD E. RAPPS,  
Secretary, Consumer Product  
Safety Commission.

[FR Doc. 78-647 Filed 1-10-78; 8:45 am]

[3810-70]

## DEPARTMENT OF DEFENSE

Office of the Secretary

### DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on Thursday and Friday, 16-17 February 1978.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

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

JANUARY 6, 1978.

[FR Doc. 78-727 Filed 1-10-78; 8:45 am]

[3128-01]

## DEPARTMENT OF ENERGY

### ALTERNATIVE FUELS DEMONSTRATION PROGRAM<sup>1</sup>

<sup>1</sup>Draft issued as, "Synthetic Fuels Commercialization Program."

### Availability of Final Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE), the successor to the Energy Research and Development Administration (ERDA), has filed with the Council on Environmental Quality on November 29, 1977, a final Environmental Impact Statement, ERDA-1547, Alternative Fuels Demonstration Program (September 1977), which was prepared by ERDA. The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to support legislative actions pertaining to the implementation of a program to demonstrate the commercial viability of synthetic fuels. The draft of this Environmental Impact Statement was issued jointly by ERDA and the Department of the Interior (DOI) in January 1976 as Synthetic Fuels Commercialization Program to support specific legislation to create an incentives program for synthetic fuels. Since that time the legislation has undergone several revisions and DOI is no longer involved in the program. Therefore, DOI has determined that it should not coissue the final statement.

The final Environmental Impact Statement was prepared by ERDA staff and approved by the Acting ERDA Administrator on September 22, 1977. It was determined, however, that the document should be held for DOE review and concurrence in its release. While DOE concurs in the release of the document as an ERDA final Environmental Impact Statement, DOE is considering what program policy options are available to it that were not available to ERDA and what further NEPA review it should undertake in connection with this program.

The final Environmental Impact Statement contains a generic assessment of environmental and socioeconomic impacts which may be expected from the commercial demonstration program on alternative fuels and the estimation of those generic environmental impacts associated with a single hypothetical plant, as well as those associated with an entire synthetic fuels industry at production levels ranging from 350,000 to 1.7 million barrels per day. This Environmental Impact Statement will provide the environmental input into future decisions on the program and will serve as a reference for site specific environmental impact assessments or statements that may be prepared should this program be implemented.

Copies of the final Environmental Impact Statement have been furnished to those who commented on the draft statement and copies are available for public inspection at the DOE public document rooms located at:

U.S. Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C.  
U.S. Department of Energy, Room B120,  
2000 M Street NW., Washington, D.C.  
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base—East, Albuquerque, N. Mex.  
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.  
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.  
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.  
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.  
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.  
Richland Operations Office, Federal Building, Richland, Wash.  
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.  
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

In addition, a copy is also available at the:

Regional Energy/Environmental Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, Extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 5th day of January 1978.

For the Department of Energy.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

[FR Doc. 78-628 Filed 1-10-78; 8:45 am]

[3128-01]

### CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of December 9 through December 16,  
1977

Notice is hereby given that during the week of December 9 through December 16, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be

APPENDIX.—List of cases received by the Office of Administrative Review—Continued  
Week of December 9 through December 16, 1977

Date	Name and location of applicant	Case No.	Type of submission
12-13-77 ..	Eugene Endicott, Redmond, Ore. If granted: The November 28, 1977, remedial order issued by DOE region III would be rescinded and Endicott would not be required to refund overcharges made in its sales of motor gasoline.	DRA-0075 .....	Appeal of the November 28, 1977, remedial order issued by DOE region III.
12-13-77 ..	Johnson Oil Co., Inc., Battle Creek, Iowa. If granted: Johnson Oil Co. would not be required to file form P-315-M-0.	DEE-0390 .....	Exception to the reporting requirements.
12-13-77 ..	Sun Co., Inc., (Puerto Rico) Philadelphia, Pa. If granted: Puerto Rico Sun Co., a wholly owned subsidiary of Sun Co., Inc., would receive a 21 cents per barrel adjustment to its crude oil entitlements obligations.	DEE-0392 .....	Exception to the entitlements program.
12-13-77 ..	Trend Exploration, Ltd., Denver, Colo. If granted: Trend Exploration, Ltd., would be permitted to increase its prices to reflect non-product cost increases in excess of \$0.005 per gallon for natural gas liquid products.	DEE-0394 .....	Price exception (sec. 212.165).
12-13-77 ..	Yezbick's Inc., Troy, Mich. If granted: Yezbick's Inc., would be entitled to purchase motor gasoline from Mobil Oil Corp., instead of its base period supplier, Texaco, Inc.	DEE-0389 .....	Exception to change suppliers.
12-14-77 ..	Estate of H. L. Hunt, Dallas, Tex. If granted: The Nov. 10, 1977, remedial order issued by DOE region VI would be modified to eliminate the requirement that interest be paid on the refund and the refund requirements would be divided among the other owners of the properties.	DRA-0076 .....	Appeal of the Nov. 10, 1977, remedial order issued by DOE region VI.
12-14-77 ..	Hawthorne Oil and Gas Corp., Lafayette, La. If granted: Hawthorne Oil and Gas Corp. would be permitted to sell the condensate produced by the proposed replacement unit well, FI SUA, F. Tuten No. 6 in the Iowa Field, Calcasieu Parish, La., at upper tier ceiling prices.	DEE-0406 .....	Price exception.
12-14-77 ..	Kewanee Oil Co., Tulsa, Okla. If granted: Kewanee Oil Co. would receive an extension of the relief granted in the FEA's Aug. 9, 1977, decision and order which would permit the firm to sell the crude oil produced from the South Stanley Waterflood at upper tier ceiling prices.	DXE-0407 .....	Extension of the relief granted in <i>Kewanee Oil Co.</i> , 6 FEA Par. 83,053 (Aug. 9, 1977).
12-14-77 ..	Peeler Oil Co. would be permitted to sell its petroleum products at prices in excess of the level allowed under the mandatory petroleum price regulations.	DEE-0391 .....	Price exception (sec. 212.93).
12-14-77 ..	A. T. Skaer, Denver, Colo. If granted: Crude oil produced from Skaer's Wiant No. 3 well located in Washington County, Colo., would be sold at upper tier ceiling prices.	DEE-0408 .....	Price exception (sec. 212.73).
12-14-77 ..	The DOE's Office of Administrative Review and Wickland Oil Co., Sacramento, Calif. If granted: Wickland Oil Co. would receive an extension of the relief granted in DOE region IX's denial of Wickland Oil Co.'s application to quash a subpoena which was issued to the firm on Nov. 30, 1977.	DSG-0008 and DES-0016.	Request for special redress. Stay request.
12-15-77 ..	J. N. Abel, Austin, Tex. If granted: The remedial order issued by DOE region VI would be rescinded and Abel would not be required to refund overcharges made in the sales of crude oil produced at the LNB Hunter, LNB Trustees and Billings properties.	DRA-0077 and DRS-0077.	Appeal of the remedial order issued by DOE region VI. Stay request.
12-15-77 ..	Koch Exploration Co., Wichita, Kans. If granted: Koch Exploration Co. would receive an extension of the relief granted in DOE's Nov. 4, 1977, decision and order and would be permitted to sell the crude oil produced from the Cedar Rim No. 3 and Slink Draw No. 1 leases located in the Altamont-Bluebell field, Duchesne County, Utah, at upper tier ceiling prices.	DXE-0410 and DXE-0411.	Extension of the relief granted in <i>Koch Exploration Co.</i> , 6 DOE Par. — (Nov. 4, 1977).

deemed to be the date of the publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,  
Director, Office of Administrative Review.  
DECEMBER 30, 1977.

APPENDIX.—List of cases received by the Office of Administrative Review

Week of December 9 through December 16, 1977

Date	Name and location of applicant	Case No.	Type of submission
12-9-77 .....	Consumers Power Co., Jackson, Mich. If granted: Consumers Power Co. would be permitted to import, residual fuel oil into PAD districts I through IV on a license fee-free basis.	DPI-0001 .....	Exception from base fee requirements (pt. 213).
12-9-77 .....	Newhall Refining Co., Inc., Newhall, Calif. If granted: The DOE would review the entitlements exception relief granted to Newhall Refining Co., Inc., during its 1977 fiscal year in order to determine whether the level of exception relief approved was appropriate.	DEX-0011 .....	Review of entitlements exception relief (supplemental order).
12-9-77 .....	Wallace & Wallace Fuel Oil Co. and Wallace & Wallace Chemical & Oil Corp., Washington, D.C. If granted: Wallace & Wallace Fuel Oil Co. and Wallace & Wallace Chemical & Oil Corp., would be permitted to retroactively increase their prices for No. 2 fuel oil above the maximum levels allowed under the mandatory petroleum price regulations.	DEE-0388 .....	Price exception (sec. 212.93).
12-12-77 ..	Ozona Gas Processing Plant Dallas, Tex. If granted: Ozona Gas Processing Plant would receive an extension of the exception relief granted in the FEA's May 27, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products.	DXE-0396 .....	Extension of the relief granted in <i>Ozona Gas Processing Plant</i> , Case No. FEE-4029 (decided May 27, 1977) (unreported decision).
12-12-77 ..	Superior Oil Co., Houston, Tex. If granted: Superior Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Big Wells, Lowry, and Copalinga Nose plants.	DEE-0397 and DEE-0398 and DEE-0409.	Price exception (sec. 212.165).
12-12-77 ..	Superior Oil Co., Houston, Tex. If granted: Superior Oil Co. would receive an extension of the exception relief granted in the FEA's June 3, July 8, and July 25, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Cymric, Kettleman, Levelland, Portulla, Rio Bravo, Txl, and West Seminole plants.	DXE-0399 through DXE-0405.	Extension of the relief granted in <i>Superior Oil Co.</i> , Case Nos. FFE-4136, FFE-4144, FFE-4081 (decided June 3, 1977) (unreported decision), <i>Superior Oil Co.</i> , Case Nos. FFE-4093 through FFE-4094 (decided July 8, 1977) (unreported decision), <i>Superior Oil Co.</i> , Case No. FFE-4297 (decided July 25, 1977) (unreported decision).
12-12-77 ..	Union Oil Co., of California, Los Angeles, Calif. If granted: Union Oil Co., of California would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Santa Clara Valley plant.	DEE-0395 .....	Price exception (sec. 212.165).
12-13-77 ..	Dynamic Exploration, Inc., Lafayette, La. If granted: Dynamic Exploration, Inc., would be permitted to sell the crude oil produced from a proposed well in the Bayou Mallet Area in Acadia Parish, La., at upper tier ceiling prices.	DEE-0393 .....	Price exception (sec. 212.73).

## APPENDIX.—List of cases received by the Office of Administrative Review—Continued

Week of December 9 through December 16, 1977

Date	Name and location of applicant	Case No.	Type of submission
12-16-77...	Beacon Oil Co., Edgington Oil Co., Kern County Refining, Lunday-Thagard Oil Co., Mohawk Petroleum Corp., Navajo Refining Co., San Joaquin Refining Co., Southland Oil Co., Warrior Asphalt Co., and Young Refining Corp. If granted: The refiners listed above would receive stays of a portion of their entitlement purchase obligations pending a final determination on their applications for exception.	DEX-0012 through DEX-0021.	Supplemental order.

## NOTICES OF OBJECTION RECEIVED

Week of December 9 through December 16, 1977

Date	Name and location of applicant	Case No.
Dec. 12, 1977.....	Monsanto Co., Washington, D.C.....	FEE-4397.
Dec. 13, 1977.....	Jim Ellis, Tyler, Tex.....	FEE-4071.
Dec. 15, 1977.....	Moore & Miller, Oklahoma City, Okla.....	FEE-4792.
Dec. 15, 1977.....	Husky Oil Company of Delaware, Washington, D.C.....	DEX-0007.

[FR Doc. 78-502 Filed 1-10-78; 8:45 am]

## [3128-01]

## NATIONAL INDUSTRIAL ENERGY COUNCIL

## Renewal

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular No. A-63, as revised. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that it has been determined to be in the public interest, in connection with the performance of the duties imposed on the Department of Energy by law, to renew the National Industrial Energy Council.

A description of the nature and purpose of this Committee is contained in its Charter which is published below.

1. *Committee's Official Designation:* National Industrial Energy Council

2. *Committee's Objectives and Scope of Activities and Duties:* The Council advises the Secretary of Energy on programs and problems relating to the production, conservation, and utilization of energy within the industrial and commercial sectors and on matters concerned with national energy policy. The Council may identify and evaluate current and potential plans and actions of industry in the field of energy production, conservation, and utilization; provide a forum for the exchange of views on energy production, conservation, utilization, and national energy policy issues between government and the industrial and commercial sectors; identify and examine problems and recommend solutions concerning (1) the effects of industrial and commercial operations on energy

supply, and (2) improved production, use, and conservation of energy by the industrial and commercial sectors; and advise on policies, plans and actions of Federal, State, and local agencies involving energy production, use and conservation which affect the industrial and commercial sectors.

3. *Time Period Necessary for the Committee to Carry Out Its Purpose:* The nature of the Council's purpose and objectives necessitates an on-going and continuing status. It is anticipated that the need for advice and recommendations from the Council will continue for at least five years.

4. *Official to Whom This Committee Reports:* Secretary of Energy.

5. *DOE Organization Responsible for Providing Necessary Support for this Committee:* Intergovernmental and Institutional Relations.

6. *A Description of Duties for which the Committee is Responsible:* The duties of the Council are solely advisory and are stated in paragraph 2 above.

7. *Estimated Annual Operating Costs in Dollars and Manyears:* \$66,000; 2 manyears.

8. *Estimated Number and Frequency of Meetings:* The Council will meet approximately 4 times a year.

9. *Committee's Termination Date (if less than two years from the date of establishment or renewal):* Not applicable.

10. *Subcommittee(s):* To facilitate functioning of the Council, subcommittee(s) may be formed by the Secretary. The objectives of the subcommittee(s) are to make recommendations to the parent Council with respect to matters concerning DOE plans and programs which are related to the responsibilities of the parent

Council. Each subcommittee shall include at least one member representing residential consumers. All actions of the subcommittee(s) shall be consistent with the provisions of paragraphs 1 through 12 of this Charter.

11. *Members:* Committee members shall be appointed by the Secretary of the Department. That appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional one-year term following review.

12. *Chairman:* The Chairman shall be appointed by the Secretary for the first term and recommended to the Secretary through a Committee election thereafter.

Issued at Washington, D.C. on January 5, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

[FR Doc. 78-630 Filed 1-10-78; 8:45 am]

## [3128-01]

## WESTERN AREA POWER ADMINISTRATION

## Amendment to Notice of Proposed Amendment to Procedural Rules to Permit Interim Rates and Supplemental Proceedings

Reference is made to a notice which appeared at 43 FR 31 for Tuesday, January 3, 1978. On December 28, 1977, the Department of Energy issued a Notice of Proposed Amendment to Procedural Rules to permit interim rates and supplemental proceedings for the Western Area Power Administration. The Notice announced two public hearings as follows: Sacramento, California on January 31, 1978, and Washington, D.C. on February 3, 1978.

The DOE hereby amends the December 28, 1977, Notice by advising the public that the date of the Sacramento, Calif., hearing has been changed to February 7, 1978, and that both the Washington, D.C., and Sacramento hearings will commence at 9:30 a.m. The locations for each hearing as indicated in the December 28, 1977, Notice remain the same.

Issued in Washington, D.C., January 5, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

[FR Doc. 78-629 Filed 1-10-78; 8:45 am]

## [3128-01]

Economic Regulatory Administration  
[Ex Parte No. 308 (Sub-No. 1)]

## COMMON CARRIER PIPELINES

## Procedures for Investigation

AGENCY: Department of Energy.

ACTION: Notice of Procedures for Investigation of Common Carrier Pipelines.

**SUMMARY:** This notice provides guidance for continuation of proceedings under the Investigation of Common Carrier Pipelines, Ex Parte No. 308 (Sub-No. 1), initiated by the Interstate Commerce Commission (ICC) by order served February 24, 1976, and transferred to the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) effective October 1, 1977. The Office of Enforcement of the ERA will assume all functions previously performed by the Bureau of Investigations and Enforcement of the ICC. The Office of Administrative Review of the ERA will perform all functions in connection with the investigation that were previously performed by the members of the Interstate Commerce Commission or by any administrative law judge designated by the ICC to hear and decide any aspect of the matter.

**FOR FURTHER INFORMATION CONTACT:**

Richard Herzog, Assistant Administrator for Enforcement, 2000 M Street NW., Washington, D.C. 20461, 202-254-8740.

Melvin Goldstein, Director, Office of Administrative Review, 2000 M Street NW., Washington, D.C. 20461, 202-254-5134.

**SUPPLEMENTARY INFORMATION:**

By order served February 24, 1976, the ICC initiated an Investigation of Common Carrier Pipelines, Ex Parte 308 (Sub-No. 1), pursuant to section 11 of the Clayton Act, 15 U.S.C. 21, and sections 12 and 13 of the Interstate Commerce Act, 49 U.S.C. 12 and 13, in order to examine possible violations of section 7 of the Clayton Act, 15 U.S.C. 18, involving petroleum pipeline ownership. Proceedings thereunder were conducted pursuant to ICC Rules of General Practice, 49 CFR Part 1100. All common carrier pipelines subject to Part I of the Interstate Commerce Act were made respondents in the proceeding, and were served on July 8, 1976 with interrogatories propounded by the ICC's Bureau of Investigations and Enforcement (BIE). On March 2, 1977, the ICC served an order requiring that respondents which had not complied with such interrogatories do so within 30 days, and provided procedures in Appendix A thereof to protect the confidentiality of information submitted. This order was modified by an order on appeal served by the ICC on September 30, 1977, providing procedures for transmittal to the Bureau of Competition of the Federal Trade Commission of discovery material designated confidential pursuant to the March 2 order, subject to certain conditions respecting further use of the material by the bureau. A number of submissions, including motions for stay, motions relating to the interrogatories, and motions for reconsideration

have been filed in connection with that proceeding.

Pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101 et seq., as implemented by E.O. 12009, 42 FR 46267 (Sept. 15, 1977), and DOE Delegation Order No. 0204-4, proceedings under Ex Parte No. 308 (Sub-No. 1) were transferred to ERA. In accordance with the present structure of the ERA, the Office of Enforcement of the ERA will perform all functions previously performed in this matter by the ICC Bureau of Investigations and Enforcement. The Office of Administrative Review of the ERA will perform all functions in connection with proceedings under Ex Parte No. 308 (Sub-No. 1) that were previously performed by the members of the ICC or by an administrative law judge designated by the ICC to hear and decide any aspect of the matter. Consequently, all motions and pleadings that have previously been filed in this matter have been transferred to the ERA Office of Administrative Review. All further submissions involving this matter should similarly be addressed to the Office of Administrative Review, 2000 M Street NW., Washington, D.C. 20461.

Issued in Washington, D.C., January 4, 1977.

DAVID J. BARDIN,  
Administrator, Economic Regulatory Administration.

[FR Doc. 78-748 Filed 1-10-78; 8:45 am]

**[6740-02]**

**Federal Energy Regulatory Commission**

[Docket Nos. CS71-1125, et al.]

**APPLICATIONS FOR "SMALL PRODUCER" CERTIFICATES<sup>1</sup>**

JANUARY 3, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications 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 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

(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 Energy Regulatory 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 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.	Date filed	Applicant
CS71-1125 <sup>1</sup>	12/ 8/77	Greenbrier 65 Ltd., P.O. Box 297, Dallas, Tex. 75221.
CS72-544 <sup>1</sup> ...	6/15/77	General Crude Oil Co., P.O. Box 2252, Houston, Tex. 77001.
CS72-1146 <sup>1</sup>	12/ 5/77	Orion Gas Systems, Inc., P.O. Box 432, Tulsa, Okla. 74101.
CS73-434.....	7/11/77	Craico Corp., W. R. Grace & Co., Attention: H. D. Thornton, 1114 Avenue of the Americas, New York, N.Y. 10036.
CS75-287 <sup>1</sup> ...	6/21/77	The Polumbus Co., a division of W. R. Grace & Co. (successor in interest to The Polumbus Corp.), 3 Park Central—suite 200, 1515 Arapahoe St., Denver, Colo. 80202.
CS77-436.....	6/ 8/77	Southland Drilling Co., Inc., Mr. Neil E. Hanson, Attention: Charles Hughes, 9235 Katy Freeway—suite 222, Houston, Tex. 77024.
CS77-439.....	6/ 8/77	Neil E. Hanson, Inc., Mr. Neil E. Hanson, Attention: Charles Hughes, 9235 Katy Freeway—suite 222, Houston, Tex. 77024.
CS78-142.....	11/18/77	Chain Oil, Inc., 220 West 27th St., Scottsbluff, Nebr. 69361.

Docket No.	Date filed	Applicant
CS78-143.....	12/ 2/77	Diana S. Norris, c/o Joseph L. Castle, II, suite 525-1 Plymouth Meeting, Plymouth Meeting, Pa. 19462.
CS78-144.....	12/ 2/77	Elesabeth I. Gillet, c/o Joseph L. Castle, II, suite 525-1 Plymouth Meeting, Plymouth Meeting, Pa. 19462.
CS78-145.....	12/ 2/77	Texland Petroleum, Inc., 3402 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS78-146.....	12/ 2/77	Martha Dayanna Bond, P.O. Box 1394, Shawnee, Okla. 74801.
CS78-147.....	12/ 2/77	William F. Fall, P.O. Box 1394, Shawnee, Okla. 74801.
CS78-148.....	12/ 2/77	Fairman Drilling Co., Box 288, DuBols, Pa. 15801.
CS78-149.....	12/ 5/77	Lewis Chandler and R. Lewis Chandler Trust, 3400 Republic National Bank Bldg., Dallas, Tex. 75201.
CS78-150.....	12/ 5/77	Joe Gray, et al., 2200 1st National Bank Bldg., Dallas, Tex. 75202.
CS78-151.....	12/ 5/77	Sequoyah Oil And Gas Co., P.O. Box 295, Muldrow, Okla. 74948.
CS78-152.....	12/ 8/77	Gibraltar Gas Corp., 1710 The 600 Building, Corpus Christi, Tex. 78473.
CS78-153.....	12/ 8/77	Talvez Oil Corp., 1710 The 600 Building, Corpus Christi, Tex. 78473.
CS78-154.....	12/ 8/77	Joseph M. Baria, 1710 The 600 Building, Corpus Christi, Tex. 78473.
CS78-155.....	12/ 8/77	George R. Jones, 125 N. Market—suite 1310, Wichita, Kans. 67202.
CS78-156.....	12/ 8/77	James C. Ray, Suite 100E, 4350 East Camelback Rd., Phoenix, Ariz. 85018.
CS78-157.....	12/ 9/77	Omega Minerals, Inc., Bank & Trust Tower No. 39—suite 1140, Corpus Christi, Tex. 78477.
CS78-158.....	12/ 9/77	Charlton Havard Lyons, III, 1500 Beck Bldg., Shreveport, La. 71101.
CS78-159.....	12/ 9/77	Kingery Drilling Co., Inc., Box 1588, Ardmore, Okla. 73401.
CS78-160.....	12/ 9/77	Chessie Resources, Inc., 1225 Terminal Tower, Cleveland, Ohio 44103.
CS78-161.....	12/ 9/77	Dave VanHatten d.b.a. VanHatten Gas and Oil, Scharz Law Offices, 111 West Douglas, Wichita, Kans. 67202.
CS78-162.....	12/12/77	Jack Fletcher, Route 1, Box 133C, Midland, Tex. 79701.
CS78-163.....	12/12/77	Franz Weis, 2513 Camarie Ave., Midland, Tex. 79703.
CS78-164.....	12/12/77	Leigh M. Cerboskas, P.O. Box 3234, Midland, Tex. 79702.
CS78-165.....	12/12/77	Edward C. Skeeters, 10104 Ashglen Circle, Dallas, Tex. 75238.
CS78-166.....	12/12/77	Mary Anne Snowden, P.O. Box 489, Fort Morgan, Colo. 80701.

Docket No.	Date filed	Applicant
CS78-167.....	12/12/77	Richard H. Mason, 304 Exchange Bank Bldg., El Dorado, Ariz. 71730.
CS78-168.....	12/12/77	Blue Valley Farms, Inc., 304 Exchange Bank Bldg., El Dorado, Ariz. 71730.

\*Being noticed to reflect termination of Small Producer Certificate CS71-1125.  
 \*Being noticed to reflect termination of Small Producer Certificate CS72-544.  
 \*Being noticed to reflect termination of Small Producer Certificate CS72-1146.  
 \*Being noticed to reflect change of address.  
 \*Being noticed to reflect termination of Small Producer Certificate CS75-287.  
 \*Being noticed to reflect a change of address.  
 \*Being noticed to reflect a change of address.

[FR Doc. 78-504 Filed 1-10-78; 8:45 am]

### [6740-02]

#### Federal Energy Regulatory Commission

[Docket No. ER78-145]

#### ARIZONA PUBLIC SERVICE CO.

#### Proposed Rate Change

JANUARY 4, 1978.

Take notice that Arizona Public Service Company, (Arizona) on December 22, 1977, tendered for filing rate increases in its following FPC Electric Service Rate Schedules:

- 12—Electrical District No. 3
- 13—Electrical District No. 7
- 14—Maricopa County Municipal Water Conservation District No. 1
- 15—Roosevelt Irrigation District
- 16—Buckeye Water Conservation & Drainage District
- 17—Navopache Electric Co-operative, Inc.
- 34—Town of Wickenburg
- 35—Electrical District No. 6
- 50—Citizens Utilities Co.
- 51—Commission Federal de Electricidad Division Noroeste (Naco)
- 52—Papago Tribal Utility Authority
- 53—Comision Federal de Electricidad Division Baja, Calif. (Sonoyta)
- 54—Compania de Servicios Publicos de Agua Prieta, S.A.
- 57—Arizona Electric Power Cooperative, Inc.
- 58—Wellton-Mohawk Irrigation & Drainage District
- 59—Arizona Public Authority
- 65—Colorado River Indian Irrigation Project
- 66—San Carlos Indian Irrigation Project
- 68—Electrical District No. 1

Arizona states that the proposed rate changes would increase revenue from jurisdictional sales and service by \$9,554,036 based on the 12-month period ending January 31, 1978.

Arizona further states that the proposed changes are necessary to offset the rapidly escalating costs involved in rendering service under these schedules.

Arizona proposes an effective date of February 1, 1978, for all wholesale customers affected by this filing other than the following districts which Ari-

zona states are not unilaterally permissible:

- 12—Electrical District No. 3
- 13—Electrical District No. 7
- 14—Maricopa County Municipal Water Conservation District No. 1
- 15—Roosevelt Irrigation District
- 16—Buckeye Water Conservation & Drainage District
- 35—Electrical District No. 6

According to Arizona copies of this filing were served upon the Company's resale customers affected by the filing and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 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 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-607 Filed 1-10-78; 8:45 am]

### [6740-02]

[Docket No. CP78-132]

#### CITIES SERVICE GAS CO.

#### Application

JANUARY 4, 1978.

Take notice that on December 21, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP78-132 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of certain pipeline taps, measuring, regulating facilities and appurtenant facilities to enable Applicant to render natural gas service to authorized local gas distribution companies for resale to 20 rural domestic customers pursuant to right-of-way easements and agreements and gas storage leases heretofore entered into between Applicant and said customers, or to serve these customers directly if no local authorized natural gas distribution company is willing or able to make such service, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that all of the proposed customers have requested

gas service pursuant to the terms of the aforesaid right-of-way easements and agreements and gas storage leases, and that all of the proposed customers have relied upon the provisions for said natural gas service as contained in their respective right-of-way easements and agreements and gas storage leases, as said provisions constituted a major portion of the consideration given to said individuals by Applicant in exchange for the voluntary grant of said easements.

Applicant states that the total estimated cost of the facilities proposed herein to be constructed is \$12,920, which cost would be paid from treasury cash. Applicant further estimates that the annual sales made pursuant to this application would average approximately 250 Mcf for each rural domestic service proposed herein, and that a total of 20 such services are proposed. Their total annual sale is therefore estimated to be approximately 5,000 Mcf, it is said.

Specifically, Applicant seeks authorization in this application to:

- Item 1: Tap Applicant's Jane 20-inch transmission pipeline in Newton County, Missouri, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Joe Abramovitz.
- Item 2: Tap Applicant's Forbes AF Base 8-inch transmission pipeline in Shawnee County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Darrell Alexander.
- Item 3: Tap Applicant's McLouth Storage Field 20-inch pipeline in Leavenworth County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Bernie Barge.
- Item 4: Tap Applicant's North Edmond 12-inch transmission pipeline in Logan County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Lloyd Bass.
- Item 5: Tap Applicant's Holton 4-inch transmission pipeline in Jackson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Lorene V. Bottenberg.
- Item 6: Tap Applicant's Colony Storage Field 8-inch pipeline in Anderson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Vergil Calahan.
- Item 7: Tap Applicant's Caney-Wichita 12-inch transmission pipeline in Sedgwick County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Gary Cassatt.
- Item 8: Tap Applicant's Udall 3-inch transmission pipeline in Cowley County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Wallace Fauchier.
- Item 9: Tap Applicant's Sadalla 20-inch loop transmission pipeline in Miami County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Jay D. Gott.
- Item 10: Tap Applicant's Girard 6-inch transmission pipeline in Crawford County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Jim Green.

Item 11: Tap Applicant's Sterling 12-inch transmission pipeline in Grady County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Minnie Grooms.

Item 12: Tap Applicant's Springfield 16-inch transmission pipeline in Newton County, Missouri, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to O. F. Heckmaster.

Item 13: Tap Applicant's Gordon 8-inch transmission pipeline in Butler County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Charles Hillt.

Item 14: Tap Applicant's Hogshotter-Graham 16-inch transmission pipeline in Washington County, Oklahoma, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Keith E. Newby.

Item 15: Tap Applicant's Falls City 8-inch transmission pipeline in Brown County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Luther Pederson.

Item 16: Tap Applicant's Berryton 2-inch transmission pipeline in Shawnee County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Merle C. Sims.

Item 17: Tap Applicant's Quapaw 18-inch transmission pipeline in Newton County, Missouri, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to William E. Todhunter.

Item 18: Tap Applicant's McLouth Storage Field 20-inch pipeline in Leavenworth County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Jim Vandergriff.

Item 19: Tap Applicant's Parsons 10-inch transmission pipeline in Labette County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to Dale Wells.

Item 20: Tap Applicant's Craig Storage Field 6-inch pipeline in Johnson County, Kansas, and construct measuring, regulating and appurtenant facilities for delivery of natural gas to James. T. Wiglesworth.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 78-608 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. CP78-118]

COLUMBIA GAS TRANSMISSION CORP.

Application

JANUARY 4, 1978.

Take notice that on December 14, 1977, Columbia Gas Transmission Corp. (applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP78-118 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretation (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for 2 years of up to 600 Mcf of natural gas per average day for Glenshaw Glass Co., Inc. (Glenshaw), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the Federal Power Commission (FPC) order of February 7, 1977, in Docket No. CP77-105, applicant was authorized to transport up to 3,150 Mcf of natural gas per day for two years for Glenshaw. It is stated that such gas was to be produced from a well located in Enoch Township, Noble County, Ohio, by LNG Services, Inc. (LNG). The application states that the well from which the gas was to have been produced has not lived up to expectations, and that in an effort to replace volumes not obtainable from the Ohio production, Glenshaw and LNG have amended their gas purchase agreement to provide for the delivery of volumes to be produced from existing oil and gas wells located in Upshur County, W. Va.

Applicant proposes to receive the subject gas into its line 8452 in Banks district, Upshur County, W. Va., at a specific point to be mutually agreed

upon and to deliver the gas to Orange & Rockland Utilities, Inc. (Orange & Rockland), a wholesale customer of applicant at an existing point of delivery in Rockland County, N.Y., for the account of Glenshaw. It is stated that Orange & Rockland would in turn deliver the gas to Glenshaw for use at Glenshaw's Orangeburg, N.Y., plant.

It is said that the Glenshaw's Orangeburg, N.Y., plant produces glass bottles which are used to package a variety of products produced in the States of New York, Pennsylvania, Massachusetts, Maine, and Vermont. Glenshaw has installed alternate fuel facilities where possible but there is no alternate fuel capability for the refining, conditioning, and annealing process of glass production, it is said.

It is indicated that the amendment to the gas purchase agreement between Glenshaw and LNG does not alter the price to be paid for the gas which price is \$1.90 per Mcf with a 3 cents escalation in price every three months for the term of the contract. It is further stated that the subject gas is not available for resale in the intrastate market, and that the subject gas is subject to diversion to applicant on a temporary basis in emergency periods when, in applicant's sole judgment, such gas is required for the protection of priority 1 requirements on its system. Gas so diverted would be paid back as soon as practicable after the emergency period, it is said.

Applicant states that its charge for this service would be its average system-wide unit gathering, storage, and transmission cost exclusive of company-use and unaccounted-for gas, which is 23.06 cents per Mcf effective November 1, 1976, and that it would also retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Glenshaw, which percentage is currently 4 percent.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1978, file with the Federal Energy Regulatory 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 sub-

ject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 78-609 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. ER78-155]

**CONNECTICUT LIGHT & POWER CO.**

**Proposed Transmission Agreement**

JANUARY 5, 1978.

Take notice that on December 23, 1977, the Connecticut Light & Power Co. (CL&P) tendered for filing a proposed rate schedule with respect to transmission agreement dated November 1, 1977 between CL&P, the Hartford Electric Light Co. (HELCO), and Western Massachusetts Electric Co. (WMECO), and Middleborough Gas & Electric Department (Middleborough).

CL&P states that the transmission agreement provides for a transmission service to Middleborough during the period from November 1, 1977, to October 31, 1978.

CL&P further states that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the NU system determined in accordance with section 13.9 (determination of amount of pool transmission facilities (PTF) Costs) of the New England Power Pool (NEPOOL) agreement and the uniform rules adopted by the NEPOOL executive committee, multiplied by the number of kilowatts which Middleborough is entitled to receive.

CL&P proposed an effective date of November 1, 1977, and therefore requests waiver of the Commission's notice requirements.

According to CL&P, copies of this rate schedule have been mailed or delivered to HELCO, WMECO, and Middleborough.

Any person desiring to be heard or to protest said application should file

a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-618 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. ER78-152]

**CONNECTICUT LIGHT & POWER CO.**

**Proposed Purchase Agreement**

JANUARY 5, 1978.

Take notice that on December 23, 1977, the Connecticut Light & Power Co. (CL&P) tendered for filing a proposed rate schedule pertaining to a purchase agreement with respect to Montville Unit No. 6 between CL&P and North Attleborough Electric Department (NAED) dated as of September 6, 1977.

CL&P states that the purchase agreement provides for a sale to NAED of a specified percentage of capacity and energy from CL&P's Montville Unit No. 6 generating unit during the period November 1, 1977, through October 31, 1979.

CL&P requests that the Commission waive the thirty-day notice period and permit the rate schedule filed to become effective on November 1, 1977.

CL&P further states that the capacity charge rate for the proposed service is a rate determined on a cost-of-service basis. The monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance with section 13.9 of the New England Power Pool (NEPOOL) agreement and the uniform rules adopted by the NEPOOL executive committee, multiplied by the number of kilowatts of winter capability which NAED is entitled to receive. The energy charge is based on NAED's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive this charge.

According to CL&P, copies of this rate schedule have been mailed to NAED and North Attleborough, Mass.

Any person desiring to be heard or to protest said application should file

a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 19, 1978. 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. 78-619 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. ER78-153]

**HARTFORD ELECTRIC LIGHT CO.**

**Proposed Purchase Agreement**

JANUARY 5, 1978.

Take notice that on December 23, 1977, the Hartford Electric Light Co. (HELCO) tendered for filing a proposed purchase agreement with respect to Middletown Unit No. 4 (purchase agreement), dated September 6, 1977, between HELCO and North Attleborough Electric Department (NAED).

HELCO states that the purchase agreement provides for a sale to NAED of a specified percentage of capacity and energy from a fossil-fired intermediate type electric generating unit (Middletown Unit No. 4) during the period from November 1, 1977, to October 31, 1985, together with related transmission service.

HELCO requests that the Commission waive the thirty-day notice period and permit the rate schedule filed to become effective on November 1, 1977.

HELCO further states that the capacity charge rate for the proposed service is a rate determined on a cost-of-service basis. HELCO indicates that the monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance with section 13.9 of the New England Power Pool (NEPOOL) agreement and the uniform rules adopted by the NEPOOL executive committee, multiplied by the number of kilowatts of winter capability which NAED is entitled to receive. HELCO further indicates the energy charge is based on NAED's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive this charge. HELCO indicates that copies of this rate schedule have been mailed

or delivered to NAED and North Attleborough, Mass.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-620 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. CP78-1281]

**INTER-CITY MINNESOTA PIPELINES, LTD., INC.**

**Application**

JANUARY 4, 1978.

Take notice that on December 19, 1977, Inter-City Minnesota Pipelines, Ltd., Inc. (applicant), 1700-4444 St. Mary Avenue, Winnipeg, Canada R3C 3T7, filed in Docket No. CP78-128 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of additional volumes of natural gas to its customer, Inter-City Gas, Ltd., Inc. (Inter-City Gas), and authorizing an increase in the volumes of gas transported for ICG Transmission, Ltd., Inc., its Canadian counterpart pipeline, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to an order of August 10, 1970, as amended by order of September 26, 1973, the Federal Power Commission (FPC) authorized applicant in Docket Nos. CP70-288 and CP70-289 to import on a permanent, daily basis 48,296 Mcf of natural gas. To date applicant has not imported or sold in the United States volumes equivalent to its present authorization, it is said.

By this application, applicant requests authorization to sell an additional 3,500 Mcf of natural gas per day to Inter-City Gas pursuant to applicant's TWS-1 rate schedule during the period between November 1, 1977, and March 31, 1978, pursuant to an agreement executed November 23, 1977, between applicant and Inter-City Gas. It is indicated that the subject gas would be distributed in the amount of 500

Mcf daily to the Villages of Roseau and Baudette, Minn., and 3,000 Mcf daily at International Falls. It is further indicated that pursuant to such agreement temporary winter service sales would be made only on those days when applicant has gas available in excess of its firm contract volume service requirements.

Applicant also proposes to increase the volumes of natural gas transported under its rate schedule T-1 to 3,000 Mcf per day for the period November 1, 1977, through March 31, 1978, and to increase the volumes of gas to be transported under the said rate schedule to 1,000 Mcf for the remaining term of the term of the contract between applicant and ICG Transmission. These volumes are to be received by applicant from ICG Transmission at Sprague, transported across applicant's western Minnesota leg and redelivered to ICG Transmission at Baudette for consumption in Canada, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 78-610 Filed 1-10-78; 8:45 am]

[6740-02]

[Project No. 2803]

LAWRENCE GLEESON

Application for Preliminary Permit

JANUARY 4, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC), which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Public notice is hereby given that an application for a preliminary permit was filed on July 11, 1977, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Lawrence Gleeson (Correspondence to: Mr. Lawrence Gleeson, P.O. Box 35, Paoli, Pa. 19301), for the proposed Schuylkill-Lehigh River Project, FERC No. 2803, to be located on the Schuylkill and Lehigh Rivers in the Counties of Philadelphia, Montgomery, Berks, Schuylkill, and Northampton, Pa.

According to the application, the proposed project would consist of five hydroelectric developments. All five developments would utilize existing dams and, to varying degrees, existing

appurtenant facilities. The total storage available at the five existing dams is approximately 5,100 acre-feet. Applicant proposes to construct new powerhouses containing new generating units with a total installed capacity of 4,500 kW.

The five developments, as described in the application, would be as follows:

I-A—Manayunk Canal/Flat Rock Dam Development would be located on the Schuylkill River and would utilize the existing Flat Rock Dam and Manayunk Canal to deliver water through two existing tunnels to two new 500 kW generating units which would be located underground and downstream from the existing canal gatehouse.

II-A—Felix Dam Development would be located on the Schuylkill River and would utilize the existing Felix Dam. The existing navigational lock at the dam would be used as a forebay serving a new powerhouse containing two 500 kW generating units.

II-B—New Kernsville Dam Development would be located on the Schuylkill River and would utilize the existing New Kernsville Dam as well as an existing release gate structure and a 200-foot-long penstock to deliver water to a new powerhouse containing two 500 kW generating units.

II-C—Auburn Dam Development would be located on the Schuylkill River and would utilize the existing Auburn Dam. Water would be delivered to a new powerhouse containing one 500 kW generating unit.

III-E—Easton Dam Development would be located on the Lehigh River. Two alternative schemes of development are being investigated. One alternative would involve installation of a 1,000 kW generating unit in a new powerhouse to be located at the existing Easton Dam. The second alternative would involve utilizing the existing Easton Dam, Pennsylvania Canal, and unused powerhouse at Lock 22. Water would be conveyed from the Easton Dam via the Pennsylvania Canal to a new 500 kW generating unit which would be installed in the unused powerhouse.

The power developed by the proposed project would be wholesaled to utilities in Pennsylvania.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for a license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make protest with reference to said application should on or before March

22, 1978, file with the Federal Energy Regulatory 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. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-611 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. CP78-127]

NORTHERN NATURAL GAS CO.

Application

JANUARY 4, 1978.

Take notice that on December 19, 1977, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-127 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale approximately 1.9 miles of 3-inch residue pipeline and to abandon by removal a 4-inch measuring station all located in Irion County, Tex., all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Applicant presently owns approximately 1.9 miles of 3-inch pipeline and a 4-inch measuring station which connect the Ketchum Mountain extraction plant to Applicant's 16-inch El Dorado-Spraberry pipeline. Applicant states that such facilities were constructed to transport and measure residue gas volumes purchased by it from the outlet of the Ketchum Mountain plant. It is indicated that initial certificates for construction and operation of such facilities were issued to Pioneer Gathering System Inc., and Permian Basin Pipeline Co., on June 14, 1960, in Docket Nos. G-17192 and G-18320; the facilities were subsequently acquired by Applicant through merger.

The application states that the Ketchum Mountain plant is presently owned by J. L. Davis who also owns and operates the Irion County plant located approximately three miles from the Ketchum Mountain plant. It is indicated that due to declining volumes J. L. Davis constructed a pipeline from the Ketchum Mountain plant to the suction side of Irion County plant

and presently processes the volumes previously processed at Ketchum Mountain plant at the Irion County plant together with the volumes normally processed at the Irion County plant, thus eliminating the need to operate two extraction plants. It is indicated that since Applicant also purchases residue volumes from the Irion County plant, the residue pipeline and measuring station which connect Ketchum Mountain plant to Applicant's pipeline facilities can now be abandoned.

Applicant states that the residue pipeline is located within rights-of-way acquired by it from two individual property owners, and that one of the right-of-way grantors has orally agreed to purchase the 1.9 miles of pipeline in place. Applicant further states that an agreement with one of the right-of-way grantors is being finalized to sell the entire line for \$1 and other good and valuable consideration.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 78-612 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. CP78-122]

Northwest Pipeline Corp.

Application

JANUARY 4, 1978.

Take notice that on December 15, 1977, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-122 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 certain facilities and the transportation of natural gas in interstate commerce for Michigan Wisconsin Pipe Line Co. (Michigan-Wisconsin), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate a 20-inch tap connection on its main transmission line and the transportation of up to 90,000 Mcf per day of natural gas for the account of Michigan-Wisconsin. Applicant indicates that it has been informed that Michigan-Wisconsin has under contract or otherwise owns or controls certain natural gas reserves in Wyoming which are a considerable distance from Michigan-Wisconsin's existing transmission system, and that in order to make such gas available to Michigan-Wisconsin, Michigan-Wisconsin and Applicant have entered into three agreements which contemplate that Applicant would perform certain gathering and transportation services for the benefit of Michigan-Wisconsin. The three agreements are as follows:

(1) A gas transportation agreement dated September 23, 1977, which provides that Applicant would transport for the account of Michigan-Wisconsin volumes of natural gas delivered into Applicant's mainline for the account of Michigan-Wisconsin at two points on Applicant's transmission system in the vicinity of Lincoln County, Wyo., and/or in Sweetwater County, Wyo.

(2) A gas gathering and transportation agreement dated September 23, 1977, which provides that Applicant would, as necessary, gather such volumes of natural gas as Michigan-Wisconsin may control in the Lincoln Road Unit Area in Sweetwater County, Wyo. and transport such gas to Applicant's main transmission system for further transportation by Applicant pursuant to agreement described in (1) above.

(3) A gas gathering and transportation agreement dated September 23, 1977, which provides that Applicant would, as necessary, gather such volumes of natural gas as Michigan-Wisconsin may control in the Creston Nose Area of Carbon County, Wyo. and to arrange delivery of such volumes to Applicant's main transmission system by displacement or otherwise for further transportation by Applicant pursuant to agreement described in (1) above.

Pursuant to the transportation agreement dated September 23, 1977, Applicant would transport up to 175,000 Mcf of natural gas per day for the account of Michigan-Wisconsin; however, 15,000 Mcf and 10,000 Mcf have been reserved for transporting the volumes of natural gas which Michigan-Wisconsin anticipates would be developed in the Creston Nose and Lincoln Road prospects, respectively, it is said. Applicant requests herein authorization to transport 90,000 Mcf per day as that is the maximum volume which Michigan-Wisconsin would initially transport through its reserved capacity in the project proposed by Wyoming Interstate Natural Gas System (Wings) in the filing submitted to the Commission on November 23, 1977 in Docket No. CP78-99.

It is stated that in addition to the agreements specified above, Applicant and Michigan-Wisconsin through wholly owned subsidiaries, Trans-Intermountain Gas & Energy Co. (Tiger) and American Natural Rocky Mountain Co. (ANRMC), respectively, have formed a general partnership, Wings, for the purpose of constructing and operating a natural gas transmission system from north central Wyoming to a point of interconnection with the transmission facilities of Applicant in Sweetwater County, Wyo. Pursuant to Wings' application filed in Docket No. CP78-99, it is contemplated that Wings would transport natural gas for Michigan-Wisconsin and Applicant, and that Wings would deliver the volumes of gas to Applicant at a point of interconnection between the facilities of Wings and Applicant in Lincoln County, Wyo. The gas delivered by Wings to Applicant for Michigan-Wisconsin's account would be further transported for the account of Michigan-Wisconsin pursuant to the gas transportation agreement dated September 23, 1977.

Applicant proposes herein to receive up to 90,000 Mcf of natural gas per day from Wings for the account of Michigan-Wisconsin at the aforementioned point of interconnection in Lincoln County, Wyo. and transport and deliver and equivalent volume of natural gas to El Paso Natural Gas Co. (El Paso) for the account of Michigan-Wisconsin at an existing point of interconnection between the facilities of

El Paso and Applicant at the discharge of Applicant's Ignacio Compressor Station located in La Plata County, Colo. It is indicated that El Paso would transport or otherwise redeliver like or equivalent volumes to Natural Gas Pipeline Co. of America (Natural) for the account of Michigan-Wisconsin for ultimate delivery to Michigan-Wisconsin.

Pursuant to the agreement dated September 23, 1977, Applicant proposes to charge Michigan-Wisconsin a transportation charge of 1 cent per Mcf for all gas redelivered under the agreement. The 1 cent rate is predicated on Applicant's continuing ability to deliver by displacement the gas to be redelivered to Michigan-Wisconsin, it is said. Applicant indicates that in the event that delivery by displacement is diminished due to its prior commitments on its transmission system or due to physical or legal limitations imposed on Applicant's displacement capability, so that actual transportation of all or any portion of Michigan-Wisconsin's gas is required, than the 1 cent per Mcf charge would be increased to Applicant's then effective rolled-in transmission cost of service or such other appropriate rate as may be established and approved by the Commission.

Applicant proposes to construct and operate the 20-inch tap connection at the proposed point of interconnection between the facilities of Applicant and those proposed by Wings in Lincoln County, Wyo. at an estimated cost of \$180,200, which amount would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 78-613 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. CP78-130]

NORTHWEST PIPELINE CORP.

Application

JANUARY 4, 1978.

Take notice that on December 20, 1977, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-130 an application pursuant to section 7(c) of the Natural Gas Act for certificate of public convenience and necessity authorizing the exchange of natural gas with Southern Union Gathering Co. (Southern Union), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that pursuant to the Federal Power Commission's order of September 21, 1973, Applicant was authorized at Docket Nos. CP74-14 and CP73-331 to acquire and operate certain assets and properties of El Paso Natural Gas Co. (El Paso), and to render the services provided thereby, and that El Paso was also given permission and approval to abandon such assets and services acquired by Applicant. It is indicated that as of January 31, 1974, a conveyance was executed and delivered from El Paso to Applicant, which conveys El Paso's interest in the properties and services. Applicant then assumed all duties and obligations with reference to the divested properties and contracts including certain sales and deliveries to Southern Union Co. (Southern) and certain gathering and exchange arrangements with Southern, it is said.

It is stated that pursuant to a service agreement dated November 1, 1971, between Southern and El Paso, El Paso has continued the sale of natural gas to Southern at three locations on the divested gathering system in the San Juan Basin area, pending the completion of satisfactory arrangements between Southern and Applicant for the continuation of such service by Applicant. It is further stated that the sub-

ject sales are made at three taps on Applicant's pipeline system located in Rio Arriba County, N. Mex. at the Dulce Independent School, the Gobernado Baptist Mission and the Carson National Forest.

The application states that during the period February 1, 1974 through October 31, 1977, El Paso sold a total of approximately 6,200 Mcf to Southern at the three subject delivery points, and that these volumes and any additional deliveries made before the effective date of the instant proposal are subject to a letter agreement dated November 17, 1977, between El Paso and Applicant wherein El Paso acknowledges that the volumes sold by El Paso at the three points were provided by Applicant and agrees, upon receipt of requisite authorizations, to return equivalent quantities of gas to Applicant at the existing points of interconnection between Applicant's and El Paso's facilities that are subject to the San Juan Gathering Agreement dated January 31, 1974 between El Paso and Applicant.

Applicant states that since divestiture, in accordance with the provisions of certain gas exchange agreements between El Paso and Southern Union and to the extent that such agreements apply to properties divested to Applicant, Applicant has continued the exchange of natural gas with Southern Union. Said exchange has involved, inter alia, the delivery by each party to the other of volumes of gas from each party's interest in wells which are connected to the other party's gathering system, the delivery to Southern Union by Applicant of requested volumes at the Jicarilla (Chama) delivery point and, when necessary, the balancing of the total exchange volumes by deliveries at other locations.

It is stated that arrangements would be made to settle any exchange gas imbalance remaining between Southern Union and Applicant as of the effective date of the new exchange proposal herein. It is anticipated that Southern Union, El Paso, and Applicant would arrange for the necessary balancing adjustment between Applicant and Southern Union to be accomplished by equivalent adjustments to the then existing exchange gas balances under the authorized agreements between Applicant and El Paso, on the other hand, and El Paso and Southern Union, on the other hand, it is indicated.

By this application, Applicant requests authorization to exchange natural gas with Southern Union pursuant to a gas gathering and exchange agreement dated December 1, 1976, between Applicant and Southern Union, which agreement provides for continuation of the above-described exchange of gas and the addition of three new

exchange delivery points, thus enabling Applicant to provide service to Southern Union at the locations where El Paso is currently making the previously described sales to Southern.

It is indicated that Applicant and Southern Union would accomplish the exchange of gas as follows:

(1) Applicant would deliver to Southern Union all of Applicant's share of gas produced from wells connected to Southern Union's gathering system;

(2) Applicant would make deliveries to Southern Union at specified points on Southern Union's pipeline and at the three locations where sales are currently being made by El Paso, in the amounts as requested from time to time by Southern Union;

(3) Southern Union would deliver to Applicant all of Southern Union's interest in gas produced from wells connected to Applicant's gathering system; and

(4) Southern Union would make deliveries to Applicant at a point of interconnection in San Juan County, N. Mex. in the amounts as requested by Applicant or as necessary to effect the balancing of the total volumes of gas delivered by each party.

It is the intent of the parties that through exchange of gas from each party's wells and through delivery at the point of interconnection each party would receive, on a reasonable concurrent basis, equivalent volumes, it is said.

Applicant states that it would pay to Southern Union a gathering charge of 16 cents per Mcf for all gas delivered by Southern Union at the delivery point described in Item 4 above and, likewise, a gathering charge of 16 cents per Mcf would be paid by Southern Union to Applicant for all volumes delivered by Applicant at the points described in Item 2 above. Applicant indicates that its 16 cents per Mcf gathering charge for gas at 15.025 psia is supported by its current cost of gathering natural gas in the San Juan Basin area which is 16.08 cents per Mcf at a pressure base of 15.025 psia.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1978, file with the Federal Energy Regulatory 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 sub-

ject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 78-614 Filed 1-10-78; 8:45 am]

[6740-02]

[Project No. 77]

PACIFIC GAS AND ELECTRIC CO.

Application for Approval of Previously  
Unauthorized Use of Project Property

JANUARY 4, 1978.

Public notice is hereby given that an application for approval of previously unauthorized use of project property was filed on June 6, 1977, pursuant to the Federal Power Act (16 U.S.C. 791a-824r) by Pacific Gas and Electric Co. (Correspondence to: Mr. W. M. Gallavan, Vice President—Rates and Valuation, Pacific Gas and Electric Co., 77 Beale Street, San Francisco, Calif. 94106), licensee for the Potter Valley Project, FERC No. 77. The project is located in Mendocino County near Ukiah, Calif.

The licensee requests that the Commission authorize it to permit the construction, maintenance, and use of a waterwheel and related facilities for generating electricity at an erosion control check dam on the tallrace canal approximately ½ mile downstream of the Potter Valley powerhouse. The development would be undertaken by Walter H., Patricia V., Harry V., and Dorothy L. Hammeken to generate small amounts of electricity for use on their property adjacent to the canal. The Hammekens propose to install a 7-foot diameter, 20-foot long paddle wheel, which would span the canal along the crest of the dam and would be turned by water flowing over the erosion control check dam.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Public Law 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No.

12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1978 file with the Federal Energy Regulatory 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. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-615 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. ER78-158]

PACIFIC POWER & LIGHT CO.

Initial Rate Filing

JANUARY 5, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on December 27, 1977, tendered for filing, in accordance with section 35.12 of the Commission's Regulations, a Letter Agreement with Bonneville Power Administration (Bonneville) and Central Electric Cooperative, Inc., (Central), providing for emergency standby service and establishment of a 69 kv interconnection between Pacific and Central.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective as of December 28, 1976.

According to Pacific copies of this filing are being supplied to Bonneville and Central.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 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 16, 1978. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-604 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. CP78-131]

TENNESSEE GAS PIPELINE CO., A DIVISION OF  
TENNECO INC.

Application

JANUARY 4, 1978.

Take notice that on December 21, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-131 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 4,000 Mcf of natural gas per day for Mid Louisiana Gas Co. (Mid Louisiana), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport gas for Mid Louisiana pursuant to a gas transportation agreement dated December 16, 1977, between the two parties. Applicant proposes to transport for Mid Louisiana, through its existing facilities, natural gas produced in Plaquemines Parish, La., which gas Mid Louisiana purchases from Louisiana Land & Exploration Co. (LL&E). It is stated that Mid Louisiana would deliver, or cause to be delivered, such gas to Applicant at a proposed interconnection on Applicant's Line No. 527A-101 plus 6.57 miles, located in Plaquemines Parish, and that Applicant would redeliver equivalent volumes, less volumes for Applicant's fuel and use requirements, to Transcontinental Gas Pipe Line Corp. (Transco), for the account of Mid Louisiana, at a point of interconnection of the facilities of Transco and Applicant at Applicant's Main Line Valve No. 506-1 plus 0.97 miles, near Kinder, La.

Applicant indicates that Mid Louisiana would pay Applicant each month for transportation service: (1) a demand charge to be determined by multiplying 57 cents by the transportation quantity and (2) a volume charge equal to 7.31 cents per Mcf multiplied by (a) the total of the volumes delivered during such month or (b) the number of days in said month multiplied by 66% percent of the transportation quantity, whichever is

greater, plus a charge for the transportation of any volumes in excess of the transportation quantity as provided therein. Applicant further indicates that it would retain, for its fuel and use requirements, a daily volume of natural gas equal to 1.41 percent of the volume received by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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.

[6740-02]

[Docket No. CP76-502]

UNITED GAS PIPE LINE CO. AND CHANDELEUR  
PIPE LINE CO.

Petition to Amend

JANUARY 4, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009 FR 46267 (September 15, 1977), the

Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR—, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on December 16, 1977, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Tex. 77001, and Chandeleur Pipe Line Co. (Chandeleur), P.O. Box 3495, San Francisco, Calif. 94119, (Petitioners) filed in Docket No. CP76-502 a petition to amend the order of March 25, 1977 (57 FPC—) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the exchange of natural gas between Petitioners for an additional two-year period, all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of March 25, 1977 and an agreement dated August 23, 1976 between Petitioners, United delivers up to 50,000 Mcf of gas per day to Chandeleur during the period April 1 through October 31 (or, if agreeable to Petitioners to December 1). It is further indicated that Chandeleur, in turn, redelivers equivalent volumes to United during the following months of November through March. Deliveries and redeliveries of all such exchange volumes are made through existing facilities near Pascagoula, Jackson County, Miss., on a Mcf for Mcf basis, there being no other charges by either party, it is said.

Petitioner states that the term of the present authorization in the instant docket extends until April 1,

1978, but because of United's continuing need to increase its available supply of natural gas during winter heating seasons beyond those covered by the initial agreement, and because Chandeaur is willing to assist United in this effort, Petitioners have mutually agreed to extend the agreement for an additional two-year period.

The petition states that pursuant to an agreement dated November 1, 1977, which amends the August 23, 1976, agreement, United proposes to deliver gas to Chandeaur commencing on April 1, 1978 and ending November 1, 1978 (or at such later date mutually agreeable to Petitioners but not later than December 1, 1979). It is indicated that in turn, Chandeaur would make equivalent deliveries to United commencing on November 1, 1978 (or at such later date as Applicants may mutually agree) and ending April 1, 1979 and beginning on November 1, 1979 (or at such later date as Petitioners may mutually agree) and ending on April 1, 1980.

Petitioners state that the total quantity of gas exchanged would not exceed the 50,000 Mcf per day originally certificated in the instant docket.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 20, 1978, file with the Federal Energy Regulatory 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.

KENNETH F. PLUMB,  
*Secretary.*

[FR Doc. 78-617 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. ER78-154]

Wisconsin Power and Light Co.

Filing of Letter Agreement

JANUARY 5, 1978.

Take notice that on December 23, 1977, Wisconsin Power and Light Co. (WPL) tendered for filing a Letter Agreement dated September 21, 1976, between WPL, Madison Gas and Electric Co. (MGE), Wisconsin Public Service Corp. (WPS), and Wisconsin Electric Power Co. (WE).

WPL indicates that said Letter Agreement provides for WPL, MGE, WPS, collectively, to supply WE with 155,000 kW of limited term power for the twelve month period beginning June 1, 1978<sup>1</sup> and ending May 31, 1979; 85,000 kW of limited term power for the twelve month period beginning June 1, 1979 and ending May 31, 1980; and up to 100,000 kW of available short term power for the twelve month period beginning June 1, 1979 and ending May 31, 1980.

WPL further indicates that this reservation and sale of power by WPL, MGE, and WPS, collectively, to WE is in accordance with Article 3 and presently effective Service Schedules A and D of the respective Interconnection Agreements of WPL, MGE, and WPS with WE dated December 23, 1969; June 3, 1965; and June 7, 1971 and all as amended effective May 1, 1973.

WPL requests an implied effective date of June 1, 1978.

WPL states that copies of this filing have been provided to WPS, MGE, and WE.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Paragraph 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 16, 1978. 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. 78-605 Filed 1-10-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER78-143]

CONNECTICUT LIGHT & POWER CO.

Proposed Purchase Agreement

JANUARY 4, 1978.

Take notice that on December 22, 1977, the Connecticut Light & Power Co. (CL&P) tendered for filing a proposed purchase agreement with respect to various gas turbine units, dated October 26, 1977, between CL&P

<sup>1</sup>Or when 750,000 kW of accredited capacity becomes available from the Columbia Plant, whichever is later.

and the Hartford Electric Light Co. (HELCO), and Westfield Gas & Electric Department (Westfield).

CL&P states that the purchase agreement provides for a sale to Westfield of a specified percentage of capacity and energy from five gas turbine generating units (Norwalk Harbor, Devon, Enfield, Middletown, and Torrington Terminal) during the period from November 1, 1977, to April 30, 1978, together with related transmission service.

CL&P further states that the capacity charge for the proposed service was a negotiated rate. CL&P indicates that the monthly transmission charge is equal to one twelfth of the annual average unit cost of transmission service on the Northeast utilities system determined in with section 13.9 of the New England power pool (NEPOOL) agreement and the uniform rules adopted by the NEPOOL executive committee, multiplied by the number of kilowatts of winter capability which Westfield is entitled to receive.

CL&P proposes an effective date of November 1, 1977, and therefore requests waiver of the Commission's notice requirements.

According to CL&P copies of this rate schedule have been mailed to HELCO and Westfield.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
*Secretary.*

[FR Doc. 78-758 Filed 1-10-78; 8:45 am]

[6740-02]

[Docket No. ER78-146]

FLORIDA POWER CORP.

Filing of Contract

JANUARY 4, 1978.

Take notice that on December 22, 1977, Florida Power Corp. ("Florida Power") tendered for filing a contract for interchange service ("contract") between Lake Worth Utilities Authority and Florida Power. Florida Power states that the contract provides for

economy energy interchange service. Florida Power requests that the contract, in accordance with its terms, be permitted to become effective on February 15, 1978.

Florida Power further states that copies of the contract were served upon the Lake Worth Utilities Authority and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-759 Filed 1-10-78; 8:45 am]

#### [6740-02]

[Docket No. ER78-140]

#### NEW BEDFORD GAS & EDISON LIGHT CO.

##### Termination of Rate Schedule

JANUARY 4, 1978.

Take notice that on December 19, 1977, New Bedford Gas & Edison Light Co. (New Bedford) tendered for filing a notice of termination for its currently effective FPC rate schedule

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-760 Filed 1-10-78; 8:45 am]

#### [6740-02]

[Docket No. ER78-141]

#### PACIFIC POWER & LIGHT CO.

##### Initial Rate Filing

JANUARY 4, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on December 20, 1977, tendered for filing, in accordance with §35.12 of the Commission's regulations, a new rate schedule for power sales to Nevada Power Co., Western Area Power Administration, and Arizona Public Service Co. Pacific states that under this schedule Pacific supplies excess firm energy to the purchasers.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective November 10, 1977.

Pacific further states that copies of this filing were supplied to the purchasers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-761 Filed 1-10-78; 8:45 am]

#### [6712-01]

### FEDERAL COMMUNICATIONS COMMISSION

#### NOTIFICATION LIST

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

DECEMBER 5, 1977.

#### CANADIAN LIST No. 369

					Ground system		Proposed date of commencement of operation
					Antenna Height (feet)	No. of radials	
CKY (change in directional antenna system).	Winnipeg, Manitoba, N. 49°39'09", W. 97°09'00"	580 kHz	50 DA-2.....	U	III .....		E.I.O. 12.5.78
CFBK (change of call letters).	Huntsville, Ontario, N. 45°17'38", W. 79°12'21"	630 kHz	1 DA-N, ND-D-182.	U	III .....		

					Antenna Height (feet)	Ground system		Proposed date of commencement of operation
						No. of radials	Length (feet)	
CBO (delete)	Ottawa, Ontario, N. 45°22'48", W. 75°33'19"	910 kHz	5 DA-1.....		III .....			
CBO (now in operation)	Ottawa, Ontario, N. 45°11'09", W. 75°44'53"	920 kHz	50 DA-2.....	U	III .....			
CJCA (now in operation)	Edmonton, Alberta, N. 53°23'00", W. 113°28'32"	930 kHz	50 DA-2.....	U	III .....			
CFBC (change of height of two towers in night antenna system).	Saint John, New Brunswick, N. 45°13'55", W. 68°06'15" (PO 10D/5N)	do	50 DA-2.....	U	III .....			E.I.O. 12.5.78
CKWX (change in overall height of antenna towers, otherwise identical to notification in List 364).	Vancouver, British Columbia, N. 49°08'22", W. 123°04'00"	1,130 kHz	50 DA-1.....	U	I-B .....			E.I.O. 6.27.78
CBOF (now in operation)	Ottawa, Ontario, N. 49°11'09", W. 75°44'53"	1,250 kHz	50 DA-2.....	U	III .....			
CHRB (assignment of call letters).	High River, Alberta, N. 50°29'11", W. 113°51'04"	1,280 kHz	10 DA-2.....	U	III .....			E.I.O. 1.19.78
CJME (changes in proposed directional antenna system).	Regina, Saskatchewan, N. 50°23'54", W. 104°32'44" (PO 1 kW DA-1)	1,300 kHz	DA-2.....	U	III .....			E.I.O. 12.5.78
CKO (change of call letters)	Pointe Claire, Quebec, N. 45°20'03", W. 73°35'35" (PO 10D/5N, DA-2, N. 45°23'09", W. 73°45'45")	1,470 kHz	50 DA-1.....	U	III .....			Do.

WALLACE E. JOHNSON, *Chief, Broadcast Bureau,*  
*Federal Communications Commission.*

[FR Doc. 78-531 Filed 1-10-78; 8:45 am]

## [6210-01]

### FEDERAL RESERVE SYSTEM

#### QUITMAN CAPITAL CORP.

##### Formation of Bank Holding Company

Quitman Capital Corp., Quitman, Miss., has applied for the Board's approval under §3(a)(1) of the Bank Holding Company Act (12 U.S.C. §1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of Bank of Quitman, Quitman, Miss. The factors that are considered in acting on the application are set forth in §3(c) of the Act (12 U.S.C. §1842(c)).

Quitman Capital Corp., Quitman, Miss., has also applied, pursuant to §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 (12 CFR §225.4(b)(2)), for permission to engage de novo in the sale of credit life insurance and credit accident and health insurance. Notice of the application was published on December 9, 1977, in *The Meridian Star*, a newspaper circulated in Meridian, Lauderdale County, Miss., and in *The Clarke County Tribune*, a newspaper circulated in Quitman, Clarke County, Miss.

Applicant states that it would engage in the sale of credit life insurance and credit accident and health insurance. 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 "rea-

sonably 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 Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than January 24, 1978.

Board of Governors of the Federal Reserve System, January 5, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[FR Doc. 77-652 Filed 1-10-77; 8:45 am]

[6210-01]

**SBT CORP.****Formation of Bank Holding Company**

SBT Corp., Savannah, Ga., has applied for the Board's approval under §3(a)(1) of the Bank Holding Company Act (12 U.S.C. §1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Savannah Bank & Trust Co. of Savannah, Savannah, Ga. The factors that are considered in acting on the application are set forth in §3(c) of the Act (12 U.S.C. §1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 24, 1978.

Board of Governors of the Federal Reserve System, January 4, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[FR Doc. 78-654 Filed 1-10-78; 8:45 am]

[1610-01]

**GENERAL ACCOUNTING OFFICE****REGULATORY REPORTS REVIEW****Receipt of Report Proposal**

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 5, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 30, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, Room

5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

**NUCLEAR REGULATORY COMMISSION**

The NRC requests an extension without change clearance of the application, reporting and recordkeeping requirements contained in 10 CFR 55.10, 55.33, 55.41 and Appendix A of Part 55. Part 55 contains the requirements for Operators' Licenses of nuclear facilities. Section 55.10 contains the requirements for Contents in Applications for an operator's license, i.e., education, experience, identity of the facility, physical condition and general health, and training. Section 55.33, Renewal of Licenses, contains the requirements for information which must be submitted on the renewal of an operator's license. Section 55.41 requires that the licensed operator notify the NRC of any disability which occurs after the submission of his medical examination form. Appendix A of 10 CFR 55 requires periodic requalification for operators. Section 5 of Appendix A requires that records of the requalification program be maintained to document each licensed operator's or senior operator's participation in the requalification program. The NRC estimates that respondents number approximately 2,390 and that burden per respondent under Section 55.10 is 20 minutes per application; under Section 55.33 burden is 20 minutes per renewal; under Section 55.41 burden is 15 minutes per report; and under Appendix A burden is 15 minutes per recordkeeping entry.

NORMAN F. HEYL,  
Regulatory Reports,  
Review Officer.

[FR Doc. 78-642 Filed 1-10-78; 8:45 am]

[4110-02]

**DEPARTMENT OF HEALTH,  
EDUCATION AND WELFARE****Office of Education****NATIONAL ADVISORY COUNCIL ON  
VOCATIONAL EDUCATION****Meeting**

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1,

10(a)(1)). This document is intended to notify the general public of their opportunity to attend.

DATES: January 31, 1978-February 2, 1978.

ADDRESS: Hyatt Regency Hotel, 711 South Hope Street, Los Angeles, Calif. 90017.

**FOR FURTHER INFORMATION  
CONTACT:**

Virginia Solt, NACVE Staff, 425 13th Street NW., Suite 412, Washington, D.C. 20004, 202-376-8873.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(a) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(b) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(c) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On January 31, 1978, from 7 p.m. to 10 p.m., meetings of the Council's committees and task forces will convene at the Hyatt Regency as follows:

BOAE Task Force.  
Technical Assistance Committee.  
Legislative Committee.  
Employment and Training Task Force.  
MERC Task Force.  
Task Force on Sex Equity in Vocational Education.  
Task Force on the Handicapped.

Meeting rooms will be posted on the lobby board.

On February 1, 1978, the National Advisory Council on Vocational Education will meet in regular session from 8:30 a.m. to 5 p.m. at the Hyatt Regency Hotel. The meeting room will be posted on the lobby board. The following agenda items will be included in the meeting:

A.m.—Report of the Chairman. Report of the Executive Director. Approval of December minutes. Introduction and welcome of guests. Review of budget commitments. Discussion of other Council business.

P.m.—Reports of committees and task forces. Discussion of other Council business (continued).

Under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), and clauses (2) and (6) of subsection (c) of section 552 of Title 5 of the United States Code, the Council session of February 1, 1978, will be closed to the public between the hours of 4 p.m. and 5 p.m. Closure of this section of the Council meeting is to discuss internal personal matters which, if open to the public, would constitute a clearly unwarranted invasion of personal privacy, which is exempt from disclosure under 5 U.S.C. 552b(c)(6). The remainder of the Council meeting, from 8:30 a.m. to 4 p.m. on February 1, 1978, will be open to the public.

The Council Meeting of February 2, 1978, will consist of visits to selected vocational education sites in the Los Angeles area, starting at 8 a.m. and concluding at 5 p.m.

Records shall be kept of all Council proceedings and shall be available fourteen days after the meeting for public inspection at the Office of the National Advisory Council on Vocational Education, located at 425 13th Street NW., Suite 412, Washington, D.C. 20004, under 5 U.S.C. 552(b).

Signed at Washington, D.C., on December 16, 1977.

REGINALD E. PETTY,  
*Executive Director, National Advisory Council on Vocational Education.*

[FR Doc. 78-635 Filed 1-10-78; 8:45 am]

#### [4110-12]

Office of the Secretary

#### ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that a meeting of the Advisory Council on Education Statistics will be held on February 9, 1978, from 9 a.m. to 4:30 p.m., in Room 3000, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202. The meeting will be continued on February 10, 1978, from 9 a.m. to 12 noon, at the same location.

The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1221e-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education, and the National Center for Education Statistics (NCES); and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of

high quality and are not subject to political influence."

The meeting agenda will include a discussion of the future of the National Assessment of Education Progress—the proposed competition and the Third Annual Report of the Council.

The meeting is open to the public; however, because of limited accommodations, those members of the public wishing to attend should make reservations by writing, no later than January 30, 1978, to: Acting Executive Director, Advisory Council on Education Statistics, Room 3003, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on January 6, 1978.

MARIE D. ELDRIDGE,  
*Administrator, National Center for Education Statistics.*

THEODORE H. DREWS,  
*Acting Executive Director, Advisory Council on Education Statistics.*

[FR Doc. 77-651 Filed 1-10-77; 8:45 am]

#### [4210-01]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-590; FDAA-545-DR]

WASHINGTON

Amendment to Notice of Major Disaster  
Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of Major Disaster Declaration for the State of Washington (FDAA-545-DR), dated December 10, 1977.

DATED: December 16, 1977.

FOR FURTHER INFORMATION  
CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTE.—The Notice of major disaster for the State of Washington dated December 10, 1977, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 10, 1977:

The Counties of Clark, Pacific, Skamania, Thurston, Wahkiakum and Whatcom.  
The City of Benton.  
(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,  
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc. 78-626 Filed 1-10-78; 8:45 am]

#### [4210-01]

[Docket No. NFD-591; FDAA-545-DR]

WASHINGTON

Amendment to Notice of Major Disaster  
Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of Major Disaster Declaration for the State of Washington (FDAA-545-DR), dated December 10, 1977.

DATED: December 20, 1977.

FOR FURTHER INFORMATION  
CONTACT:

Frank J. Muckenaupt, Chief Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTE.—The Notice of Major Disaster for the State of Washington dated December 10, 1977, and amended on December 16, 1977, is hereby further amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 10, 1977.

The County of Garfield.  
The City of Richland (in Benton County).

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,  
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc. 78-627 Filed 1-10-78; 8:45 am]

#### [4210-01]

Office of the Secretary

[Docket No. N-77-831]

#### TASK FORCE ON HOUSING COSTS, BUILDING AND TECHNOLOGY COMMITTEE

Meeting Correction

AGENCY: Department of Housing and Urban Development.

ACTION: Correction of notice of meeting.

SUMMARY: This notice corrects a prior notice of meeting of a committee of the Task Force on Housing Costs published on December 23, 1977, at 42

FR 64444. That notice indicated that the Committee on Building and Technology would meet on a specified date. The notice should have stated that the Committee on Land Supply, Acquisition and Development will meet for the purpose and agenda as stated, at the dates, times and places indicated in the notice.

**FOR FURTHER INFORMATION CONTACT:**

Edward J. Cachine, 202-755-6780 (substantive inquiries), Thomas Bacon, 202-755-5277 (press inquiries), or Donald K. McLain 202-755-5333.

Issued at Washington, D.C., January 5, 1978.

WILLIAM J. WHITE,  
Chairman, Task Force on  
Housing Costs.

[FR Doc. 78-729 Filed 1-10-78; 8:45 am]

**[7020-02]**

**INTERNATIONAL TRADE  
COMMISSION**

[AA1921-177]

**ICE HOCKEY STICKS FROM FINLAND**

**Notice of Investigation and Hearing**

*Investigation instituted.*—Having received advice from the Department of the Treasury on December 28, 1977 that ice hockey sticks from Finland are being, or are likely to be, sold at less than fair value, the United States International Trade Commission on January 5, 1978, instituted investigation number AA1921-177 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.

*Public hearing ordered.*—A public hearing in connection with the investigation will be held in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t., on Thursday, February 23, 1978. All parties shall there and then have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(d)), should be received in writing by the Secretary of the Commission at his office in Washington, not later than noon, Thursday, February 16, 1978.

*Prehearing conference.*—There will be a prehearing conference in connection with this investigation which will

be held in Washington, D.C. at 10 a.m., e.s.t., on Friday, February 17, 1978, in room 117, U.S. International Trade Commission Building, 701 E Street, NW.

By order of the Commission.

Issued: January 6, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-747 Filed 1-10-78; 8:45 am]

**[7020-02]**

[AA1921-176]

**IMPRESSION FABRIC OF MAN-MADE FIBER  
FROM JAPAN**

**Investigation and Hearing**

Having received advice from the Department of the Treasury on December 28, 1977, that impression fabric of man-made fiber from Japan, with the exception of that merchandise produced by Asahi Chemical Industry Co., Ltd., and Shirasaki Tape Co., Ltd., is being, or is likely to be, sold at less than fair value, the United States International Trade Commission, on January 5, 1978, instituted investigation No. AA1921-176 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. For the purposes of its determination concerning sales at less than fair value, the Treasury Department defined "impression fabric of man-made fiber" as "finished impression fabric, slit or uncut, and not inked."

*Hearing.* A public hearing in connection with the investigation will be held in New York City, beginning at 10 a.m., e.s.t., on Wednesday, February 15, 1978. The place of the hearing will be announced later. All persons shall have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Friday, February 10, 1978.

Issued: January 5, 1978.

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-650 Filed 1-10-78; 8:45 am]

**[1410-03]**

**LIBRARY OF CONGRESS**

[Docket S 77-6-C]

**PERFORMANCE RIGHTS IN SOUND  
RECORDINGS**

**Report**

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of report.

**SUMMARY:** Section 114(d) of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, directs the Register of Copyrights to study and report to Congress whether section 114 should be amended to provide performance rights in sound recordings. The purpose of this notice is to advise the public that the report of the Register of Copyrights has been transmitted to Congress and is available for public inspection, and that addenda consisting of independently contracted studies, supplemental analyses, a bibliography, and the Office's specific legislative recommendations, will be submitted in February 1978.

**FOR FURTHER INFORMATION CONTACT:**

Harriet L. Oler, Senior Attorney,  
Office of the General Counsel,  
Copyright Office, Library of Congress,  
Washington, D.C. 20559, 703-  
557-8737.

**SUPPLEMENTARY INFORMATION:**

The newly revised copyright law specifies that the exclusive rights of the owner of copyright in a sound recording are limited to the rights to reproduce the sound recording in copies or phonorecords, to prepare derivative works based on the sound recording, and to distribute copies or phonorecords of the sound recording to the public. Section 114(a) expressly excludes any exclusive right to perform publicly copyrighted sound recordings. Paragraph (d) of section 114 directs the Register of Copyrights to consult with various interests in the broadcasting, recording, motion picture, and entertainment industries; arts organizations; and representatives of copyright owners, organized labor and performers and to describe the views of major interested parties and the status of performance rights in foreign countries. The report may also present specific legislative or other recommendations, if any. On January 3, 1978, the statutory deadline, the Office submitted to Congress a report summarizing and analyzing data relevant to the performance rights question. The following letter of transmittal, addressed to the Speaker of the House of Representatives and the President of the Senate, describes the submission and the proposal to submit addenda con-

sisting of independently contracted studies, supplemental analyses, and legislative recommendation, in February 1978.

JANUARY 3, 1978.

DEAR MR. PRESIDENT:  
DEAR MR. SPEAKER:

I am pleased to submit with this letter the report of the Register of Copyrights, prepared in response to the mandate contained in section 114(d) of the newly revised copyright law, Public Law 94-553.

The new statute expressly excludes performance rights for sound recordings. Instead, it requests the Register of Copyrights to study the problem and, after consultation with various interested groups, report on whether Federal copyright legislation providing performance rights for sound recordings should be enacted. Under section 114(d), the Register's report is to "describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any."

The Copyright Office has sought to conduct as thorough and objective a study of all aspects of this problem as possible. Our report, and the appendixes to it, contain data and analyses dealing with various constitutional and legal issues, earlier attempts to secure legislation in the field, the testimony and written comments of interested parties, the potential economic effects of performance royalty legislation, existing foreign systems, and international considerations, including the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. We have attempted to provide comprehensive coverage and documentation of these aspects of our study, in an effort to establish a solid legal and factual basis for Congressional consideration of the question.

Because of a variety of time pressures, including the Copyright Office's need to implement the new copyright law on January 1, 1978, we have not yet been able to complete certain aspects of the report or to prepare a comprehensive set of "specific legislative . . . recommendations, if any." With your permission, therefore, we propose to prepare and submit the following addenda to the report before the end of February, 1978: (1) a report, prepared by an independent legal consultant, of labor union involvement with performance rights in sound recordings over the past thirty years; (2) a response, by the independent economic consultant who prepared the economic analysis included in the report, to the public comments received on that analysis; (3) a bibliography of works dealing with performance rights in sound recordings; and (4) a statement by the Register of Copyrights summarizing the views of the Copyright Office on the various legal and economic issues raised in the report and containing specific legislative recommendations.

The issue of whether to enact performance rights for sound recordings has been debated by parties, courts, national legislatures, and intergovernmental bodies in various state, federal, foreign, and international forums for more than forty years. It was one of the most hotly contested issues in the recent program for general revision of the federal copyright law, and it remains highly controversial. The Copyright Office trusts that the data in this report will provide a basis for Congressional consideration of the legal and economic questions concerning performance rights, and will assist

Congress in making a definitive decision on this important question.

Sincerely yours,

BARBARA RINGER,  
*Register of Copyrights.*  
DANIEL J. BOORSTIN,  
*Librarian of Congress.*

Any further submissions will be announced in the FEDERAL REGISTER.

Copies of the Register's report will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday in the Public Information Office, Room No. 101, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone number 703-557-8700.

(Title 17 of the United States Code as amended by Pub. L. 94-553: § 114.)

Dated: January 3, 1978.

BARBARA RINGER,  
*Register of Copyrights.*

Approved:

DANIEL J. BOORSTIN,  
*Librarian of Congress.*

[FR Doc. 78-647 Filed 1-10-78; 8:45 am]

[1505-01]

**NUCLEAR REGULATORY  
COMMISSION**

[Docket No. 76N-0176]

**NUCLEAR MEDICINE EVALUATION OF  
DISEASES OF THE THYROID GLAND**

**Intent to Propose Voluntary Recommendations**

**Correction**

In FR Doc. 77-30462, appearing at page 55649 in the issue of Tuesday, October 18, 1977, the Docket No. should appear as set forth in the headings above.

[1505-01]

[Docket Nos. STN 50-546 and STN 50-547]

**PUBLIC SERVICE CO. OF INDIANA, INC., AND  
WABASH VALLEY POWER ASSOCIATION**

**Notice of Issuance of Revision to Limited Work  
Authorization**

**Correction**

In FR Doc. 77-36212 appearing at page 63829 in the issue for Tuesday, December 20, 1977, the following corrections should be made:

1. The subject headings should read as set forth above.

2. The first sentence of the second paragraph should be corrected to read: "Pursuant to the provisions of § 50.10(e)(3), the Commission has now determined that additional activities may be authorized." This sentence appeared in the December 20, 1977 issue reading as follows: "Pursuant to the provisions of § 50.10(e)(3), the Commission has not determined that additional activities may be authorized."

[8010-01]

**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 34-14260; File No. SR-Amex-77-32]

**AMERICAN STOCK EXCHANGE, INC.**

**Proposed Rule Change**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 5, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

**AMERICAN STOCK EXCHANGE, INC.  
("AMEX'S") STATEMENT OF TERMS OF  
SUBSTANCE OF THE PROPOSED RULE  
CHANGE**

The proposed amendments to Section 213, 217, 316 and 317 of the American Stock Exchange Company Guide will permit issuers seeking listing status on the Amex to file a short form listing application utilizing documents previously filed with the SEC, in lieu of the long form listing application ordinarily required by the Exchange. In addition, the proposed amendments would eliminate the printing requirement for short form listing applications.

The text of proposed amendments is attached as Exhibit A.

**AMEX'S STATEMENT OF BASIS AND  
PURPOSE**

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed amendments to the Amex Company Guide is to reduce the time and money typically required to be expended by a company in preparing an application for listing on the Exchange. This would be accomplished by (i) permitting issuers to file a short form listing application incorporating documents publicly filed with the SEC pursuant to the Exchange Act, and (ii) eliminating the printing requirement for short form applications.

The amendments to the Amex Company Guide are proposed pursuant to the authority delegated to national securities exchanges in Section 12(d) of the Act to promulgate rules governing the listing of securities. The proposed amendments will be in the public interest and will remove impediments to the operation of a free and open market and a national market system, since they will remove unnecessary costs associated with seeking listing status on an exchange.

The proposed amendments to the Amex Company Guide were discussed with, and unanimously approved by,

the Exchange's Listed Company Advisory Committee. This Committee consists of nine persons, each of whom is the chief executive officer of an Amex-listed company.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before February 15, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 2, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 12, 1977.

GEORGE A. FITZSIMMONS,  
Secretary.

EXHIBIT A.—AMERICAN STOCK  
EXCHANGE, INC.

Section 213 of the American Stock Exchange Company Guide (Short Form Original Application with Prospectus or Proxy statement) is rescinded in its entirety.

In its place, a new Section 213 is adopted, as follows:

Sec. 213. Short Form Original Application

In lieu of submitting a listing application conforming to the requirements of Section 214 below, an applicant may submit a short form listing application, which shall consist of the following:

(i) The information called for in items 1, 2(a), 2(b), 8, 9, 10, 14, 19 and 22 of Section 214;

(ii) A statement incorporating by reference the following documents, copies of which are to be attached to the listing application:

(a) Latest Form 10-K Annual Report, Form 10-Q Quarterly Report(s) and Form

8-K Current Report(s) for periods subsequent to the latest Form 10-K (or comparable periodic reports filed with the appropriate regulatory agency of the applicant pursuant to the Securities Exchange Act of 1934), and latest proxy statement for annual meeting of stockholders; or

(b) A prospectus declared effective by the S.E.C. which contains the latest audited financial statements of the applicant, Form 10-Q Quarterly Report(s) and Form 8-K Current Report(s) (or comparable periodic reports filed with the appropriate regulatory agency of the applicant pursuant to the Securities Exchange Act of 1934) for periods subsequent to the effective date of the prospectus, and latest available proxy statement for annual meeting of stockholders. In the event a Form 10-Q Quarterly Report (or comparable periodic report) for a quarter ended more than 45 days before the date of the listing application is not required to be filed with the S.E.C. (or other appropriate regulatory agency), financial information comparable to that which would have been included in the Form 10-Q Quarterly Report shall be filed with the Exchange as part of the listing application;

(iii) A statement concerning any recent material developments or events concerning the affairs of the company which are not otherwise disclosed in documents incorporated by reference pursuant to subsection (i) above; and

(iv) Such other information, documents or materials as may be determined appropriate by the Exchange for inclusion in the applicant's listing application.

Applicants submitting a short form listing application pursuant to this Section need not file Papers A and H (described in § 215) in support thereof.

A short form listing application submitted pursuant to this Section shall not be printed or distributed in accordance with § 155. Five (5) copies of the application shall be submitted, with at least three (3) copies manually signed by a duly authorized officer of the applicant. Copies not manually signed shall be conformed. Only one copy of the supporting exhibits specified in § 215 need be filed.

Section 217(a) of the American Stock Exchange Company Guide is amended as set forth below. Brackets [ ] indicate deleted material, and *italic* indicates added material.

Section 217. Original Listing of Bonds.

The instructions set forth in this § 217 and in § 218 apply only where the applicant has no other issue of securities listed on the Exchange. If another issue is listed, see § 311 for appropriate listing form.

(a) Form and Content of Application (when short form is used)—When the short form listing application is used [, incorporating the prospectus by reference,] the application will, in ordinary cases, be limited to the same items called for in short form applications for stock issues as specified in § 213 [and applicants should reserve 350 copies of the prospectus as there explained.]

Applicants submitting a short form listing application pursuant to this subsection need not file Papers A and H (described in § 215) in support thereof.

A short form listing application submitted pursuant to this subsection shall not be printed or distributed in accordance with

§ 155. Five (5) copies of the application shall be submitted, with at least three (3) copies manually signed by a duly authorized officer of the applicant. Copies not manually signed shall be conformed. Only one copy of the supporting exhibits specified in §§ 215 and 218 need be filed.

Sections 316 and 317 of the American Stock Exchange Company Guide are amended as set forth below. Brackets [ ] indicate deleted material, and *italics* indicate added material.

Sec. 316. Short Form Additional Application with Prospectus or Proxy Statement

If a prospectus relating to the additional securities to be listed (or if a proxy statement describing the transaction in which such securities are to be issued) has recently been ordered effective [or cleared] by the S.E.C., the applicant may, at its option, attach same to the listing application. [A preliminary prospectus may be used with the proof copies for the Exchange's consideration, but a final prospectus must be used with the 300 final applications.]

If so attached, the listing application is usually limited to:

(a) Items 1 to 6, inclusive, and 8 and 9 of the simplified application specified in § 318 below; and

(b) For Item 7 of the simplified form, substitute an item entitled "Prospectus" or "Proxy Statement", as the case may be, referring to and incorporating same by reference and indexing the information contained therein. If an index is contained in the prospectus or proxy statement, a reference to such index will suffice.

[Applicants using the short form should furnish 300 copies of the prospectus (or proxy statement) to the printer for attachment to the final printed copy of the short-form listing application. Such applicants should also submit all of the supporting papers and exhibits specified at § 319 to the Exchange.] *An application submitted pursuant to this Section shall not be printed or distributed in accordance with § 155. Five (5) copies of the application (with prospectus or proxy statement attached) shall be submitted. At least three (3) copies shall be manually signed by a duly authorized officer of the applicant. Copies not manually signed shall be conformed. Only one copy of the supporting exhibits specified at § 319 need be filed.*

Sec. 317. Simplified Application Form

Where a Company has disclosed to the public through its annual reports or otherwise the data required to be set forth in the application, a simplified form may generally be used that includes only the data called for under § 318 below. *An application submitted pursuant to this Section shall not be printed or distributed in accordance with § 155. Five (5) copies of the application shall be submitted. At least three (3) copies shall be manually signed by an executive officer of the applicant. Copies not manually signed shall be conformed. Only one copy of the supporting exhibits specified at § 319 need be filed.*

[FR Doc. 78-602 Filed 1-10-78; 8:45 am]

[8010-01]

[Release No. 34-14335; File No. SR-DTC-77-13]

**DEPOSITORY TRUST CO.****Proposed Rule Change**

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 16, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

**TEXT OF PROPOSED RULE CHANGE**

It is proposed that the first sentence of section 1.1 of article I of the bylaws of the Depository Trust Co. be amended as follows [brackets indicate deletions and italics indicate new material]:

*Section 1.1. Annual meeting.* The annual meeting of the stockholders of the Corporation for the election of directors and the transaction of such other business as may properly come before the meeting shall be held on the fourth Wednesday in March in each year] *within the first three months of each calendar year* at such hour and place within the City of New York as the Board of Directors shall determine, or, if not so determined, at 10 a.m. *on the last day in March* at the principal office of the Corporation in the City of New York or, if that day shall be a *Saturday, Sunday, or a legal holiday* in the place where the meeting is to be held, on the *next day thereafter*] *immediately preceding day not a Saturday, Sunday, or a legal holiday.*

**STATEMENT OF BASIS AND PURPOSE**

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit the Board to choose within the first three months of the calendar year the date of the annual meeting of the stockholders of the Corporation for the election of directors and the transaction of such other business as may properly come before the meeting and to provide a date for the annual meeting in the event that the Board shall not choose such a date.

No specific provision under the Act provides a basis for the proposed rule change.

Comments on the proposed rule change were not solicited and have not been received.

DTC does not perceive that the proposed rule change will impose any burden on competition.

On or before February 15, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 2, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 3, 1978.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-603 Filed 1-10-78; 8:45 am]

[4710-01]

**DEPARTMENT OF STATE****GUAM AND THE NORTHERN MARIANA ISLANDS****Fishery Conservation Zone Notice of Limits**

The Fishery Conservation and Management Act of 1976 establishes a fishery conservation zone contiguous to the territorial sea of the United States, the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94-241) provides that the President shall determine and proclaim a date within 180 days after the Covenant and Constitution of the Northern Mariana Islands have been approved upon which certain laws applicable to Guam and which are applicable to the several States shall become applicable to the Northern Mariana Islands. The Fishery Conservation and Management Act is one such law. By Presidential proclamation of October 24, 1977, this law and other such laws shall become applicable to the Northern Mariana Islands at eleven o'clock on the morning of January 9, 1978, Northern Mariana Islands local time.

The Government of the United States of America has been, is, and will be, engaged in consultations and negotiations with the governments of neighboring countries concerning the delimitation of areas subject to the respective jurisdiction of the United States and these countries.

The limits of the fishery conservation zone of the United States as set forth below are intended to be without prejudice to any negotiations with these countries or to any positions which may have been or may be adopted respecting the limits of maritime jurisdiction in such areas.

The line connecting the coordinates set forth below constitutes the limits of the fishery conservation zone of the United States of America around Guam and the Northern Mariana Islands within which the United States will exercise its exclusive fishery management authority as set forth in the Fishery Conservation and Management Act effective as of January 9, 1978, and pending the establishment of permanent maritime boundaries by mutual agreement. The following section should be considered to replace that portion of the Department's Public Notice No. 526 (42 FR 12937, March 7, 1977) as later modified by public Notice No. 544 (42 FR 24134, May 12, 1977).

**GUAM AND THE NORTHERN MARIANA ISLANDS**

The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the north of the Northern Mariana Islands, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

1. 20°52'42" N., 141°20'53" E.
2. 23°02'19" N., 144°00'56" E.
3. 23°53'25" N., 145°05'59" E.

and except that to the south of Guam, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

4. 11°38'25" N., 147°44'42" E.
5. 11°36'53" N., 147°31'03" E.
6. 11°31'48" N., 146°55'19" E.
7. 11°27'15" N., 146°25'34" E.
8. 11°22'13" N., 145°52'36" E.
9. 11°17'31" N., 145°22'38" E.
10. 11°13'32" N., 144°57'26" E.
11. 11°13'23" N., 144°56'29" E.
12. 10°57'03" N., 143°26'53" E.
13. 10°57'30" N., 143°03'09" E.
14. 11°52'33" N., 142°15'28" E.
15. 12°54'00" N., 141°21'48" E.
16. 12°54'17" N., 141°21'33" E.
17. 12°57'34" N., 141°19'17" E.
18. 13°06'32" N., 141°12'53" E.

Publication of a notice on this subject which is effective immediately, upon publication, is necessary to effectively exercise the foreign affairs responsibility of the Department of State.

(See Title 5 U.S.C. Sec. 553(a)(1) and (b)(B)).

Dated: January 5, 1978.

MARK B. FELDMAN,  
Deputy Legal Adviser.

[FR Doc. 78-757 Filed 1-10-78; 8:45 am]

[4710-01]

[Public Notice 585]

**PUBLIC NOTICE ON MARITIME BOUNDARIES**

On December 16, 1977, the United States and Cuba signed a maritime boundary treaty. The two governments have agreed that the line set forth in the treaty will be applied provisionally for two years beginning January 1, 1978.

The coordinates are as follows:

Latitude (North)	Longitude (West)
1. 23°55'30"	81°12'55"
2. 23°53'50"	81°19'44"
3. 23°50'50"	81°30'00"
4. 23°50'00"	81°40'00"
5. 23°49'03"	81°50'00"
6. 23°49'03"	82°00'12"
7. 23°49'40"	82°10'00"
8. 23°51'12"	82°25'00"
9. 23°51'12"	81°40'00"
10. 23°49'40"	82°48'54"
11. 23°49'40"	82°51'12"
12. 23°49'22"	83°00'00"
13. 23°49'50"	83°15'00"
14. 23°51'20"	83°25'50"
15. 23°52'25"	83°33'02"
16. 23°54'02"	83°41'36"
17. 23°55'45"	83°48'12"
18. 23°58'36"	84°00'00"
19. 24°09'35"	84°29'28"
20. 24°13'18"	84°38'40"
21. 24°16'39"	84°46'08"
22. 24°23'28"	85°00'00"
23. 24°26'35"	85°06'20"
24. 24°38'55"	85°31'55"
25. 24°44'15"	85°43'12"
26. 24°53'55"	86°00'00"
27. 25°12'25"	86°33'12"

For the purposes of the limits of the fishery conservation zone, established by the Fishery Conservation and Management Act of 1976, the line hereby established should be deemed to replace that portion of the line set forth in the Department's notice No. 526 on March 7, 1977, from point 116 to point 163 in the section of notice No. 526 entitled "U.S. Atlantic Coast and Gulf of Mexico", as superseded by the *modus vivendi* of 1977 between the United States and Cuba as set forth in the Department's notice No. 544 of May 12, 1977.

Publication of a notice on this subject which is effective immediately upon publication is necessary to effectively exercise the foreign affairs responsibility of the Department of State. (See Title 5, U.S.C. Sec. 553 (a) (1) and (b) (B)).

Dated: December 30, 1977.

FRANKLIN K. WILLIS,  
Acting Assistant Legal Adviser.

[FR Doc. 78-622 Filed 1-10-78; 8:45 am]

[4810-35]

**DEPARTMENT OF THE TREASURY**

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 7]

**SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS**

A certificate of authority as an acceptable surety on Federal bonds is hereby issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of \$89,000 has been established for the company.

*Name of Company, Business Address, and State in Which Incorporated*

Van Tol Surety Co., Inc., 501 Eight Street, Brookings, S. Dak. 57006. South Dakota.

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

Dated: January 5, 1978.

J. D. PAGLIAI,  
Commissioner, Bureau of  
Government Financial Operations.

[FR Doc. 78-734 Filed 1-10-78; 8:45 am]

[7035-01]

**INTERSTATE COMMERCE COMMISSION**

[Notice No. 563]

**ASSIGNMENT OF HEARINGS**

JANUARY 6, 1978.

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.

MC 143713 (Sub-Nos. 1 and 2), Agricultural Transportation Association of Illinois, now being assigned February 13, 1978 (1

week), for continued hearing at Springfield, Ill., and will be held in the Training Room of the Federal Highway Administration, 2nd Floor, Baptist Building, 3085 Stevenson Drive.

MC 123407 (Sub-No. 395), Sawyer Transport, Inc., now assigned January 23, 1978, at Kansas City, Mo., will be held in Room 609, Federal Building, 911 Walnut Street. MC 111302 (Sub-No. 99), Highway Transport, Inc. (extension), Kentucky, now being assigned March 14, 1978 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

MC 64932 (Sub-No. 573), Rogers Cartage Co., now being assigned April 4, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 115841 (Sub-No. 544), Colonial Refrigerated Transportation, Inc., now being assigned April 5, 1978 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 112822 (Sub-No. 426), Bray Lines, Inc., MC 113678 (Sub-No. 669), Curtis, Inc., MC 115826 (Sub-No. 268), W. J. Digby, Inc., MC 129387 (Sub-No. 31), Payne Transportation, Inc., MC 134286 (Sub-No. 26), Illini Express, Inc., MC 138018 (Sub-No. 36), Refrigerated Foods, Inc., MC 140024 (Sub-No. 73), J. B. Montgomery, Inc., MC 111375 (Sub-No. 85), Pirkle Refrigerated Freight Lines, Inc., and MC 107839 (Sub-No. 173), Denver-Albuquerque Motor Transport, Inc., now being assigned January 23, 1978 (6 days), for continued hearing at Denver, Colo., and will be held in Sheraton Inn—Denver Airport, 3535 Quebec Street.

MC 114632 (Sub-No. 107), Apple Lines, Inc., MC 113678 (Sub-No. 667), Curtis, Inc., and MC 119741 (Sub-No. 79), Green Field Transport Co., Inc., now assigned January 26, 1978, at Kansas City, Mo., will be held in Room 609, Federal Building, 911 Walnut Street.

MC 143477, Arcadian Motor Carriers (a corporation), now assigned January 30, 1978, at Kansas City, Mo., will be held in Room 609, Federal Building, 911 Walnut Street. MC 100686 (Sub-No. 366), Melton Truck Lines, Inc., now assigned February 1, 1978, at Kansas City, Mo., will be held in Room 609, Federal Building, 911 Walnut Street.

MC 113678 (Sub-No. 650), Curtis, Inc., now assigned January 24, 1978, at Kansas City, Mo., will be held in Room 609, Federal Building, 911 Walnut Street.

AB 43 (Sub-No. 28), Illinois Central Gulf Railroad Co., abandonment between Freeport, Ill., and Madison, Wis., now being assigned April 10, 1978 (1 week), at Monroe, Wis., in a hearing room to be later designated.

MC 124306 (Sub-No. 28), Kenan Transport Company, Inc., now being assigned March 6, 1978 (1 week), at Raleigh, N.C., in a hearing room to be later designated.

AB 43 (Sub-No. 37), Illinois Central Gulf Railroad Co., abandonment near Dyersburg, Tenn., and Hickman, Ky., in Dyer and Lake Counties, Tenn., and Fulton County, Ky., now being assigned March 8, 1978 (3 days), for hearing in Dyersburg, Tenn., in a hearing room to be later designated.

MC 61592 (Sub-No. 405), Jenkins Truck Line, Inc., now being assigned March 13, 1978 (1 day), for hearing in Little Rock, Ark., in a hearing room to be later designated.

MC 114552 (Sub-No. 135), Senn Trucking Co., now being assigned March 14, 1978 (1

day), for hearing in Little Rock, Ark., in a hearing room to be later designated.  
 MC 140612 (Sub-No. 26), Robert F. Kazimour, now being assigned March 15, 1978 (1 day), for hearing in Little Rock, Ark., in a hearing room to be later designated.  
 MC 141138 (Sub-No. 6), Steve Schranz Trucking, Inc., now being assigned March 16, 1978 (2 days), for hearing in Little Rock, Ark., in a hearing room to be later designated.

H. G. HOMME, Jr.,  
*Acting Secretary.*

[FR Doc. 78-743 Filed 1-10-78; 8:45 am]

[7035-01]

[Finance Docket No. 28647]

**INDIANA INTERSTATE RAILWAY CO., INC.**

Construction and Operation in Bicknell, Ind.

Indiana Interstate Railway Co., Inc., 231 Joliet Street, Dyer, Ind. 46311, represented by Don. R. Marks, Corporate Secretary, Indiana Interstate Railway Co., Inc., 231 Joliet Street, Dyer, Ind. 46311, hereby give notice that on the 23d day of December 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 1(18) of the Interstate Commerce Act for an order approving and authorizing the construction and operation of a line of railroad, a distance of 1.1 miles, within the city limits of Becknell, Ind., which application is assigned Finance Docket No. 28647.

Applicant proposes to construct and operate a line of railroad located in Knox county, in the State of Indiana, and city of Bicknell. This line extends from the midpoint of the city of Bicknell in a southwesterly direction for a total distance of 1.1 miles, remaining entirely within the city limits of Bicknell, Ind.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such appli-

cation are filed with the Secretary, Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,  
*Acting Secretary.*

[FR Doc. 78-745 Filed 1-10-78; 8:45 am]

[7035-01]

**IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY**

Elimination of Gateway Letter Notices

JANUARY 6, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 23, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any must refer to such letter-notices by number.

No. MC 78228 (Sub-No. E216), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicle (except scrap metal), from points in that part of Pennsylvania bounded by a line beginning at Bradford, Pa., thence along U.S. Highway 219 to the Pennsylvania-Maryland State line, thence along the Pennsylvania-Maryland State line to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the junction of U.S. Highway 19, thence along U.S.

Highway 19 to junction U.S. Highway 40, thence along U.S. Highway 40 to Washington, Pa., thence along U.S. Highway 19 to Pittsburgh, Pa., thence along Pennsylvania Highway 8 to Butler, Pa., thence along Pennsylvania Highway 68 to Clarion, Pa., thence along Interstate Highway 80 to junction Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction U.S. Highway 219, thence along U.S. Highway 219 to the place of beginning at the Indiana-Michigan State line at U.S. Highway 31, thence along U.S. Highway 31 to Indianapolis, Ind., thence along Indiana Highway 37 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E217), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, (except scrap metals), from points in that part of Pennsylvania south and west of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 219 to junction Pennsylvania Highway 770, thence along Pennsylvania Highway 770 to junction Pennsylvania Highway 59, thence along Pennsylvania Highway 59 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Pennsylvania Highway 965, thence along Pennsylvania Highway 965 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Pennsylvania-Ohio State line to points in Indiana. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E218), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles (except scrap metals), from points in that part of Pennsylvania on or west of U.S. Highway 219 to points in Indiana on or west of a line beginning at Lake Michigan, thence along U.S. Highway 421 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E219), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's rep-

representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles (except scrap metals), from points in that part of New York bounded by a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction Alternate U.S. Highway 20, thence along Alternate U.S. Highway 20 to East Aurora, N.Y., then along New York Highway 16 to Buffalo, N.Y., thence along the International Boundary between the United States and Canada to Lake Ontario, thence along Lake Ontario to the place of beginning to points in Indiana. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E220), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles (except scrap metals), from points in that part of New York on or west of a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line to points in Indiana on or west of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 19 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E221), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles (except scrap metal), from points in Ohio bounded by a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 422 to Youngstown, Ohio, thence

along Ohio Highway 7 to junction U.S. Highway 62, thence along U.S. Highway 62 to Salem, Ohio, thence along Ohio Highway 9 to junction Ohio Highway 43, thence along Ohio Highway 43 to the Ohio-West Virginia State line to points in Indiana on or west of a line beginning at the Indiana-Michigan border, thence along U.S. Highway 31 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E222), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles (except scrap metal), from points in that part of West Virginia bounded by a line beginning at the Pennsylvania-West Virginia State line, thence along U.S. Highway 22 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction West Virginia Highway 18, thence along West Virginia Highway 18 to junction U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Maryland State line, thence along West Virginia-Maryland State line to the Pennsylvania-West Virginia State line, thence along Pennsylvania-West Virginia State line to the place of beginning to points in Indiana beginning at the Indiana-Michigan State line, thence along Interstate Highway 69 to junction Indiana Highway 127, thence along Indiana Highway 127 to junction Indiana Highway 427, thence along Indiana Highway 427 to junction Indiana Highway 8, thence along Indiana Highway 8 to junction U.S. Highway 27, thence along U.S. Highway 27 to Fort Wayne, Ind., thence along U.S. Highway 24 to Marion, Ind., thence along Indiana Highway 9 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 83539 (Sub-No. E366), filed May 31, 1977. Applicant: C&H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of their size and weight, require the use of special equipment, between points in Connecticut in and east of Hartford and New Haven Counties on the one hand and, on the other, points in Chautauqua County, N.Y. The purpose of this

filing is to eliminate the gateway of Philadelphia, Pa., and Pennsylvania.

No. MC 83539 (Sub-No. E367), filed May 31, 1977. Applicant: C&H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of their size and weight, require the use of special equipment, between points in Connecticut on the one hand and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E368), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight require the use of special equipment between points in Connecticut, on the one hand, and, on the other, points in Tennessee in and west of Clay, Overton, Putnam, De Kalb, Warren, Coffee, Moore, and Lincoln counties. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Kentucky, and Nashville, Tenn., and points in Tennessee within a 50-mile radius of Nashville.

No. MC 83539 (Sub-No. E369), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight require the use of special equipment between points in Connecticut, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E370), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight require the use of special equipment between points in Connecticut, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E371), filed May 31, 1977. Applicant: C & H

TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size and weight require the use of special equipment, between points in Delaware, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E372), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size and weight require the use of special equipment between points in Delaware, on the one hand, and, on the other, points in Kentucky in and west of Mason, Fleming, Rowan, Elliot, Morgan, Wolfe, Breahitt, Owsley, Jackson, Laurel, Pulaski, and Wayne Counties. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E374), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment between points in Delaware, on the one hand, and, on the other, points in Michigan. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E375), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight require the use of special equipment between points in Delaware, on the one hand, and, on the other, points in Mississippi. Restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa. and Kentucky.

No. MC 83539 (Sub-No. E376), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex.

75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight require the use of special equipment between points in Delaware, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E377), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size and weight require the use of special equipment between points in Delaware, on the one hand, and, on the other, points in Tennessee in and west of Montgomery, Houston, Humphreys, Perry and Wayne counties. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Kentucky, and Nashville, Tenn., and points in Tennessee within a 50-mile radius of Nashville.

No. MC 83539 (Sub-No. E379), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size and weight require the use of special equipment between points in the District of Columbia, on the one hand, and, on the other, points in Iowa. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) The authority granted is subject to the condition that carrier shall not transport machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines from, to, or between points in Illinois. (3) The authority granted shall be restricted against the transportation of cast iron pressure pipe and fittings and accessories therefor when moving with such pipe, from Council Bluffs, Iowa. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Indiana, and Illinois.

No. MC 83539 (Sub-No. E381), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as

above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight require the use of special equipment between points in the District of Columbia, on the one hand, and, on the other, points in the upper peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E382), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size and weight require the use of special equipment between points in the District of Columbia, on the one hand, and, on the other, points in Missouri in and west of Putnam, Adair, Macon, Randolph, Audrain, Calloway, Osage, Maries, Phelps, Texas, and Howell counties. Restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., Indiana, and Illinois, and Philadelphia, Pa., Kentucky, and Illinois.

No. MC 83539 (Sub-No. E383), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight require the use of special equipment between points in the District of Columbia, on the one hand, and, on the other, points in New York, in and east of Wayne, Seneca, Tompkins, and Tioga Counties. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa. and Pennsylvania.

No. MC 83539 (Sub-No. E384), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size and weight require the use of special equipment between points in the District of Columbia, on the one hand, and, on the other, points in Pennsylvania in and east of Wayne, Lackawanna, Luzerne, Carbon, Lehigh, Montgomery, and Philadelphia, Counties. The purpose

of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E386), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Douglas Anderson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight, require the use of special equipment between points in Florida, on the one hand, and, on the other, points in Iowa. Restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of Nashville, Tenn., and points in Tennessee within 50 miles of Nashville; Kentucky, and Illinois.

No. MC 83539 (Sub-No. E556), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham, III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* (except in driveaway service), each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith between points in Montana, on the one hand, and, on the other, points in Virginia, restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of South Dakota, Iowa, Illinois, and Indiana.

No. MC 83539 (Sub-No. E557), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham, III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* (except in driveaway service), each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in West Virginia, on the one hand, and, on the other, points in Montana, restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of South Dakota, Iowa, Illinois, and Indiana.

No. MC 83539 (Sub-No. E558), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham, III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, trans-

porting: *Self-propelled articles*, each weighing 15,000 pounds or more (except in driveaway service), and related machinery, tools, parts, and supplies between points in Nebraska, on the one hand, and, on the other, points in Pennsylvania. The purpose of this filing is to eliminate the gateways of Iowa, Illinois, and Indiana.

No. MC 83539 (Sub-No. E559), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham, III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more (except in driveaway service), and related machinery, tools, parts, and supplies, between points in Nebraska, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateways of Iowa, Illinois, and Indiana.

No. MC 83539 (Sub-No. E560), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham, III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more (except in driveaway service), and related machinery, tools, parts, and supplies, between points in North Dakota, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of Ohio.

No. MC 83539 (Sub-No. E561), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more (except in driveaway service), and related machinery, tools, parts, and supplies, between points in North Dakota, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Ohio.

No. MC 107012 (Sub-No. E38), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *New commercial and institutional fixtures, uncrated*, (1) from points in Idaho, to points in Alabama, Florida, Georgia,

Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. (2) from points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, and Power Counties, Idaho, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, Ark., and points in Virginia. (3) from points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, Idaho, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, Ark.; Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, De Witt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, Tex.; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, Sythe, Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York, Albe-

marle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, and Prince George Counties, Va., and the Independent Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, South Boston, Staunton, Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, Va. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

No. MC 107012 (Sub-No. E291), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures*, uncrated, (1) from points in New York, to points in Alabama, Florida, and Georgia; (2) From points in Broome, Cayuga, Chemung, Chautauque, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chautauque, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, and Washington Counties, N.Y., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. (3) From points in Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Sullivan, Ulster,

Westchester, and Suffolk Counties, N.Y., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E292), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures*, uncrated, (1) From points in Pennsylvania, to points in Florida and Georgia. (2) From points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, and Warren Counties, Pa., to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington, and Wilcox Counties, Ala.; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancy, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; points in South Carolina. (3) From points in Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, and Union Counties, Pa., to points in Alabama; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey

Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. (4) From points in Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill, and York Counties, Pa., to points in Alabama; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. (5) From points in Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, and Wyoming Counties, Pa., to points in Alabama; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. (6) From points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, Pa., to points in Alabama; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Kershaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E293), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Ap-

plicant's representatives: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by Motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, from points in Rhode Island, to points in Alabama, Florida, Georgia; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gason, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Kershaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E294), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by Motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) From points in Vermont, to points in Alabama, Florida and Georgia. (2) From points in Bennington, Rutland, Windham, and Windsor Counties, Vt., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Pok, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Kershaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. (3) From points in Chittenden, Franklin, Grand Isle, Lamoille, Addison, Orange, Washington, Caledonia, Essex, and Orleans Counties, Vt., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties,

N.C.; Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Kershaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.)

No. MC 107012 (Sub-No. E295), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) From points in West Virginia to points in Alabama, Florida, and Georgia. (2) From points in Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzell, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, and Wood Counties, W. Va., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. (3) From points in Brooke, Hancock, Marshall, and Ohio Counties, W. Va., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; points in South Carolina. (4) From points in Boone, Cabell, Lincoln, Logan, Mingo, Putnam, and Wayne Counties, W. Va., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison,

Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, and Wayne Counties, N.C.; points in South Carolina. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.)

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-742 Filed 1-10-78; 8:45 am]

[7035-01]

[Notice No. 4]

**SPECIAL PROPERTY BROKERS**

JANUARY 4, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle in interstate or foreign commerce, of property (except household goods), between all points in the United States including Alaska and Hawaii. Any interested person shall file an original and (a) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to:

Broker Entry Staff,  
Room 2379,  
Interstate Commerce Commission,  
Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-77-6, filed November 4, 1977. Applicant: SAMUEL SHAPIRO & CO., INC., 11-13 South Gay Street, Baltimore, Md. 21202. Applicant's representative: Morris E. Horwitz (same address as applicant).

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-744 Filed 1-10-78; 8:45 am]

[7035-01]

[Ex Parte No. 297 (Sub-No. 4)]

**REOPENING OF SECTION 5a APPLICATION PROCEEDINGS TO TAKE ADDITIONAL EVIDENCE**

**Collective Ratemaking Agreements**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Reopening all application proceedings in which agreements were approved under section 5a of the Interstate Commerce Act.

**SUMMARY:** The Commission is reopening all application proceedings under section 5a of the Interstate Commerce Act (Act) (excluding proceedings now subject to section 5b of the Act) in which collective ratemaking agreements were previously approved by the Commission for the purpose of taking additional evidence to determine whether those agreements still qualify for Commission approval. This action is being taken because deficiencies in these agreements have been found to exist and because newly submitted agreements have been found in recent section 5a application proceedings not to satisfy the requirements of the Act. The effect of this action is to bring all currently approved collective ratemaking agreements under section 5a of the Act before the Commission for complete review. It also applies to pending applications.

**DATES:** The closing dates for submission of evidence are staggered and are set forth in detail below.

**ADDRESS:** Representations in this proceeding should be addressed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

**FOR FURTHER INFORMATION CONTACT:**

Deputy Director Janice M. Rosenak or Assistant Deputy Director Harvey Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202 275-7693.

**SUPPLEMENTARY INFORMATION:** By order of June 15, 1973, the Commission instituted Ex Parte No. 297, an investigation into the activities of ratemaking bureaus and conferences. In its report, Ex Parte No. 297, *Rate Bureau Investigation*, 351 ICC 437 (1976) and 349 ICC 811 (1975), the Commission made 28 findings, some of which necessitated revisions of agreements already approved by the Commission. Parties to those agreements were ordered to submit necessary revisions for Commission approval. Disputed findings in that proceeding were upheld in *Motor Carriers Traffic Association v. United States*, 559 F. 2d 1251 (4th Cir. 1977) (pet. for cert. pending).

In reviewing proposed revisions the Commission had occasion to review the entire agreement to which the revisions pertained. Many of these agreements were found deficient. Parties to those agreements were ordered to revise them according to terms and conditions which the Commission prescribed. E.g. *Machinery Haulers Association—Agreement*, 355 ICC 857 (1977); *National Association of Specialized Carriers, Inc.—Agreement*, 355 I.C.C. 67 (1977); *Waterways Freight Bureau—Agreement*, 353 ICC 128 (1976). During this period, the Commission had occasion to review several newly proposed ratemaking agreements. The Commission found that they did not satisfy the standard of review set forth in paragraph (2) of section 5a. E.g., *Florida Specialized Carriers Interstate Rate Conference, Inc.—Agreement*, 355 ICC 623 (1977); *Arizona-Nevada Rate Conference—Agreement*, 355 ICC 130 (1977).

Because these newly proposed agreements have been found not to satisfy the standard of review set forth in paragraph (2) of section 5a, and because previously approved agreements have been found deficient in many respects, the Commission has reason to question whether such agreements still satisfy the standard of review set forth in paragraph (2). Pursuant to paragraph (7) of section 5a, the Commission is therefore reopening the application proceedings concerning those agreements for the purpose of taking additional evidence to determine whether previously approved agreements (excluding agreements now subject to section 5b of the Act) still satisfy the requirements of the Act. The Commission will incorporate this evidence with revisions proffered under Ex Parte No. 297, as well as any other revisions the parties in each proceeding wish to submit, to determine whether each agreement, viewed in its most favorable light, should continue to have the approval of the Commission. Approval of agreements found not to conform to section 5a will be discontinued as will approval of agreements for which no evidence is filed. This order also applies to all pending applications.

**STANDARD OF REVIEW**

Paragraph (2) of section 5a provides that any carrier party to an agreement between two or more carriers relating to certain matters may:

\*\*\* apply to the Commission for approval of the agreement, and the Commission shall by order approve any such agreement (if approval thereof is not prohibited by paragraph (4), (5), or (6)) if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (9) should apply with respect to the making and carrying out of such agreement; otherwise the

application shall be denied. The approval of the Commission shall be granted only upon such terms and conditions as the Commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

Paragraph (9) of section 5a provides that parties to any agreement approved by the Commission under this section and other persons are relieved from the operation of the antitrust laws with respect to the making and carrying out of such agreement but only insofar as those parties act in conformity with the terms of the agreement and such terms and conditions prescribed by the Commission.

Under paragraph (2) the test of whether an agreement should be approved is whether if "by reason of furtherance of the national transportation policy declared in the Act, the relief provided in paragraph (9) should apply with respect to the making and carrying out of such agreement." According to the legislative history of section 5a:

\*\*\* the question as to whether or not an agreement is to be approved involves the accommodation and comparative evaluation by the Commission of two policies, the one, the national transportation policy, the other, the antitrust laws.

Under the standard in the bill Congress entrusts to the Commission the task of applying to particular cases the general formula which Congress finds is determinative of the public interest, and directs the Commission to determine whether the advantages to the public interest, through furtherance of the national transportation policy, are such as to outweigh the disadvantages to the public interest intended to be guarded against by the antitrust laws. [H.R. Rep. No. 1100, 80th Cong., 1st Sess. 13-14 (1947).]

The test was articulated in this manner, as the report cited here indicates, because Congress was concerned that two national policies, one involving antitrust and the other involving transportation, did not always apply in full measure in the field of transportation. Thus, some accommodation between these two policies had to be found. With respect to rate bureaus and conferences, the problem was how to draft a rule that would clarify for all time how that accommodation should be struck. Congress concluded that it was impossible to draft such a rule. It was necessary, Congress concluded, to draft a general standard and to leave its administration to an expert regulatory commission. It was with this intent that the standard articulated in paragraph (2) was enacted. Supra at 12-13. The task of administering that standard was delegated to this Commission.

As the Commission interprets paragraph (2), the question is not simply whether the activities to be carried out under the agreement will further the national transportation policy, but

assuming that they will, whether the benefits of the agreement from the standpoint of the national transportation policy outweigh its disadvantages from the standpoint of national antitrust policies. The benefits to be weighed are the various national transportation policy goals which the agreement will foster. The disadvantages to be weighed are the anticompetitive effects which the agreement will have. The analysis which the Commission must apply in reviewing an agreement is therefore a three-step process. First, the Commission must determine whether the agreement enhances one or more national transportation policy goals. Second, the Commission must determine whether the agreement will harm interests intended to be protected by the antitrust laws. Third, the Commission must determine whether the benefits the agreement confers on the public interest from the standpoint of the national transportation policy outweigh the harm the agreement will do to the public interest intended to be protected by the antitrust laws.

At each step in this three-step analysis, whether in a proceeding concerning a previously approved agreement or a proceeding involving a new agreement, the burden of proof rests with the applicants. Thus, the applicants have the burden to establish: (1) That the agreement enhances one or more national transportation policy goals, (2) that the agreement will not have anticompetitive effects, and (3) that (if anticompetitive effects might be found) the benefits the agreement confers on the public interest from the standpoint of the national transportation policy do not outweigh the harm the agreement does to the public interest from the standpoint of national antitrust policy.

The burden of proof rests at all times with applicants for two reasons. First, the test articulated in the legislative record of section 5a speaks in terms of finding whether the national transportation policy benefits of an agreement outweigh the national antitrust policy disadvantages of the agreement. The operative presumption suggested by the language is that such agreements are harmful unless proven otherwise.

Second, section 5a is an antitrust exemption statute restrictive of competition. Thus, it must be construed as narrowly as possible in favor of competition. Accord, *Federal Maritime Comm'n. v. Seatrain Lines, Inc.*, 411 U.S. 726, 733 (1973); *United States v. McKesson & Robbins, Inc.*, 351 U.S. 305, 316 (1956); *United States v. Masonite Corp.*, 316 U.S. 265, 280 (1942); *Mt. Hood Stages, Inc. v. Greyhound Corp.*, 555 F. 2d 686, 691 (9th Cir. 1977). This principle is a derivative of the proposition that the position of

the antitrust laws in the scheme of national policy is "fundamental." *Gulf States Utilities Co. v. Federal Power Comm'n.*, 411 U.S. 747, 759 (1973); *Otter Tail Power Co. v. United States*, 410 U.S. 366, 374 (1973). Thus, conduct is not immunized from the antitrust laws merely because it is subject to a regulatory scheme. Regulatory schemes exempt conduct from the antitrust laws only where they are "plainly repugnant" to the antitrust laws, *Gordon v. New York Stock Exch., Inc.*, 422 U.S. 659, 682 (1975), or where a particular statute grants an administrative agency primary jurisdiction to consider a question. See *Keogh v. Chicago & N.W.R. Co.*, 260 U.S. 156 (1922) explained in *United States v. Radio Corp. of America*, 358 U.S. 334, 346-48 (1959). But even in the later instance, the scope of that jurisdiction must be construed as narrowly as possible. See *Georgia v. Pennsylvania R.R.*, 324 U.S. 439, 455 (1945).

Section 5a is an antitrust exemption statute restrictive of competition. Without the immunity it accords carriers and others parties to collective ratemaking agreements approved by the Commission, the carriers and others would be subject to antitrust liability. Compare *Georgia v. Pennsylvania R.R.*, 324 U.S. 439, 456 (1945); *United States v. Joint-Traffic Ass'n.*, 171 U.S. 505 (1898); *United States v. Trans-Missouri Freight Ass'n.*, 166 U.S. 290 (1897); *United States v. Ass'n. of American Railroads*, 4 F.R.D. 510 (D. Neb. 1945) with *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150 (1940). Section 5a grants the Commission primary jurisdiction to consider the value and necessity of collective ratemaking agreements. It is not, however, a grant of jurisdiction which permits the Commission to ignore antitrust considerations. Rather, as noted here, the anticompetitive effects of an agreement must be carefully weighed. Section 5a is not therefore a grant or "primary jurisdiction" as that term is normally used. Nor, for the same reasons, is section 5a "plainly repugnant" to the antitrust laws. Moreover, in *United States v. Southern Motor Carriers Rate Conference*, 5 CCH Trade Reg. Rptr. § 61,551 at 72,174 (N.D. Ga. 1977) it was held that the regulatory scheme of the Interstate Commerce Act does not exempt motor carriers from antitrust liability for conduct not expressly exempted by Commission action.

Thus, section 5a must be construed as narrowly as possible in favor of competition. Consistent with this objective, the burden of establishing the merits of an anticompetitive agreement lies with the applicants seeking the exemption from antitrust law liability.

#### EVIDENCE REQUIRED

Parties subject to this notice are required to submit evidence consistent

with their burden of proof set forth above. Other interested parties, such as shippers, ultimate consumers or public interest groups, the Federal Trade Commission and the Department of Justice are invited to participate in any or all proceedings. The latter two government agencies are particularly invited to comment on the anti-competitive effects of the agreements under consideration. Evidence submitted by all parties in any proceeding must be relevant to one of these three issues:

(1) Whether the agreement enhances one or more national transportation policy goals,

(2) Whether the agreement will harm interests intended to be protected by the antitrust laws, and

(3) Whether the benefits the agreement confers on the public interest from the standpoint of the national transportation policy outweigh the harm the agreement will do to the public interest intended to be protected by the antitrust laws.

The Commission will not accept general allegations of fact unsupported by evidence or not stated with particularity. Evidence, either by way of verified statement or in the form of documents, must be detailed and thorough. If no evidence exists to support a particular contention, the parties should state why. General allegations that ratemaking agreements are necessary, or that they are not, will be disregarded unless substantiated by facts which relate the statement to the agreement under consideration. Nor will the Commission accept as justifications for an agreement that collective ratemaking will enable the parties to economize in their operations or in tariff publication. Such arguments have been made by applicants and rejected by this Commission in the past. E.g., *Florida Specialized Carriers Interstate Rate Conference, Inc.—Agreement*, 355 I.C.C. 623 (1977). As a helpful guide to applicants in determining whether evidence will be considered persuasive by the Commission, it should be kept in mind that applicants have the burden of proof at every step in the proceeding.

In addition to the requirements outlined here concerning evidence, applicants must also submit evidence responsive to the following questions:

(1) Whether any of the goals which justify the collective ratemaking agreement under consideration can be accomplished by some other method than collective action,

(2) Whether any of the reasons which justify membership in the agreement by any specific parties can be accomplished without belonging to the agreement, and

(3) The number of carriers with operating authority from the Commission which qualify for membership in

the agreement but which are not parties to it.

Evidence responsive to these questions must be detailed, substantiated by documents such as continuing traffic studies, and otherwise meet the standards for evidence generally set forth here. It the Commission determines that it needs more specific information respecting a particular agreement, it will issue the necessary Orders, with adequate notice and opportunity for comment by the parties affected.

#### OTHER MATTERS

Unless the Commission states otherwise with respect to any particular proceeding, replies to initial statements filed in any of these proceedings will be due thirty days after the filing with this Commission of the statement to which the reply makes reference. Due dates for initial statements from parties in each proceeding are set forth in the following paragraphs and are staggered for the Commission's administrative convenience. All parties should be aware that the Commission will disfavor requests for extension of time to file initial or reply statements or other pleadings absent a showing of compelling necessity.

These are the due dates:

For the following applications, June 12, 1978: No. 1, Household Goods Carriers' Bureau; No. 4, Movers' & Warehousemen's Association of America, Inc.; No. 9, National Bus Traffic Association, Inc.; No. 10, Waterways Freight Bureau; No. 11, Michigan Mover's & Warehousemen's Association, new furniture; No. 15, Atlantic-Gulf Coastwise Steamship Freight Bureau; No. 113, Automotive Carriers Association; No. 114, Midwest Household Goods Carriers Association; No. 115, Midwest Oilfield Haulers Freight Traffic Association; No. 116, Willamette Tariff Bureau, Inc.; No. 107, Air Freight Motor Carriers.

For the following applications, July 10, 1978: No. 22, Pacific Inland Tariff Bureau, Inc.; No. 23, Middle Atlantic Conference; No. 24, San Francisco Movers Tariff Bureau; No. 25, New England Motor Rate Bureau, Inc.; No. 30, Tobacco Transporters Freight Traffic Committee; No. 31, Chicago Suburban Motor Carriers Association, Inc.; No. 32, Columbia River Tariff Bureau; No. 33, Central States Motor Freight Bureau, Inc.; No. 34, Midwest Motor Freight Bureau; No. 35, Oil Field Haulers Association, Inc.

For the following applications, August 9, 1978: No. 36, Wearing Apparel Carriers; No. 37, Southern Illinois Motor Rate Conference; No. 39, Western States Movers' Conference; No. 40, Kansas Oil Field and Heavy Machinery Haulers; No. 45, Niagara Frontier Tariff Bureau, Inc.; No. 46, Southern Motor Carriers Rate Conference, Inc.; No. 48, Eastern Central Motor Carriers Association, Inc.; No. 49, Central and Southern Motor Freight Tariff Association, Inc.; No. 51, Indiana Motor Rate and Tariff Bureau, Inc.; No. 52, Freight Forwarders Conference.

For the following applications, September 8, 1978: No. 53, Intercoastal Steamship Freight Association; No. 54, Heavy and Specialized Carriers Tariff Bureau; No. 55, Motor Carriers Traffic Association, Inc.; No. 58, Machinery Haulers Association; No. 60, Rocky Mountain Motor Tariff Bureau, Inc.; No. 61, National Classification Committee; No. 62, Intermountain Tariff Bureau, Inc.; No. 63 Bulk Tank Carrier Conference, Inc.

For the following applications, October 9, 1978: No. 64, Steel Carriers' Tariff Association, Inc.; No. 66, Western Tank Truck Carriers' Conference, Inc.; No. 69, Perishables Tariff Bureau; No. 70, Western Motor Tariff Bureau, Inc.; No. 73, Ohio Motor Freight Tariff Committee, Inc.; No. 75, Pacific Motor Tariff Bureau, Inc.; No.

77, Nationwide Household Movers Association.

For the following applications, November 7, 1978: No. 78, Mobile Housing Carriers Conference; No. 79, Hawaiian Freight Tariff Bureau, Inc.; No. 81, New York Movers Tariff Bureau, Inc.; No. 83, Alaska Carriers Association, Inc.; No. 85, Oil Capital Tariff Bureau, Inc.; No. 87, National Association of Specialized Carriers, Inc.; No. 91, Wyoming Trucking Association, Inc.; No. 92, Maine Motor Rate Bureau; No. 94, Automotive Transporters Tariff Bureau, Inc.; No. 95, United Tariff Bureau, Inc.

For the following applications, December 7, 1978: No. 65, Equipment Interchange Association; No. 72, Motor Carrier Inter-Related Rate Agreement; No. 96, Northwest Towboat Tariff Bureau, Inc.; No. 99, Nebraska Motor Carriers' Association; No. 101, Midwest Cement Carriers; No. 106, Household Goods Forwarders Tariff Bureau.

Applicants in all proceedings must serve a copy of their evidence on the Federal Trade Commission, Office of the Secretary, Washington, D.C. 20580, and on the Department of Justice, Attn.: Assistant Attorney General John H. Shenefield, Antitrust Division, Washington, D.C. 20530. Nonapplicant parties filing pleadings with respect to a particular agreement must serve a copy of the pleading on the group of parties to the agreement affected.

This document was adopted formally at a general session of the Interstate Commerce Commission held at its office in Washington, D.C. on the 30th day of December 1977.

By the Commission. (Commissioner Brown not participating.)

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-777 Filed 1-10-78; 8:45 am]

# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

## CONTENTS

Federal Deposit Insurance Corporation .....	1, 2
Federal Energy Regulatory Commission .....	3
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Occupational Safety and Health Review Commission.....	9

[6714-01]

### FEDERAL DEPOSIT INSURANCE CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 1170, January 6, 1978, No. 4.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: 11 a.m., January 11, 1978, open.

TIME AND DATE: 10:30 a.m., January 11, 1978.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

#### MATTERS TO BE CONSIDERED:

##### APPLICATIONS FOR FEDERAL DEPOSIT INSURANCE

Bank of the Sierra, a proposed new bank to be located at 90 North Main Street, Porterville, Calif., for Federal deposit insurance.

Aledo State Bank, a proposed new bank to be located at Farm Road 5 North, Aledo, Tex., for Federal deposit insurance.

Associated Bank of Appleton, a proposed new bank to be located at 720 East Northland Avenue, Appleton, Wis., for Federal deposit insurance.

##### APPLICATION FOR CONSENT TO CHANGE A MAIN OFFICE LOCATION

Bank of Lake Helen, Lake Helen, Fla., for consent to move its main office from 121 Lakeview Avenue to the northwest corner of the intersection of Summit Avenue and Main Street, both locations within Lake Helen, Fla.

## APPLICATIONS FOR CONSENT TO ESTABLISH BRANCHES

The Islamorada Bank, Unincorporated Monroe County (P.O. Islamorada), Fla., for consent to establish a branch at the northeast quadrant of the intersection of U.S. Highway 1 and Ocean Bay Drive, Unincorporated Monroe County (P.O. Key Largo), Fla.

TotalBank, Miami, Fla., for consent to establish a branch at 765 East 9th Street, in the LeJeune Plaza Shopping Center, Hialeah, Fla.

Capital Bank of North Bay Village, North Bay Village, Fla., for consent to establish a branch at 5900 Northwest 37th Street, Virginia Gardens, Fla.

Banco Popular de Puerto Rico, San Juan (Hato Rey), P.R., for consent to establish a branch at Insular Road No. 3, Kilometer 10.2 and Ignacio Arzuaga Street, Carolina, P.R.

## REQUEST FOR MODIFICATION OF A CONDITION PREVIOUSLY IMPOSED IN CONNECTION WITH THE APPROVAL OF A BRANCH APPLICATION

First Marine Bank & Trust Co. of the Palm Beaches, Riviera Beach, Fla., for modification of a condition previously imposed in connection with approval of the bank's application for consent to establish a branch at 1201 East Blue Heron Boulevard, Riviera Beach, Fla.

## APPLICATION FOR CONSENT TO EXERCISE LIMITED TRUST POWERS

Bank of Springfield, Springfield, Ill., for consent to exercise limited trust powers, namely, to exercise the powers of executor, administrator, trustee, guardian, committee, agent, custodian, corporate trustee, and corporate agent.

## APPLICATIONS OR REQUESTS PURSUANT TO SECTION 19 OF THE FEDERAL DEPOSIT INSURANCE ACT FOR THE CORPORATION'S CONSENT TO SERVICE OF PERSONS CONVICTED OF AN OFFENSE INVOLVING DISHONESTY OR A BREACH OF TRUST AS DIRECTORS, OFFICERS, OR EMPLOYEES OF INSURED BANKS

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (6 U.S.C. 552b(c)(6)).

## APPLICATION FOR CONSENT TO A PURCHASE AND ASSUMPTION TRANSACTION AND FOR CONSENT TO ESTABLISH BRANCHES

American Pacific State Bank, Los Angeles, Calif., an insured State non-member bank, for consent to purchase a portion of the assets of and assume the liability to pay a portion of the deposits made in the Hongkong Bank of California, San Francisco, Calif., and for consent to establish the latter's North Hollywood Branch, Los Angeles, Calif., as a branch of American Pacific State Bank.

## APPLICATION FOR CONSENT TO MERGE AND ESTABLISH BRANCHES

Southeast Everglades Bank of Fort Lauderdale, Fort Lauderdale, Fla., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Southeast Bank of Broward," with Southeast Bank of Broward, Fort Lauderdale, Fla.; Southeast Bank of Deerfield Beach, Deerfield Beach, Fla.; Southeast Bank of Galt Ocean Mile, Fort Lauderdale, Fla.; Southeast Bank of Hollywood Hills, Hollywood Hills, Fla.; and Southeast Bank of Miramar, Miramar, Fla.; and for consent to establish the seven offices of the latter five banks as branches of the resultant bank.

## RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 43,312-L—The Bank of Bloomfield, Bloomfield, N.J.

Case No. 43,313-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,315-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,317-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,322-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,324-L—American City Bank & Trust Co., National Association, Milwaukee, Wis.

Case No. 43,326-L—American City Bank & Trust Co., National Association, Milwaukee, Wis.

Case No. 43,327-L—American City Bank & Trust Co., National Association, Milwaukee, Wis.

Case No. 43,328-SR—The Peoples Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, V.I.

Case No. 43,332-L—The Monroe Bank & Trust Co., Monroe, Conn.

Case No. 43,334-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,335-L—American City Bank & Trust Co., National Association, Milwaukee, Wis.

Case No. 43,336-SR—Franklin Bank, Houston, Tex.

Case No. 43,337-L—Franklin National Bank, New York, N.Y.

Case No. 43,339-L—Franklin National Bank, New York, N.Y.

Case No. 43,341-NR—San Francisco National Bank, San Francisco, Calif.

Case No. 43,342-SR—Franklin Bank, Houston, Tex.

Case No. 43,345-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,348-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,350-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,354-L—Franklin National Bank, New York, N.Y.

Case No. 43,355-NR—United States National Bank, San Diego, Calif.

Case No. 43,356—Farmers Bank of the State of Delaware, Dover, Del.

Case No. 43,357-SR—Franklin Bank, Houston, Tex.

Case No. 43,358-L—Franklin National Bank, New York, N.Y.

Case No. 43,359-L—Request for approval of proposed adjustments to reserves for losses and allotments for insurance expenses on the books of the Corporation as of December 31, 1977.

#### RECOMMENDATIONS WITH RESPECT TO THE INITIATION OR TERMINATION OF CEASE-AND-DESIST PROCEEDINGS OR TERMINATION-OF-INSURANCE PROCEEDINGS AGAINST CERTAIN INSURED BANKS

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the Government in the Sunshine Act (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

#### MEMORANDUM PROPOSING THE CONDUCT OF AN INVESTIGATION, PURSUANT TO SECTION 10(c) OF THE FEDERAL DEPOSIT INSURANCE ACT, OF THE ACTIVITIES OF CERTAIN PERSONS AS THEY RELATE TO THE LIQUIDATION OF A CLOSED INSURED BANK

Names of persons and of bank authorized to be exempt from disclosure by subsections (c)(6), (c)(9)(B), and (c)(10) of the Government in the Sunshine Act (5 U.S.C. 552b (c)(6), (c)(9)(B), and (c)(10)).

#### PERSONNEL ACTIONS REGARDING APPOINTMENTS, PROMOTIONS, ADMINISTRATIVE PAY INCREASES, REASSIGNMENTS, RETIREMENTS, SEPARATIONS, REMOVALS, ETC.

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the Government in the Sunshine Act (5 U.S.C. 552b (c)(2), (c)(6)).

#### CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary,  
202-389-4446.

[S-48-78 Filed 1-9-78; 10:36 am]

[6714-01]

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#### FEDERAL DEPOSIT INSURANCE CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 1169, January 6, 1978, No. 4.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: 10:30 a.m., January 11, 1978, closed.

TIME AND DATE: 11 a.m., January 11, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

#### MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Each State Bank, a proposed new bank to be located at 1030 Main Street, Springfield, Colo., for Federal deposit insurance.

Broadway Bank, a proposed new bank to be located at 5960 North Broadway, Chicago, Ill., for Federal deposit insurance.

Orland Park Plaza Bank, a proposed new bank to be located at 153d Street and LaGrange Road, Orland Park, Ill., for Federal deposit insurance.

Amherst Savings Bank, an operating noninsured mutual savings bank located in Amherst, Mass., for Federal deposit insurance.

Randolph Bank & Trust Co., a proposed new bank to be located at 173 North Fayetteville Street, Asheboro, N.C., for Federal deposit insurance.

United Savings Bank, Mutual, to be located in Salem, Oregon, for Federal deposit insurance coincident with the conversion of the First Federal Savings and Loan Association of Salem, Salem, Oreg., into a mutual savings bank.

Request for an extension of time in which to establish a branch:

First Vermont Bank & Trust Co., Brattleboro, Vt., for an extension of time to December 4, 1978 in which to establish a branch on the east side of Route 100 in Waterbury, Vt.

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,299-NR—United States National Bank. (Addendum: San Diego, Calif.)

Case No. 43,329-SR—The Peoples Bank of the Virgin Islands Charlotte Amalie, St. Thomas, V.I.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Schall, Boudreau & Gore, Inc., San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the liquidation of First State Bank of Northern California, San Leandro, Calif.

Sidley & Austin, Chicago, Ill., in connection with the liquidation of First State Bank of Northern California, San Leandro, Calif.

White & Steele, Denver, Colo., in connection with the liquidation of Skyline National Bank, Denver, Colo.

Stone, Pigman, Walther, Wittmann & Hutchinson, New Orleans, La., in connection with the liquidation of Republic National Bank of Louisiana, New Orleans, La.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the receivership of American Bank & Trust Company, New York, N.Y.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Sahn, Shapiro & Epstein, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

J. Randolph Pelzer, North Charleston, S.C., in connection with the liquidation of American Bank & Trust, Orangeburg, S.C. (Two memorandums.)

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the publication for comment of amendments to Part 335 of the Corporation's rules and regulations, entitled "Securities of Insured State Non-member Banks," to bring the securities disclosure regulations of the Corporation into substantial similarity with those of the Securities and Exchange Commission.

Memorandum and resolution proposing the publication for comment of amendments to section 337.3 of the Corporation's rules and regulations, relating to insider transactions.

Memorandum and resolution proposing the adoption of a statement of policy to be entitled "Policy Concerning Improper or Illegal Payments by Banks and Bank Holding Companies."

Appeals, pursuant to the Freedom of Information Act, from the Corporation's earlier denial or partial denial of requests for records.

Memorandum proposing the renewal of a lease agreement relating to the Division of Bank Supervision Training Center lodging facilities.

Reports of committees and officers:  
Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation detailing all disbursements in excess of \$10,000 and all sales of real estate properties in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee, during the period October 16-December 16, 1977.

Reports of security transactions authorized by the Chairman.

#### CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-47-78 Filed 1-9-78 10:36 am]

#### [6740-02]

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#### FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 6, 1978, 43 FR 1171.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 11, 1978, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

#### Item No., Docket No., and Company

CP-14.—CP77-637, Columbia Gas Transmission Corp.; CP78-98, Texas Gas Transmission Corp.

CP-15.—CP78-52, Tennessee Gas Pipeline Co. and East Tennessee Natural Gas Co.; CP78-98, Texas Gas Transmission Corp.

KENNETH F. PLUMB,  
Secretary.

[S-55-78 Filed 1-9-78; 2:34 pm]

#### [7030-01]

4

#### INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., January 18, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public. Docket 229, Navajo.

#### FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-51-78 Filed 1-9-78; 2:34 pm]

#### [7020-02]

5

#### INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, January 20, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

#### MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. C.B. transceivers (Inv. TA-201-29)—vote on injury.
6. Administrative update by the Acting Director of Administration.
7. Machining centers (Inv. 337-TA-34).
8. EEO status report.
9. Doxycycline (Inv. 337-TA-3)—motion by Pfizer to reactivate the investigation.
10. Toy vehicles (Inv. 337-TA-31)—consideration of the procedures for post-hearing briefs and oral argument.
11. Any items left over from previous agenda.

#### CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-52-78 Filed 1-9-78; 2:34 pm]

#### [7555-01]

6

#### NATIONAL SCIENCE BOARD.

TIME AND DATE: January 19, 1978. Open Session: 1 p.m. to 5 p.m. January 20, 1978. Closed Session: 8:30 a.m. to 4 p.m.

PLACE: Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Portions open to the Public:

1. Minutes—Open Session—194th Meeting.
2. Chairman's Report.
3. Director's Report.
4. Reports of Board Committees.
5. NSF Advisory Group—Report on Meeting.
6. Grants, Contracts, and Programs.
7. Proposed Language Change Regarding NSF Support of Basic Research in Industry.
8. Presentation by Ambassador Jean Wilkowski, U.S. Coordinator for United Nations Conference on Science and Technology for Development.
9. Other Business.
10. Next Meetings.

#### Portions Closed to the Public:

- A. Minutes—Closed Session—194th Meeting.
- B. Report on NSB Nominees.
- C. NSB Annual Reports.
- D. NSF Budgets for Fiscal Years 1979 and 1980.
- E. Appointments to Alan T. Waterman Award Committee.
- F. Nominations to Advisory Committee for Science Education and Advisory Committee for Minority Programs in Science Education.
- G. Grants and Contracts.

#### CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-53-78, Filed 1-9-78; 2:34 pm]

#### [7590-01]

7

#### NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 1432.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, January 12, 1978, 11 a.m. and 2 p.m.

CHANGES IN THE MEETING: Meeting titled "Oral Arguments in St. Lucie (ALAB-420)" is canceled. Meeting titled "Discussion of St. Lucie (ALAB-420)" is canceled.

The items will be rescheduled in the near future.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 9, 1978.

[S-49-78 Filed 1-9-78; 2:34 pm]

#### [7590-01]

8

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, January 12, 1978.

## SUNSHINE ACT MEETINGS

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open (additional item).

MATTERS TO BE CONSIDERED: 2 p.m. Affirmation of: Recommendation for disposition of an FOIA appeal; and proposed amendments to 10 CFR parts 19 and 20 to control Radiation exposure to transient workers. (Approximately 5 minutes.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
*Office of the Secretary.*

JANUARY 5, 1978.

[S-50-78 Filed 1-9-78; 2:34 pm]

[7600-01]

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 17, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: Several amendments to the Commission's procedural rules found in 29 CFR Part 2200.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: January 9, 1978.

[S-54-78 Filed 1-9-78; 2:34 pm]

WEDNESDAY, JANUARY 11, 1978  
PART II



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**INTERSTATE  
COMMERCE  
COMMISSION**

**BRANCH LINE  
ACCOUNTING SYSTEM,  
REGIONAL SUBSIDY  
STANDARDS, AND  
COMMUTER STANDARDS**

■

**Conformance with Uniform  
System of Accounts  
for Railroad Companies**

**Registered  
Federal  
Project**

[7035-01]

## Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE  
COMMISSION

## SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293; Sub. No. 2]

PART 1125—STANDARDS FOR DETERMINING  
RAIL SERVICES CONTINUATION SUBSIDIES

## Report and Order

AGENCY: Rail Services Planning Office (RSPO), Interstate Commerce Commission.

ACTION: Restatement of Standards.

SUMMARY: RSPO restates Regional Subsidy Standards to conform with new ICC Uniform System of Accounts (USOA) which was established in accordance with the requirements of section 307 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). Comments are invited on substantive changes and whether in light of the new USOA, the formulas for apportioning common costs may be refined.

DATES: Effective date: January 1, 1978. Comments may be filed on or before January 31, 1978.

ADDRESS: An original and six copies should be submitted to:

Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036. Attn: Regional Subsidy Standards.

FOR FURTHER INFORMATION  
CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: The Rail Services Planning Office (RSPO) of the Interstate Commerce Commission (ICC) is directed by section 205(d)(6) of the Regional Rail Reorganization Act of 1973 (3R Act), 45 U.S.C. 715(d)(6), as amended by section 309 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Pub. L. 94-210 to:

Determine and publish, and from time to time revise and reissue, standards for determining (A) the "revenue attributable to the rail properties", (B) the "avoidable costs of providing service", (C) a "reasonable return on the value", and (D) a "reasonable management fee", as those phrases are used in section 304 of this Act (as amended by section 804 of the Railroad Revitalization and Regulatory Reform Act), after a proceeding in accordance with the provisions of section 553 of Title 5, United States Code.

The Regional Subsidy Standards (published in Title 49 of the Code of Federal Regulations, Part 1125) are based on and refer directly to the ICC's Uniform System of Accounts (USOA). The ICC was directed in sec-

tion 307 of the 4R Act to establish a new Uniform System of Accounts for railroad companies; the new USOA becomes effective January 1, 1978. As a result, RSPO is restating the Regional Subsidy Standards to conform them with the new USOA. The restated standards include a conversion table to help "bridge" from the old to the new accounting system. RSPO intends no substantive change in the Regional Subsidy Standards other than the following which were required by the new USOA:

The new USOA determines freight-train car costs by car type. The restated standards calculate freight-train car costs by each car type, rather than the present method of calculation which is based on an average of all car types; and

Certain incomes presently included in the standards as attributable revenues are treated in the restated standards as reductions to costs to conform with the new USOA. This change will affect the calculation of the administrative and management fees.

These and other changes in the standards relate only to the calculation of revenues attributable and on-branch costs. Off-branch costs will be based on a new cost-determination formula which is not yet completed. A new off-branch formula will be published when the new costing procedure for railroads is developed by the ICC. Although the restated standards become effective January 1, 1978, parties to existing subsidy agreements may agree to continue to use the present standards for the remainder of the current subsidy year.

RSPO invites comments on those areas in which substantive changes were made or a party believes substantive changes may have been made. Interested parties are also asked to consider whether the formulas for apportioning costs (§ 1125.8) may be refined in light of the new USOA. An original and six copies of the comments should be mailed to:

Rail Services Planning Office, 1900 L Street, NW., Washington, D.C. 20036. Attention: Regional Subsidy Standards.

The filing deadline is January 31, 1978.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, That Part 1125 of Chapter X of Title 49 of the Code of Federal Regulations appended to this report is hereby revised effective January 1, 1978.

Issued December 29, 1977, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,  
Acting Secretary.

Sec.

1125.1 Purpose of the standards.

1125.2 Definition of terms used in the standards.

1125.3 Procedure for calculating a subsidy estimate.

1125.4 Interim payments, financial reports, and interpretations.

1125.5 Year-end adjustment.

1125.6 Calculation of revenue and income attributable to branch lines.

1125.7 Calculation of avoidable costs and management fee.

1125.8 Apportionment rules for assignment of expenses to on-branch costs.

1125.9 Return on value of properties.

APPENDIX I—Format for presentation of subsidy estimate.

APPENDIX II—Format for financial status reports.

AUTHORITY: Section 205(d)(6), Regional Rail Reorganization Act of 1973, Pub. L. 93-236, 87 Stat 985, 994, as amended by sec. 309 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 31, 57.

## § 1125.1 Purpose of the standards.

(a) The 3R Act established a method of preserving rail service that would otherwise be discontinued as a result of the restructuring process developed by the final system plan. Section 304(c)(2) of the 3R Act, as amended, provides that no rail service or properties may be discontinued or abandoned if a financially responsible person or government entity offers a subsidy which: (1) Covers the difference between the carrier's revenues attributable to such rail properties and the carrier's avoidable costs of providing rail service on such properties, together with a reasonable management fee, and (2) includes a reasonable return on the value of such properties. Further, the person offering the subsidy shall designate the operator of the continued rail service.

(b) RSPO was directed to develop and publish standards to determine "revenues attributable to the rail properties," the "avoidable costs of providing service," a "reasonable return on the value," and a "reasonable management fee" as those phrases are used in section 304 of the 3R Act as amended. These standards (49 CFR 1125), developed by RSPO and referred to as the "Regional Subsidy Standards," are applicable only for subsidized freight operations over those rail properties of the railroads in reorganization which were not conveyed to ConRail. (Methods governing the calculation of subsidies for rail properties of other railroads as well as those properties conveyed to ConRail are covered by a separate set of standards (49 CFR 1121) and are referred to as the "National Subsidy Standards.")

(c) These standards intend that parties to a subsidy agreement utilize arms-length negotiation to the fullest extent possible in establishing and executing a subsidy operating agree-

ment. The standards presented here develop the methodologies for: (1) Calculating a subsidy estimate to be used as a basis for a subsidy offer under section 304(c)(2) of the 3R Act, as amended, (2) determining the actual revenues and costs of a subsidized operation during the subsidy year, and (3) establishing a return on the value of the properties used in continuing the rail service. Parties may agree in arms-length negotiations to provisions which modify these standards, subject to review of such modifications by RSPO. RSPO would not expect to disapprove variations from the standards which are the product of arms-length negotiations and which are shown to be reasonable in the light of pertinent facts and circumstances. When an agreement has been reached, a copy shall be filed promptly with RSPO for its review.

(d) In brief, the standards describe the method for establishing a subsidy estimate, the basis for paying this estimate during the subsidy year, the method of calculating the actual subsidy during the subsidy period, and the provisions for adjusting for the difference between the estimated subsidy and the actual subsidy at the end of the subsidy period.

(e) For further information regarding these standards, persons may contact RSPO's Cost Evaluation Branch at 202-254-7552.

#### § 1125.2 Definitions of terms used in the standards.

Unless otherwise required by the context, the following definitions apply:

"Account" means an account in the ICC's Uniform System of Accounts for Railroad Companies (49 CFR Part 1201).

"3R Act" means the Regional Rail Reorganization Act of 1973, Pub. L. 93-236 (87 Stat. 985).

"4R Act" means the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210 (90 Stat. 31).

"Base year" means, for initial subsidy estimates, the year employed by the U.S. Railway Association in developing the final system plan (1973). For subsequent subsidy estimates, the base year is the year immediately preceding the year for which the subsidy estimate is being calculated.

"Branch" means a segment of a railroad that is not designated to be in the final system plan under the 3R Act, and that is the subject of a notice in writing of intent to discontinue service under section 304(a) of the 3R Act.

"Form R-1" means a class I railroad's annual report filed with the ICC in accordance with the requirements of section 20 of the Interstate Commerce Act.

"Form R-2" means a class II railroad's annual report filed with the

ICC in accordance with the requirements of section 20 of the Interstate Commerce Act.

"FRA" means the Federal Railroad Administration, U.S. Department of Transportation.

"GMA" means General Managers Association of Chicago.

"ICC" means the Interstate Commerce Commission.

"Notice of intent" means a notice in writing of intent to discontinue service under section 304(a) of the 3R Act and notice of intent to abandon rail properties under section 304(b) of the 3R Act.

"Person offering a subsidy" means a shipper, a State, the United States, a local or regional transportation authority, or any responsible person offering a rail service continuation subsidy under section 304(c)(2)(A) of the 3R Act.

"Rail Form A" means the ICC's formula for use in determining rail freight service costs, statement 1F1-73.

"Railroad" means a railroad company, or the trustee or trustees of a railroad company, that gives a notice in writing of intent to discontinue service under section 304(a) of the 3R Act, and, as the context requires, "railroad" may mean either the owner of rail properties over which subsidized service is or may be performed, or the operator of that service, or both.

"RSPO" means the Rail Services Planning Office established by section 205 of the 3R Act.

"Subsidy year" means any 12-month period for which a subsidy agreement is negotiated and in operation.

"XX," when used in place of digits in a six-digit account number, means that all accounts containing the remaining four digits are to be used in the procedure being described. Example: "11-21-XX" refers to all salary and wage accounts for locomotives because "11" designates salaries and wages and "21" designates locomotives. Thus, "11-21-XX" includes all of the following accounts: 11-21-01, 11-21-40, 11-21-48, 11-21-39, and 11-21-99. Similarly, "XX-31-67" means all accounts containing "31" (train operations) and "67" (locomotive fuel).

#### § 1125.3 Procedure for calculating a subsidy estimate.

(a) *Discontinuance notice and subsidy offer procedures.*—(1) *Notice of discontinuance.* A railroad giving notice of intent to discontinue service on a branch shall provide an "Estimate of Subsidy Payment" and shall distribute copies of this estimate to the Director of RSPO, the Governor and railroad regulatory commission of each State within which the branch is located, and any other person upon request. The format of the "Estimate of Subsidy Payment" is prescribed in appendix

I. The subsidy estimate shall be the difference between the revenues attributable to the rail properties and the avoidable costs of providing service on such rail properties, together with a reasonable management fee, plus a reasonable return on the value of the properties. Beginning with the week in which it gives notice of intent to discontinue service on the branch, pursuant to section 304(a)(1)(B) of the 3R Act, the railroad shall publish a copy of that notice of intent in a newspaper or newspapers of general circulation in the area encompassing the branch at least once a week for three consecutive weeks. Each railroad shall include in the required notices a statement of the address of the railroad's office within the State or States where interested persons may examine, during regular working hours, the materials and information upon which the subsidy estimate calculations were made. If the railroad so requests, examination of documents which disclose information concerning the nature, kind, quantity, destination, consignee, or routing of traffic may be restricted to the representative of the person offering a subsidy and then only if that representative agrees to keep that information confidential. A notice of intent to discontinue service, according to section 304(a)(1)(B) of the 3R Act, is not considered complete or given until the railroad has fulfilled these requirements.

(2) *Subsidy offer.* Persons wishing to subsidize rail service proposed for discontinuance shall: (i) Communicate in writing with the railroad selected as the designated operator for the continuation of such service, offering to pay such operator the estimated subsidy amount, and (ii) communicate in writing with the trustee(s) or owner(s) of the railroad which owns the branch line, offering to pay a reasonable return on the value of the properties. Upon the offer of a subsidy from a financially responsible person, discontinuance of the rail service or abandonment of the rail properties for which the subsidy is being offered is prohibited, pursuant to section 304(c)(2)(A) of the 3R Act. The parties are free to negotiate operating levels and reasonable variations from the standards, but when impasse occurs in the negotiations, the standards established here can be invoked.

Because USRA was not required to utilize the standards promulgated by RSPO as criteria for inclusion of branch lines in the final system plan, it is possible that a branch line could be excluded from the final system plan and yet generate revenues which exceed the costs as calculated under these standards. Therefore, RSPO has established the amount that a potential subsidizer must offer under section 304(c)(2)(A) as the amount com-

puted by the subsidy estimate formula or \$1.00, whichever is the greater.

(3) *Use of prior subsidy standards.* Even though these standards become effective January 1, 1978, parties to existing subsidy agreements may agree to continue to use the standards in effect prior to January 1, 1978, for the remainder of the current subsidy year.

(4) *Basis of estimated subsidy.* The estimated subsidy for the subsidy year immediately following conveyance in the reorganization process (ConRail start-up date) shall be calculated according to an interim formula based on data from 1973, which was the base year employed by USRA in developing the final system plan. This interim formula, using 1973 data, is to be employed only for the calculation of initial subsidy agreements; once a subsidy agreement is in place, subsequent years' estimates shall be based on data drawn from the preceding subsidy year. Estimates for revenues, on-branch avoidable costs, off-branch costs, a reasonable management fee, and a return on value shall be calculated according to the procedures in §§ 1125.3(b) through 1125.3(f) inclusive. The subsidy estimate procedure relies in many instances on the same formulas that are used to calculate the actual subsidy amount; the basic difference between the estimated and actual subsidy calculations is that the actual subsidy amount is calculated using data reflecting the experience of the subsidy year, while the estimate is based on anticipated operational results.

(b) *Estimated revenues.* Using base year data, estimated revenues shall include all sources of revenue and income prescribed as revenues and income attributable to the rail properties in the calculation of the actual subsidy, see section 1125.6.

(c) *Estimated on-branch costs.* On-branch cost estimates shall be separated and calculated as follows:

(1) *Routine maintenance of way and structures.* These expenses shall be estimated at \$1,000 per year per mile of track on the branch for which the railroad is responsible for maintenance, unless the parties agree to a higher level.

(2) *Rehabilitation.* Rehabilitation costs shall not be included unless: (i) The track involved does not meet minimum FRA class I safety standards (49 CFR Part 213), in which case, the railroad shall furnish a detailed estimate of the costs to rehabilitate the track to FRA class I level with the notice of intent and provision to cover such costs shall be included in the subsidy agreements; or (ii) The potential subsidizer requests a level of service which requires expenditures for rehabilitation and makes such a request within 10 days after the date of notice of intent is filed, in which case the

railroad shall furnish an estimate of the costs involved within 20 days after the date of that request. All such requests and estimates shall refer to specific projects for rehabilitation.

(3) *Maintenance of equipment excluding freight cars.* Estimates for maintenance of equipment shall be developed by applying base year data to the formula for calculating the actual maintenance of equipment expense, see § 1125.7(b). Unless the parties agree to a different base, the resulting average unit costs shall be applied to the branch base year service units to arrive at the estimate.

(4) *Transportation.* Transportation costs shall be estimated based on system average costs. The number of trips per year shall be based on the frequency of service performed at the time the notice is filed unless the parties agree to a different level. Labor costs for train crews shall be based on system average costs for each type of crew applied to the hours of service on the branch. The crew costs shall be classified into three major categories: Yard, local/way, and through. The straight time average costs per hour for each yard, local/way, or through train crew member shall be calculated for class I railroads by using the railroad's Employees, Service, and Compensation Report (Form B) for the base year. The calculation is made by adding together the straight time compensation and the constructive allowances, and dividing this total by the straight time hours actually worked. This process would be repeated for each yard, local/way, and through train class of employee. For class II railroads, the straight time average cost per hour for each yard, local/way, or through train crew member shall be calculated in the same manner, using the railroad's payroll records for the base year. After the hourly rate is determined for each member, the cost per crew hour shall be calculated based on the exact size and consist of the crew currently serving the branch. The crew cost per hour is multiplied by the estimated hours that will be incurred in serving the branch during the subsidy period. The estimated direct crew costs must be increased to cover fringe benefits using the procedure specified in § 1125.7(c). The railroad shall also furnish estimates of costs for the remaining transportation accounts using section 1125.7(c) as a guide to their inclusion and basis of calculation.

(5) *General administrative expenses.* In exceptional circumstances, the railroad may be allowed to include general administrative expenses. Such expenses are allowable only if the size of the railroad's operation (measured in total mileage, gross revenues, gross ton-miles, or car-miles) is increased by more than 25 percent as a result of op-

erating the subsidized service, or the individual line being operated under a subsidy agreement generates \$10 million or more in gross revenues per annum. If the railroad foresees this increase, then estimates may be calculated for the accounts included under general administrative costs in § 1125.7(d).

(6) *Deadheading, taxi, and hotel costs.* Estimates for these costs shall be determined from base year data reflecting deadheading, taxi, and hotel costs incurred as a result of providing service to the branch line. The amounts under this section shall not be included under the wage accounts for yard conductors and brakemen, yard enginemen, or trainmen.

(7) *Overhead movement costs.* Estimates for these costs shall be determined from base year data reflecting overhead movement costs incurred as a result of providing service to the branch. The amounts shown shall be limited to transportation, equipment, and freight cars. The amounts shown under this section shall not be included under other sections of these standards.

(8) *Freight Car Costs.* Freight car costs shall be estimated by a method consistent with the detailed procedures specified in § 1125.7(g).

(9) *Taxes.* Estimates for property taxes shall be based on the base year actual tax assessment, adjusted for tax rate changes; revenue taxes shall be based on the estimated revenue level.

(10) *Administrative Fee.* The estimated administrative fee shall be one percent of the revenues estimated under § 1125.3(b).

(11) *Casualty Reserve Account.* Estimates for this item shall be any payments mutually agreed to by the person offering the subsidy and the railroad for the purpose of holding the subsidizer harmless from any liability. Such cost may include a reasonable fee to cover the cost of administering the fund.

(12) *Termination Costs.* Estimates for these costs shall be determined according to a projection of costs reasonably and necessarily incurred should service to the subsidized branch be terminated. These costs shall not include any costs which the railroad would have incurred had the branch not been operated under the subsidy program. The 15 percent ceiling discussed in § 1125.5 is not applicable to these costs unless they are included in the estimated subsidy amount.

(d) *Estimated Off-Branch Costs.* A ratio of off-branch costs to revenues for the base year shall be used to derive the estimate of off-branch costs for the subsidy year. Base year off-branch costs shall be calculated using the procedure established in § 1125.7(n). If data identifying actual carloads by car type are not available,

car type shall be based upon the railroad's best estimate. The resulting ratio of base year off-branch costs to revenues shall then be applied to the revenues estimated under § 1125.3(b) to develop the estimated off-branch costs for the subsidy year.

(e) *Estimated Management Fee.* The estimated management fee shall be four and one-half percent of the revenues estimated under § 1125.3(b). If the railroad and the person offering the subsidy agree to an additional fee designed as an incentive to maximize revenues, minimize expenses, promote efficient service, or otherwise achieve public interest objectives, the railroad shall be paid such fee as determined in accordance with an agreement to that effect.

(f) *Estimated Return on Value.* The railroad shall appraise the value of the property using the procedures described in § 1125.9(a). If the value is challenged, an appraisal of the property by a qualified and certified appraiser(s) shall be offered by the potential subsidizer. If the parties cannot agree on a valuation through negotiation, an average of the two appraisals shall be used as the estimated valuation. The rate of return to be applied to the value of the properties shall be determined in accordance with § 1125.9(b).

#### § 1125.4 Interim payments, financial reports, and interpretations.

(a) *Interim Subsidy Payments.* The person offering a subsidy shall offer to pay, in return for the continuation of rail service, an amount computed on the basis of the interim formula described in § 1125.3. The interim payment may be adjusted, by agreement of the parties, to take into account factors, such as rate increases and changes in traffic levels, which would make the sole use of base year data an inappropriate means of estimating the payment for the subsidy year or to conform to amendments to these standards made subsequent to the original agreement. Interest shall be applied to any deferred payment, calculated at the same rate as the rate of return on value specified in § 1125.9(b), for the period of time such payment is outstanding. The amount estimated for the management fee and for the difference between the revenues attributable and the avoidable costs shall be paid to the railroad operating the branch line. The amount estimated for the return on value shall be paid directly to the trustee(s) or owner(s) of the property, unless the parties agree that such payment shall be made by the railroad in behalf of the subsidizer.

(b) *Financial Status Reports.* The railroad must establish a system for collecting costs and other required data at the branch level, and must,

within thirty days after the end of each quarter of the subsidy year, file with the person offering the subsidy a "Financial Status Report" which shall include the information prescribed in the method for calculating the actual subsidy as specified in §§ 1125.6, 1125.7, and 1125.9. The format of the "Financial Status Report" is prescribed in Appendix II. Significant deviations from the original estimates must be explained. In all reports, the actual data reflecting the year to date shall show a projection to the end of the subsidy year for each item, except that off-branch costs shall be estimated during the subsidy year by applying the ratio developed in accordance with § 1125.3(d) to the revenues.

Unless the parties agree otherwise, the last Financial Status Report filed during the first ten months of the subsidy year shall be the basis for developing the estimated subsidy payment for the subsequent year's agreement. The Financial Status Reports should be considered detailed progress reports monitoring the actual costs and revenues involved for operating rail service on the branch throughout the subsidy year; the Financial Status Reports are not to be considered as "progress billings" for subsidy services performed.

(c) *Interpretations of the Standards.* Parties desiring an interpretation of the standards should file a written petition with RSPO citing the section involved and setting forth their position and rationale. If the request arises from a dispute with other parties, the petitioner shall identify those parties and serve each of them with a copy of the petition. Parties desiring to file a reply must do so within 10 days of their receipt of the petition. RSPO will issue an interpretation, unless it concludes that the matter raised requires amendment of the standards, in which case RSPO will institute a rule-making proceeding. The address of RSPO is:

Rail Services Planning Office, 1900 L Street  
NW., Washington, D.C. 20036.

#### § 1125.5 Year-end adjustment.

(a) On the basis of the railroad's year-end Financial Status Report, the subsidy payment shall be adjusted to reconcile any differences between the subsidy payments actually made based on the estimated subsidy and the actual subsidy calculated from data reflecting the actual revenues and costs experienced in the operation of the branch during the subsidy year.

(b) Where an adjustment results in an increase in the estimated subsidy payment, the amount of such increase in excess of 15 percent of the estimated subsidy shall be treated as a carryover avoidable cost in the subsequent subsidy year. This provision

shall apply unless: (1) The railroad notifies the subsidizer in one of the Financial Status Reports issued during the first ten months of the subsidy year that the estimate will be exceeded by more than 15 percent, or (2) The increase results from an expense approved in advance by the person offering the subsidy.

(c) Should the year-end adjustment reflect an overpayment by the person offering the subsidy, the amount of overpayment shall be reimbursed by the railroad.

#### § 1125.6 Revenue and income attributable to branch lines.

The revenue attributable to the rail properties is the total of the revenues assigned to the branch in accordance with this section, plus any subsidy payments that would cease upon discontinuance of service on the branch, for the subsidy year. The revenues assigned shall be derived from the following accounts:

(a) *Account 101-Freight.* The revenues assigned under this account shall be the actual revenues, including transit revenues, accruing to the railroad, derived from waybills and other source documents, for all traffic that:

(1) Originates or terminates on the branch;

(2) Originates or terminates on the branch and is handled off the branch on the system but not on another carrier; and

(3) Originates or terminates on the branch and is handled on another carrier.

All traffic that is received or forwarded through interchange at a point on the branch, including ferry operations, shall be considered as originating or terminating on the branch. The revenues of all other bridge or overhead traffic shall be attributed to the branch on the ratio of miles moved on the branch to miles moved on the system, provided, however, that the parties may agree on a mutually acceptable usage charge for bridge traffic in lieu of the mileage apportionment.

(b) *Account 104—Switching; Account 105—Water transfers; Account 106—Demurrage; Account 110—Incidental; Account 121—Joint Facility-Credit; Account 122—Joint Facility-Debit; Account 506—Revenues from Properties Used in Other Than Carrier Operations; Account 510—Miscellaneous Rent Income; Account 519—Miscellaneous Income.* The revenues assigned under these accounts shall be the actual revenues accruing to the railroad that are directly attributable to the branch.

(c) *Conversion Chart for Revenue Accounts.*

## RULES AND REGULATIONS

Revenue Account Title	Previous Account Number	Present Account Number
Freight.....	101, 109.....	101
Switching.....	110.....	104
Water transfers.....	113.....	105
Demurrage.....	137.....	106
Incidental.....	130, 132, 133, 135, 138, 139, 141, 142, 143.....	110
Joint facility—credit.....	151.....	121
Joint facility—debit.....	152.....	122
Revenues from property used in other than carrier operations.....	502, 511.....	506
Miscellaneous rent income.....	510.....	510
Miscellaneous income.....	519.....	519

§ 1125.7 Calculation of avoidable costs and management fee.

(a) This section defines: (1) Which cost elements are eligible for inclusion in the calculation of avoidable costs; (2) the conditions under which certain cost elements become eligible for inclusion; and (3) the basis of apportioning those cost elements which are not assigned to the branch on an actual expense basis.

(b) The avoidable costs of providing freight service on a branch shall be the total of the costs assigned to the branch in accordance with this section. Those expenses apportioned under this section shall be derived from the latest Form R-1 or Form R-2

of the railroad filed with the ICC prior to the conclusion of the subsidy year, and assigned to the branch according to the procedures set forth in § 1125.8 of these regulations.

(c) When the term "actual" is specified as the basis for assigning an expense, it shall mean that the only costs which can be assigned to the account are those costs which are incurred solely as a result of the continuation of rail freight service on the branch.

(d) The accounts in the following charts, which list only the "freight-only" account numbers, shall include the portion of common expenses that have been apportioned to freight service.

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>(a) Maintenance of Way and Structures</u>			
<u>(1) Administration:</u>			
<u>Track</u>			
Salaries and Wages	201	11-13-02	Actual
Materials		21-13-02	Actual
Purchased Services		41-13-02	Actual
Other Expenses		61-13-02	Actual
<u>Bridges and Buildings</u>			
Salaries and Wages	201	11-13-03	Actual
Materials		21-13-03	Actual
Purchased Services		41-13-03	Actual
Other Expenses		61-13-03	Actual
<u>Signals</u>			
Salaries and Wages	201	11-13-04	Actual
Materials		21-13-04	Actual
Purchased Services		41-13-04	Actual
Other Expenses		61-13-04	Actual
<u>Communications</u>			
Salaries and Wages	201	11-13-05	Actual
Materials		21-13-05	Actual
Purchased Services		41-13-05	Actual
Other Expenses		61-13-05	Actual
<u>Other</u>			
Salaries and Wages	201	11-13-06	Actual
Materials		21-13-06	Actual
Purchased Services		41-13-06	Actual
Other Expenses		61-13-06	Actual
<u>(2) Repair maintenance and other Roadway - Running</u>			
Salaries and Wages	202	11-11-10	Actual
Materials		21-11-10	Actual
Repairs by Others - DR.		39-11-10	Actual
Repairs for Others - CR.		40-11-10	Actual
Purchased Services		41-11-10	Actual
Other Expenses		61-11-10	Actual
<u>Roadway-Switching</u>			
Salaries and Wages	202	11-12-10	Actual
Materials		21-12-10	Actual
Repairs by Others - DR.		39-12-10	Actual
Repairs for Others - CR.		40-12-10	Actual
Purchased Services		41-12-10	Actual
Other Expenses		61-12-10	Actual
<u>Tunnels and Subways - Running</u>			
Salaries and Wages	206	11-11-11	Actual
Materials		21-11-11	Actual
Repairs by Others - DR.		39-11-11	Actual
Repairs for Others - CR.		40-11-11	Actual
Purchased Services		41-11-11	Actual
Other Expenses		61-11-11	Actual
<u>Tunnels and Subways - Switching</u>			
Salaries and Wages	206	11-12-11	Actual
Materials		21-12-11	Actual
Repairs by Others - DR.		39-12-11	Actual
Repairs for Others - CR.		40-12-11	Actual
Purchased Services		41-12-11	Actual
Other Expenses		61-12-11	Actual

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Bridges and Culverts - Running</u>			
Salaries and Wages	208-210	11-11-12	Actual
Materials		21-11-12	Actual
Repairs by Others - DR.		39-11-12	Actual
Repairs for Others - CR.		40-11-12	Actual
Purchased Services		41-11-12	Actual
Other Expenses		61-11-12	Actual
<u>Bridges and Culverts - Switching</u>			
Salaries and Wages	208-210	11-12-12	Actual
Materials		21-12-12	Actual
Repairs by Others - DR.		39-12-12	Actual
Repairs for Others - CR.		40-12-12	Actual
Purchased Services		41-12-12	Actual
Other Expenses		61-12-12	Actual
Ties - Running - Material	212	21-11-13	Actual
Ties - Switching - Material	212	21-12-13	Actual
Rails - Running - Material	214	21-11-14	Actual
Rails - Switching - Material	214	21-12-14	Actual
Other Track Material-Running-Material	216	21-11-15	Actual
Other Track Material-Switching-Material	216	21-12-15	Actual
Ballast-Running-Material	218	21-11-16	Actual
Ballast-Switching-Material	218	21-12-16	Actual
<u>Track Laying and Surfacing-Running</u>			
Salaries and Wages	220	11-11-17	Actual
Materials		21-11-17	Actual
Repairs by Others - DR.		39-11-17	Actual
Repairs for Others - CR.		40-11-17	Actual
Purchased Services		41-11-17	Actual
Other Expenses		61-11-17	Actual
<u>Track Laying and Surfacing-Switching</u>			
Salaries and Wages	220	11-12-17	Actual
Materials		21-12-17	Actual
Repairs by Others - DR.		39-12-17	Actual
Repairs for Others - CR.		40-12-17	Actual
Purchased Services		41-12-17	Actual
Other Expenses		61-12-17	Actual
<u>Road Property Damaged-Running</u>			
Salaries and Wages	202-220,	11-11-48	Actual
Materials	and 249	21-11-48	Actual
Repairs by Others - DR.		39-11-48	Actual
Repairs for Others - CR.		40-11-48	Actual
Purchased Services		41-11-48	Actual
Other Expenses		61-11-48	Actual
<u>Road Property Damaged-Switching</u>			
Salaries and Wages	202-220,	11-12-48	Actual
Materials	and 249	21-12-48	Actual
Repairs by Others - DR.		39-12-48	Actual
Repairs for Others - CR.		40-12-48	Actual
Purchased Services		41-12-48	Actual
Other Expenses		61-12-48	Actual
<u>Road Property Damaged - Other</u>			
Salaries and Wages	221*, 227-247	11-13-48	Actual
Materials	253, 257	21-13-48	Actual
Repairs by others - DR.	265, 269	39-13-48	Actual
Repairs for others - CR.		40-13-48	Actual
Purchased Services		41-13-48	Actual
Other Expenses		61-13-48	Actual

RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Signals and Interlockers-Running</u>			
Salaries and Wages	249	11-11-19	Actual
Materials		21-11-19	Actual
Repairs by Others - DR.		39-11-19	Actual
Repairs for Others - CR.		40-11-19	Actual
Purchased Services		41-11-19	Actual
Other Expenses		61-11-19	Actual
<u>Signals and Interlockers-Switching</u>			
Salaries and Wages	249	11-12-19	Actual
Materials		21-12-19	Actual
Repairs by Others - DR.		39-12-19	Actual
Repairs for Others - CR.		40-12-19	Actual
Purchased Services		41-12-19	Actual
Other Expenses		61-12-19	Actual
<u>Communications Systems</u>			
Salaries and Wages	247	11-13-20	Actual
Materials		21-13-20	Actual
Repairs by Others - DR.		39-13-20	Actual
Repairs for Others - CR.		40-13-20	Actual
Purchased Services		41-13-20	Actual
Other Expenses		61-13-20	Actual
<u>Electric Power Systems</u>			
Salaries and Wages	253,257	11-13-21	Actual
Materials		21-13-21	Actual
Repairs by Others - DR.		39-13-21	Actual
Repairs for Others - CR.		40-13-21	Actual
Purchased Services		41-13-21	Actual
Other Expenses		61-13-21	Actual
<u>Highway Grade Crossings-Running</u>			
Salaries and Wages	273	11-11-22	Actual
Materials		21-11-22	Actual
Repairs by Others - DR.		39-11-22	Actual
Repairs for Others - CR.		40-11-22	Actual
Purchased Services		41-11-22	Actual
Other Expenses		61-11-22	Actual
<u>Highway Grade Crossings-Switching</u>			
Salaries and Wages	273	11-12-22	Actual
Materials		21-12-22	Actual
Repairs by Others - DR.		39-12-22	Actual
Repairs for Others - CR.		40-12-22	Actual
Purchased Services		41-12-22	Actual
Other Expenses		61-12-22	Actual
<u>Station and Office Buildings</u>			
Salaries and Wages	227	11-13-23	Actual
Materials		21-13-23	Actual
Repairs by Others - DR.		39-13-23	Actual
Repairs for Others - CR.		40-13-23	Actual
Purchased Services		41-13-23	Actual
Other Expenses		61-13-23	Actual
<u>Station Buildings - Locomotives</u>			
Salaries and Wages	235,253	11-13-24	Actual
Materials	and 257	21-13-24	Actual
Repairs by Others - DR.		39-13-24	Actual
Repairs for Others - CR.		40-13-24	Actual
Purchased Services		41-13-24	Actual
Other Expenses		61-13-24	Actual

## RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Shop Buildings - Freight Cars</u>			
Salaries and Wages	235,253	11-13-25	Actual
Materials	and 257	21-13-25	Actual
Repairs by Others - DR.		39-13-25	Actual
Repairs for Others - CR.		40-13-25	Actual
Purchased Services		41-13-25	Actual
Other Expenses		61-13-25	Actual
<u>Shop Buildings - Other Equipment</u>			
Salaries and Wages	235,253	11-13-26	Actual
Materials	and 257	21-13-26	Actual
Repairs by Others - DR.		39-13-26	Actual
Repairs for Others - CR.		40-13-26	Actual
Purchased Services		41-13-26	Actual
Other Expenses		61-13-26	Actual
<u>Locomotive Servicing Facilities</u>			
Salaries and Wages	231,233	11-13-27	Actual
Materials		21-13-27	Actual
Repairs by Others - DR.		39-13-27	Actual
Repairs for Others - CR.		40-13-27	Actual
Purchased Services		41-13-27	Actual
Other Expenses		61-13-27	Actual
<u>Miscellaneous Buildings and Structures</u>			
Salaries and Wages	221,229,239	11-13-28	Actual
Materials	and 265	21-13-28	Actual
Repairs by Others - DR.		39-13-28	Actual
Repairs for Others - CR.		40-13-28	Actual
Purchased Services		41-13-28	Actual
Other Expenses		61-13-28	Actual
<u>Coal Terminals</u>			
Salaries and Wages	243	11-13-29	Actual
Materials		21-13-29	Actual
Repairs by Others - DR.		39-13-29	Actual
Repairs for Others - CR.		40-13-29	Actual
Purchased Services		41-13-29	Actual
Other Expenses		61-13-29	Actual
<u>Ors Terminals</u>			
Salaries and Wages	243	11-13-30	Actual
Materials		21-13-30	Actual
Repairs by Others - DR.		39-13-30	Actual
Repairs for Others - CR.		40-13-30	Actual
Purchased Services		41-13-30	Actual
Other Expenses		61-13-30	Actual
<u>TOFC/COFC Terminals</u>			
Salaries and Wages	244	11-13-31	Actual
Materials		21-13-31	Actual
Repairs by Others - DR.		39-13-31	Actual
Repairs for Others - CR.		40-13-31	Actual
Purchased Services		41-13-31	Actual
Other Expenses		61-13-31	Actual
<u>Other Marine Terminals</u>			
Salaries and Wages	241	11-13-32	Actual
Materials		21-13-32	Actual
Repairs by Others - DR.		39-13-32	Actual
Repairs for Others - CR.		40-13-32	Actual
Purchased Services		41-13-32	Actual
Other Expenses		61-13-32	Actual

RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Motor Vehicle Loading and Distribution Facilities</u>			
Salaries and Wages	227	11-13-33	Actual
Materials		21-13-33	Actual
Repairs by Others - DR.		39-13-33	Actual
Repairs for Others - CR.		40-13-33	Actual
Purchased Services		41-13-33	Actual
Other Expenses		61-13-33	Actual
<u>Facilities for Other Specialized Service Operations</u>			
Salaries and Wages	227,237	11-13-35	Actual
Materials		21-13-35	Actual
Repairs by Others - DR.		39-13-35	Actual
Repairs for Others - CR.		40-13-35	Actual
Purchased Services		41-13-35	Actual
Other Expenses		61-13-35	Actual
<u>Roadway Machines</u>			
Salaries and Wages	269	11-13-36	(Daily repair costs per
Materials		21-13-36	GMA, for each type of
Repairs by Others - DR.		39-13-36	(machine used on the branch
Repairs for Others - CR.		40-13-36	(line #1125.8(a)(1)
Purchased Services		41-13-36	
Other Expenses		61-13-36	
<u>Small Tools and Supplies</u>			
Salaries and Wages	271	11-13-37	(Assign supplies on the
Materials		21-13-37	(daily costs per GMA, for
Repairs by Others - DR.		39-13-37	(each type of machine used
Repairs for Others - CR.		40-13-37	(on the branch; small tools
Purchased Services		41-13-37	(assign to maintenance of
Other Expenses		61-13-37	(way 11, 11/12-10 through 17,
			(and 48, #1125.8(a)(2)
<u>Snow Removal</u>			
Salaries and Wages	272	11-13-38	Actual
Materials		21-13-38	Actual
Repairs by Others - DR.		39-13-38	Actual
Repairs for Others - CR.		40-13-38	Actual
Purchased Services		41-13-38	Actual
Other Expenses		61-13-38	Actual
Fringe Benefits - Running	277,457	12-11-00	11-11-XX, #1125.8(a)(3)(i)
Fringe Benefits - Switching	277,457	12-12-00	11-12-XX, #1125.8(a)(3)(ii)
Fringe Benefits - Other	277,457	12-13-00	11-13-XX, #1125.8(a)(3)(iii)
<u>Casualties and Insurance - Running</u>			
Other Casualties	274	52-11-00	Actual
Insurance	275	53-11-00	Actual
<u>Casualties and Insurance - Switching</u>			
Other Casualties	274	52-12-00	Actual
Insurance	275	53-12-00	Actual
Lease Rentals - Debit - Running	542	31-11-00	Actual
Lease Rentals - Debit - Switching	542	31-12-00	Actual
Lease Rentals - Debit - Other	542	31-13-00	Actual
Lease Rentals - Credit - Running	509	32-11-00	Actual
Lease Rentals - Credit - Switching	509	32-12-00	Actual
Lease Rentals - Credit - Other	509	32-13-00	Actual
Joint Facility Rent - Debit - Running	541	33-11-00	Actual
Joint Facility Rent - Debit - Switching	541	33-12-00	Actual

## RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
Joint Facility - Debit - Other	541	33-13-00	Actual
Joint Facility Rent - Credit - Running	508	34-11-00	Actual
Joint Facility Rent - Credit - Switching	508	34-12-00	Actual
Joint Facility Rept - Credit - Other	508	34-13-00	Actual
Other Rents - Debit - Running	543	35-11-00	Actual
Other Rents - Debit - Switching	543	35-12-00	Actual
Other Rents - Debit - Other	543	35-13-00	Actual
Other Rents - Credit - Running	510	36-11-00	Actual
Other Rents - Credit - Switching	510	36-12-00	Actual
Other Rents - Credit - Other	510	36-13-00	Actual
Depreciation - Running	266	62-11-00	Actual
Depreciation - Switching	266	62-12-00	Actual
Depreciation - Other	266	62-13-00	Actual
Joint Facility - Debit - Funning	278	37-11-00	Actual
Joint Facility - Debit - Switching	278	37-12-00	Actual
Joint Facility - Debit - Other	278	37-13-00	Actual
Joint Facility - Credit - Running	279	38-11-00	Actual
Joint Facility - Credit - Switching	279	38-12-00	Actual
Joint Facility - Credit - Other	279	38-13-00	Actual
<u>Dismantling Retired Road Property Running</u>			
Salaries and Wages	270	11-11-39	Actual
Materials		21-11-39	Actual
Purchased Services		41-11-39	Actual
Other Expenses		61-11-39	Actual
<u>Dismantling Retired Road Property - Switching</u>			
Salaries and Wages	270	11-12-39	Actual
Materials		21-12-39	Actual
Purchased Services		41-12-39	Actual
Other Expenses		61-12-39	Actual
<u>Dismantling Retired Road Property - Other</u>			
Salaries and Wages	270	11-13-39	Actual
Materials		21-13-39	Actual
Purchased Services		41-13-39	Actual
Other Expenses		61-13-39	Actual
<u>Other - Running</u>			
Salaries and Wages	281-282	11-11-99	Actual
Materials		21-11-99	Actual
Purchased Services		41-11-99	Actual
Other Expenses		61-11-99	Actual
<u>Other - Switching</u>			
Salaries and Wages	281-282	11-12-99	Actual
Materials		21-12-99	Actual
Purchased Services		41-12-99	Actual
Other Expenses		61-12-99	Actual
<u>Other - Other</u>			
Salaries and Wages	281-282	1-13-99	Actual
Materials		21-13-99	Actual
Purchased Services		41-13-99	Actual
Other Expenses		61-13-99	Actual

RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>(b) Maintenance of Equipment</u>			
<u>(1) Locomotives:</u>			
<u>Administration</u>			
Salaries and Wages	301	11-21-01	Actual
Materials		21-21-01	Actual
Purchased Services		41-21-01	Actual
Other Expenses		61-21-01	Actual
<u>Repairs and Maintenance</u>			
Salaries and Wages	311	11-21-41	(Road diesel and Road Electric
Materials		21-21-41	(locomotive gross ton miles.
Repairs by Others - DR.		39-21-41	(Yard Diesel and Yard Electric
Repairs for Others - CR.		40-21-41	(locomotive unit hours,
Purchased Services		41-21-41	(\$1125.8(b)(1)
Other Expenses		61-21-41	(
<u>Machinery Repair</u>			
Salaries and Wages	302	11-21-40	Actual
Materials		21-21-40	Actual
Repairs by Others - DR.		39-21-40	Actual
Repairs for Others - CR.		40-21-40	Actual
Purchased Services		41-21-40	Actual
Other Expenses		61-21-40	Actual
<u>Equipment Damaged</u>			
Salaries and Wages	311	11-21-48	Actual
Materials		21-21-48	Actual
Repairs by Others - DR.		39-21-48	Actual
Repairs for Others - CR.		40-21-48	Actual
Purchased Services		41-21-48	Actual
Other Expenses		61-21-48	Actual
Fringe Benefits	335,457	12-21-00	11-21-22, \$1125.8(b)(3)(4)
<u>Other Casualties and Insurance</u>			
Other Casualties	332	52-21-00	Actual
Insurance	333	53-21-00	Actual
Lease Rentals - Debit	537	31-21-00	Actual
Lease Rentals - Credit	504	32-21-00	Actual
Joint Facility Rent - Debit	541	33-21-00	Actual
Joint Facility Rent - Credit	508	34-21-00	Actual
Other Rents - Debit	537	35-21-00	Actual
Other Rents - Credit	504	36-21-00	Actual
Joint Facility - Debit	336	37-21-00	Actual
Joint Facility - Credit	337	38-21-00	Actual
Depreciation	331	62-21-00	All locomotives, locomotive unit hours, \$1125.8(b)(2)
<u>Dismantling Retired Property</u>			
Salaries and Wages	306,329	11-21-39	Actual
Materials		21-21-39	Actual
Purchased Services		41-21-39	Actual
Other Expenses		61-21-39	Actual
<u>Other</u>			
Salaries and Wages	339	11-21-99	Actual
Materials		21-21-99	Actual
Purchased Services		41-21-99	Actual
Other Expenses		61-21-99	Actual
<u>(2) Freight Cars:</u>			
<u>Administration</u>			
Salaries and Wages	301	11-22-01	Actual
Materials		21-22-01	Actual
Purchased Services		41-22-01	Actual
Other Expenses		61-22-01	Actual

## RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Machinery Repair</u>			
Salaries and Wages	302	11-22-40	Actual
Materials		21-22-40	Actual
Repairs by Others - DR.		39-22-40	Actual
Repairs for Others - CR.		40-22-40	Actual
Purchased Services		41-22-40	Actual
Other Expenses		61-22-40	Actual
<u>Equipment Damage</u>			
Salaries and Wages	314	11-22-48	Actual
Materials		21-22-48	Actual
Repairs by Others - DR.		39-22-48	Actual
Repairs for Others - CR.		40-22-48	Actual
Purchased Services		41-22-48	Actual
Other Expenses		61-22-48	Actual
Fringe Benefits	335,457	12-22-00	11-22-XX, §1125.8(b)(3)(iii)
<u>Other Casualties and Insurance</u>			
Other Casualties	332	52-22-00	Actual
Insurance	333	53-22-00	Actual
Joint Facility Rent - DR.	541	33-22-00	Actual
Joint Facility Rent - CR.	508	34-22-00	Actual
Joint Facility - DR.	336	37-22-00	Actual
Joint Facility - CR.	337	38-22-00	Actual
<u>Dismantling Retired Property</u>			
Salaries and Wages	306,329	11-22-39	Actual
Materials		21-22-39	Actual
Purchased Services		41-22-39	Actual
Other Expenses		61-22-39	Actual
<u>Other</u>			
Salaries and Wages	330,339	11-22-99	Actual
Materials		21-22-99	Actual
Purchased Services		41-22-99	Actual
Other Expenses		61-22-99	Actual
Freight Car Costs Per Day and Per Mile			
<u>Repair and Maintenance</u>			
Salaries and Wages	314	11-22-42	(These accounts are used
Materials		21-22-42	(to develop the cost
Repairs by Others - DR.		39-22-42	(per car day and per
Repairs for Others - CR.		40-22-42	(car mile for each
Purchased Services		41-22-42	(type of car.
Other Expenses		61-22-42	(§1125.7(g)
			(
Lease Rentals - DR.	536	31-22-00	(
Lease Rentals - CR.	503	32-22-00	(
Depreciation	331	62-22-00	(
Other Rents - DR.	536	35-22-00	(
Other Rents - CR.	503	36-22-00	(
(3) <u>Other Equipment: Administration</u>			
Salaries and Wages	301	11-23-01	Actual
Materials		21-23-01	Actual
Purchased Services		41-23-01	Actual
Other Expenses		61-23-01	Actual

RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Repair and Maintenance</u>			
<u>Trucks, Trailers and Containers- Revenue Service</u>			
Salaries and Wages	318	11-23-43	Actual
Materials		21-23-43	Actual
Repairs by Others - DR.		39-23-43	Actual
Repairs for Others - CR.		40-23-43	Actual
Purchased Services		41-23-43	Actual
Other Expenses		61-23-43	Actual
<u>Floating Equipment - Revenue Service</u>			
Salaries and Wages	323	11-23-44	Actual
Materials		21-23-44	Actual
Repairs by Others - DR.		39-23-44	Actual
Repairs for Others - CR.		40-23-44	Actual
Purchased Services		41-23-44	Actual
Other Expenses		61-23-44	Actual
<u>Computer and Data Processing</u>			
Salaries and Wages	Various Accounts	11-23-46	Actual
Materials		21-23-46	Actual
Repairs by Others - DR.		39-23-46	Actual
Repairs for Others - CR.		40-23-46	Actual
Purchased Services		41-23-46	Actual
Other Expenses		61-23-46	Actual
<u>Machinery</u>			
Salaries and Wages	302	11-23-40	Actual
Materials		21-23-40	Actual
Repairs by Others - DR.		39-23-40	Actual
Repairs for Others - CR.		40-23-40	Actual
Purchased Services		41-23-40	Actual
Other Expenses		61-23-40	Actual
<u>Work and Other Nonrevenue Equipment</u>			
Salaries and Wages	326,328	11-23-47	Actual
Materials		21-23-47	Actual
Repairs by Others - DR.		39-23-47	Actual
Repairs for Others - CR.		40-23-47	Actual
Purchased Services		41-23-47	Actual
Other Expenses		61-23-47	Actual
<u>Equipment Damaged</u>			
Salaries and Wages	318,323,326, and 328	11-23-48	Actual
Materials		21-23-48	Actual
Repairs by Others - DR.		39-23-48	Actual
Repairs for Others - CR.		40-23-48	Actual
Purchased Services		41-23-48	Actual
Other Expenses		61-23-48	Actual
Fringe Benefits	335,457	12-23-00	11-23-XX, 81125.8(b)(3)(ii)
<u>Other Casualties and Insurance</u>			
Other Casualties	332	52-23-00	Actual
Insurance	333	53-23-00	Actual
Lease Rentals - DR.	539,540	31-23-00	Actual
Lease Rentals - CR.	506,507	32-23-00	Actual
Joint Facility Rent - DR.	541	33-23-00	Actual
Joint Facility Rent - CR.	508	34-23-00	Actual
Other Rents - DR.	539,540	35-23-00	Actual
Other Rents - CR.	506,507	36-23-00	Actual
Depreciation	331	62-23-00	Actual

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
Joint Facility - DR.	336	37-23-00	Actual
Joint Facility - CR.	337	38-23-00	Actual
<u>Dismantling Retired Property</u>			
Salaries and Wages	306,329	11-23-39	Actual
Materials		21-23-39	Actual
Purchased Services		41-23-39	Actual
Other Expenses		61-23-39	Actual
<u>Other</u>			
Salaries and Wages	339	11-23-99	Actual
Materials		21-23-99	Actual
Purchased Services		41-23-99	Actual
Other Expenses		61-23-99	Actual
(c) <u>Transportation</u>			
(1) <u>Train Operations:</u>			
<u>Administration</u>			
Salaries and Wages	371	11-31-01	Actual
Materials		21-31-01	Actual
Purchased Services		41-31-01	Actual
Other Expenses		61-31-01	Actual
<u>Engine Crews</u>			
Salaries and Wages	392	11-31-56	Actual
Materials	402	21-31-56	Train Hours, \$1125.8(c)(1)(i)
Purchased Services	402	41-31-56	Actual
Other Expenses	402	61-31-56	Actual
<u>Train Crews</u>			
Salaries and Wages	401	11-31-57	Actual
Materials	402	21-31-57	Trains Hours, \$ 1125.8(c)(1)(i)
Purchased Services	402	41-31-57	Actual
Other Expenses	402	61-31-57	Actual
<u>Dispatching Trains</u>			
Salaries and Wages	372	11-31-58	Actual
Materials		21-31-58	Actual
Purchased Services		41-31-58	Actual
Other Expenses		61-31-58	Actual
<u>Operating Signals and Interlockers</u>			
Salaries and Wages	404	11-31-59	Actual
Materials		21-31-59	Actual
Purchased Services		41-31-59	Actual
Other Expenses		61-31-59	Actual
<u>Operating Drawbridges</u>			
Salaries and Wages	406	11-31-60	Actual
Materials		21-31-60	Actual
Purchased Services		41-31-60	Actual
Other Expenses		61-31-60	Actual
<u>Highway Crossing Protection</u>			
Salaries and Wages	405	11-31-61	Actual
Materials		21-31-61	Actual
Purchased Services		41-31-61	Actual
Other Expenses		61-31-61	Actual

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Operating Expense Group and Accounts	Previous Account Number	Present Account Number	Basis of Assignment to On-Branch Costs
<u>Train and Inspection and Lubrication</u>			
Salaries and Wages	314,402	11-31-62	Train Hours, §1125.8(c)(1)(i)
Materials		21-31-62	Train Hours, §1125.8(c)(1)(i)
Purchased Services		41-31-62	Actual
Other Expenses		61-31-62	Actual
<u>Locomotive Fuel</u>			
Salaries and Wages	394	11-31-67	(Diesel locomotive unit
Materials		21-31-67	(hours, §1125.8(c)(1)(ii)
Purchased Services		41-31-67	(
Other Expenses		61-31-67	(
<u>Electric Power Purchased or Produced for Motive Power</u>			
Salaries and Wages	395,445	11-31-68	(Electric Locomotive unit
Materials	395,445	21-31-68	(hours, §1125.8(c)(1)(iii)
Purchased Services	395,396,445	41-31-68	(
Other Expenses	395,445	61-31-68	(
<u>Servicing Locomotives</u>			
Salaries and Wages	400	11-31-69	(Locomotive unit miles,
Materials		21-31-69	( §1125.8(c)(1)(iv)
Purchased Services		41-31-69	(
Other Expenses		61-31-69	(
<u>Freight Lost or Damaged - Solely Related</u>			
	418,419	51-31-00	Actual
<u>Clearing Wrecks</u>			
Salaries and Wages	415	11-31-63	Actual
Materials		21-31-63	Actual
Purchased Services		41-31-63	Actual
Other Expenses		61-31-63	Actual
Fringe Benefits	409,457	12-31-00	11-31-XX § 1125.8(c)(4)(i)
<u>Other Casualties and Insurance</u>			
Other Casualties	416,417,420	52-31-00	Actual
Insurance	414	53-31-00	Actual
Joint Facility - DR.	412	37-31-00	Actual
Joint Facility - CR.	413	38-31-00	Actual
<u>Other</u>			
Salaries and Wages	402,411	11-31-99	Actual
Materials		21-31-99	Actual
Purchased Services		41-31-99	Actual
Other Expenses		61-31-99	Actual
(2) <u>Yard Operations: Administration</u>			
Salaries and Wages	371	11-32-01	Actual
Materials		21-32-01	Actual
Purchased Services		41-32-01	Actual
Other Expenses		61-32-01	Actual
<u>Switch Crews</u>			
Salaries and Wages	378,380	11-32-64	Actual
Materials	389	21-32-64	(Locomotive unit hours, § 1125.8
			((c)(2)(i)
Purchased Services	389	41-32-64	Actual
Other Expenses	389	61-32-64	Actual
<u>Controlling Operations</u>			
Salaries and Wages	377	11-32-65	Actual
Materials	389	21-32-65	Actual
Purchased Services	389	41-32-65	Actual
Other Expenses	389	61-32-65	Actual

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Yard and Terminal Clerical</u>			
Salaries and Wages	377	11-32-66	Actual
Materials	389	21-32-66	Actual
Purchased Services	389	41-32-66	Actual
Other Expenses	389	61-32-66	Actual
<u>Operating Switches, Signals, Retarders and Humps</u>			
Salaries and Wages	379	11-32-59	Actual
Materials	389	21-32-59	Actual
Purchased Services	389	41-32-59	Actual
Other Expenses	389	61-32-59	Actual
<u>Locomotive Fuel</u>			
Salaries and Wages	382	11-32-67	(Diesel locomotive unit
Materials		21-32-67	(hours, §1125.8(c)(2)(ii)
Purchased Services		41-32-67	(
Other Expenses		61-32-67	(
<u>Electric Power Purchased or Produced for Motive Power</u>			
Salaries and Wages	383,445	11-32-68	(Electric locomotive unit hours
Materials	383,445	21-32-68	( §1125.8(c)(2)(iii)
Purchased Services	383,384,445	41-32-68	(
Other Expenses	383,445	61-32-68	(
<u>Servicing Locomotives</u>			
Salaries and Wages	388	11-32-69	(Locomotive unit hours,
Materials		21-32-69	( §1125.8(c)(2)(i)
Purchased Services		41-32-69	(
Other Expenses		61-32-69	(
<u>Freight Lost or Damaged- Solely Related</u>			
	418,419	51-32-00	Actual
<u>Clearing Wrecks</u>			
Salaries and Wages	415	11-32-63	Actual
Materials		21-32-63	Actual
Purchased Services		41-32-63	Actual
Other Expenses		61-32-63	Actual
Fringe Benefits	409,457	12-32-00	11-32-XX § 1125.8(c)(4)(ii)
<u>Other Casualties and Insurance</u>			
Other Casualties	416,420	52-32-00	Actual
Insurance	414	53-32-00	Actual
Joint Facility - DR.	390,412	37-32-00	Actual
Joint Facility - CR.	391,413	38-32-00	Actual
<u>Other</u>			
Salaries and Wages	411	11-32-99	Actual
Materials		21-32-99	Actual
Purchased Services		41-32-99	Actual
Other Expenses		61-32-99	Actual
(3) <u>Train and Yard Operations Common:</u>			
<u>Cleaning Car Interiors</u>			
Salaries and Wages	402	11-33-70	Actual
Materials		21-33-70	Actual
Purchased Services		41-33-70	Actual
<u>Adjusting and Transferring Loads</u>			
Salaries and Wages	373,402	11-33-71	Actual
Materials	376,402	21-33-71	Actual
Purchased Services	376,402	41-33-71	Actual

**RULES AND REGULATIONS**

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Carloading Devices and Crain Doors</u>			
Salaries and Wages	402	11-33-72	Actual
Materials		21-33-72	Actual
Purchased Services		41-33-72	Actual
Freight Lost or Damaged- All Other	418,419	51-33-00	Actual
Fringe Benefits	409	12-33-00	11-33-XX § 1125.8(c) (4) (iii)
<b>(4) <u>Specialized Service Operations:</u></b>			
<u>Administration</u>			
Salaries and Wages	371,408,443	21-34-01	Actual
Materials		21-34-01	Actual
Purchased Services		41-34-01	Actual
Other Expenses		61-34-01	Actual
<u>Pick-up and Delivery, Marine Line Haul, and Rail Substitute Service</u>			
Salaries and Wages	408,421,422	11-34-73	Actual
Materials		21-34-73	Actual
Purchased Services		41-34-73	Actual
Other Expenses		61-34-73	Actual
<u>Loading and Unloading and Local Marine</u>			
Salaries and Wages	375,408,421	11-34-74	Actual
Materials	422 and 443	21-34-74	Actual
Purchased Services		41-34-74	Actual
Other Expenses		61-34-74	Actual
<u>Protective Services</u>			
Salaries and Wages	402,421,422	11-34-75	Actual
Materials	and 443	21-34-75	Actual
Purchased Services		41-34-75	Actual
Other Expenses		61-34-75	Actual
<u>Freight Lost or Damaged-Solely Related</u>			
	418,419	51-34-00	Actual
Fringe Benefits	409,457	12-34-00	11-34-XX § 1125.8(c) (4) (iv)
<u>Casualties and Insurance</u>			
Other Casualties	416,420	52-34-00	Actual
Insurance	414	53-34-00	Actual
Joint Facility - DR.	412,447	37-34-00	Actual
Joint Facility - CR.	413,448	38-34-00	Actual
<u>Other</u>			
Salaries and Wages	411,442,446	11-34-99	Actual
Materials		21-34-99	Actual
Purchased Services		41-34-99	Actual
Other Expenses		61-34-99	Actual
<b>(5) <u>Administrative Support Operations:</u></b>			
<u>Administration</u>			
Salaries and Wages	371	11-35-01	Actual
Materials		21-35-01	Actual
Purchased Services		41-35-01	Actual
Other Expenses		61-35-01	Actual
<u>Employees Performing Clerical and Accounting Functions</u>			
Salaries and Wages	373	11-35-76	Actual
Materials	376	21-35-76	Actual
Purchased Services	376	41-35-76	Actual
Other Expenses	376	61-35-76	Actual

## RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Communication Systems Operation</u>			
Salaries and Wages	373,407	11-35-77	Actual
Materials	376,407	21-35-77	Actual
Purchased Services	376,407	41-35-77	Actual
Other Expenses	376,407	61-35-77	Actual
<u>Loss and Damage Claims Processing</u>			
Salaries and Wages	418,419	11-35-78	(Number of Claims,
Materials		21-35-78	(\$ 1125.8(c)(3)(i)
Purchased Services		41-35-78	(
Other Expenses		61-35-78	(
Fringe Benefits	409,457	12-35-00	11-35-XX § 1125.8(c)(4)(v)
Joint Facility - LR.	412,447	37-35-00	Actual
Joint Facility - CR.	413,448	38-35-00	Actual
<u>Casualties and Insurance</u>			
Other Casualties	416,420	52-35-00	Actual
Insurance	414	53-35-00	Actual
<u>Other</u>			
Salaries and Wages	411	11-35-99	Actual
Materials		21-35-99	Actual
Purchased Services		41-35-99	Actual
Other Expenses		61-35-99	Actual
<u>(d) General Administrative</u>			
<u>Officers-General Administration</u>			
Salaries and Wages	351,451	11-61-01	Actual
Materials		21-61-01	Actual
Purchased Services		41-61-01	Actual
Other Expenses		61-61-01	Actual
<u>Accounting, Auditing and Finance</u>			
Salaries and Wages	452	11-61-86	Actual
Materials		21-61-86	Actual
Purchased Services		41-61-86	Actual
Other Expenses		61-61-86	Actual
<u>Management Services and Data Processing</u>			
Salaries and Wages	452	11-61-87	Actual
Materials		21-61-87	Actual
Purchased Services		41-61-87	Actual
Other Expenses		61-61-87	Actual
<u>Marketing</u>			
Salaries and Wages	352	11-61-88	Actual
Materials		21-61-88	Actual
Purchased Services		41-61-88	Actual
Other Expenses		61-61-88	Actual
<u>Sales</u>			
Salaries and Wages	352	11-61-89	Actual
Materials		21-61-89	Actual
Purchased Services		41-61-89	Actual
Other Expenses		61-61-89	Actual

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to On-Branch Costs</u>
<u>Industrial Development</u>			
Salaries and Wages	356,452	11-61-90	Actual
Materials		21-61-90	Actual
Purchased Services		41-61-90	Actual
Other Expenses		61-61-90	Actual
<u>Personnel and Labor Relations</u>			
Salaries and Wages	452	11-61-91	Actual
Materials		21-61-91	Actual
Purchased Services		41-61-91	Actual
Other Expenses		61-61-91	Actual
<u>Legal and Secretarial</u>			
Salaries and Wages	452,454	11-61-92	Actual
Materials		21-61-92	Actual
Purchased Services		41-61-92	Actual
Other Expenses		61-61-92	Actual
<u>Public Relations and Advertising</u>			
Salaries and Wages	353,354	11-61-93	Actual
Materials		21-61-93	Actual
Purchased Services		41-61-93	Actual
Other Expenses		61-61-93	Actual
<u>Research and Development</u>			
Salaries and Wages	Various	11-61-94	Actual
Materials	Accounts	21-61-94	Actual
Purchased Services		41-61-94	Actual
Other Expenses		61-61-94	Actual
Fringe Benefits	359,456,457	12-61-00	11-61-XX § 1125.8(d)(1)
<u>Casualties and Insurance</u>			
Other Casualties	None	52-61-00	Actual
Insurance	357,455	53-61-00	Actual
Writedown of Uncollectible Accounts	706,707	63-61-00	Actual
Other Taxes Except on Corporate Income or Payroll	532	65-61-00	Actual
Joint Facility - DR.	461	37-61-00	Actual
Joint Facility - CR.	462	38-61-00	Actual
<u>Other</u>			
Salaries and Wages	355,360,460	11-61-99	Actual
Materials		21-61-99	Actual
Purchased Services		41-61-99	Actual
Other Expenses		61-61-99	Actual

(e) *Deadheading, Taxi, and Hotel Costs.* The costs assigned under this subsection shall be the actual costs incurred as a result of providing service to the branch line for deadheading, taxi, and hotel costs. The amounts included under this subsection shall not be included under other subsections of these regulations.

(f) *Overhead Movement Costs.* The costs assigned under this subsection shall be the actual costs incurred in moving overhead in order to provide service to the branch. The amounts shown under this subsection shall not be included under other subsections of these regulations.

(g) *Freight Car Costs.* For Class I railroads, the on-branch costs for time-mileage freight cars shall be calculated on the basis of the railroad's average costs per day and per mile. The costs per day and per mile shall be calculated separately for each type of car specified in Ex Parte 334 (Car Service Compensation—Basic Per Diem Charges—Formula Revision In Accordance with the Railroad Revitalization and Regulatory Reform Act of 1976). These costs shall include: Account 11-22-42—Salaries and wages—freight cars—repairs and maintenance; Account 21-22-42—Materials—freight cars—repairs and maintenance; Account 39-22-42—Repairs billed by others (Debit)—freight cars—repairs and maintenance; Account 40-22-42—Repairs billed to others (Credit)—freight cars—repairs and maintenance; Account 41-22-42—Other purchased services—freight cars—repairs and maintenance; Account 61-22-42—Other expenses—freight cars—repairs and maintenance; Account 31-22-00—Lease rentals (Debit) freight cars; Account 32-22-00—Lease Rentals (Credit)—freight cars; Account 35-22-00—Other rents (Debit)—freight cars; Account 36-22-00—Other rents (Credit)—freight cars; and Account 62-22-00—Depreciation—freight cars; and the return on investment in freight cars. The system total of the repair and maintenance accounts, all accounts designated XX-XX-42, and depreciation shall be divided into time related costs and mileage related costs on the basis of the present Rail Form A apportionment factors (i.e., 50 percent time and 50 percent mileage for repairs, and 60 percent time and 40 percent mileage for depreciation). Return on investment shall be treated as a 100 percent time-related cost. The system total receipts and payments for the hire of time mileage cars and the basic data used in the development of the car-day and car-mile factors shall be taken from the railroad's latest Form R-1 and company records. The specific steps to complete the calculations are as follows:

(1) The total system car days by car type shall be calculated by averaging

the railroad's freight car ownership at the beginning and ending of the year (R-1, schedule 710, columns (b) and (k)), multiplying the average by the standard active number of car days (346) as developed in ICC Docket Number 31358; subtracting car days on foreign lines (source: company records) and adding the foreign car days on home line (source: company records). This procedure shall be completed for each car type specified in Ex Parte 334.

(2) The total railroad car miles shall be calculated by adding the loaded car miles for railroad owned and leased cars (Form OSA, column (d), items 5-010 through 5-027), to the empty car miles for railroad owned and leased cars (Form OSA, column (d), items 5-110 through 5-127). The total car miles, loaded and empty shall be calculated for each car type specified in Ex Parte 334.

(3) The cost per car-day shall be calculated for each type of time-mileage car by adding 50 percent of the total freight car repair costs for each car type (R-1, schedule 415, column (b)); 60 percent of the depreciation costs for each car type (R-1, schedule 415, column (c)); 100 percent of return on investment, which is calculated by obtaining the net depreciated investment for each car type and multiplying it by the cost of capital ratio developed for use in Form 2 of the unrevised Rail Form A of the railroad; the time portion of the railroad's payments for hire of time-mileage freight cars (R-1, schedule 366, columns (h) and (i)); subtracting the time portion of the railroad's receipts for hire of time-mileage freight cars (R-1, schedule 366, columns (d) and (e)); and dividing the result by the total car days for each car type developed in paragraph (1).

(4) The cost per mile shall be calculated for each type of time-mileage car by adding 50 percent of the total freight train car repair cost for each car type (R-1, schedule 415, column (b)); 40 percent of the total depreciation costs for each car type (R-1, schedule 415, column (c)); the mileage portion of the railroad's payments for the hire of time-mileage freight cars (R-1, schedule 366, column (g)); subtracting the mileage portion of the railroad's receipts for hire of time-mileage freight cars (R-1, schedule 366, column (e)); and dividing the result by the total car miles for each car type developed in paragraph (2).

(5) The costs per car-day and per car-mile developed in paragraphs (3) and (4) of this section shall be applied to the total car-days and total car miles for each car type accumulated on the branch for all traffic originated and/or terminated on the branch and all bridge traffic handled by the branch during the subsidy period

which are attributed to time-mileage freight-train cars. The car-day and car-mile factors shall be furnished by the railroads.

(6) The on-branch costs for freight cars rented on a straight mileage basis shall be the railroad's total payments for mileage cars (R-1, schedule 366, column (f)), for each car type; divided by the total miles on which the charges were based.

(7) For Class II railroads, the on-branch costs for time-mileage and straight mileage freight cars shall be calculated in the same manner prescribed for Class I railroads, using the latest data available.

(h) *Revenue taxes.* The amount of revenue taxes shall be computed based on the amounts directly paid in those States that subject the railroad to a revenue tax.

(i) *Property taxes.* (1) The amount of property taxes shall be the amount levied against the property on the branch, in those States where a true ad valorem tax is levied, based on the value of certain kinds of railroad property, such as track, land, buildings, and other facilities.

(2) In States where property taxes are assessed on the basis of a formula of a statewide valuation of property and the branch or branches are included in the valuation of the railroad operating the service, the tax on each branch shall be based on the distribution of the assessment by the State to that branch and the application of the appropriate tax rate or rates.

(3) In States where the real property taxes are assessed and levied against the owner of the property but the rolling stock is assessed to the railroad operating the service on the basis of a formula of a statewide valuation of property, the tax on rolling stock attributable to each branch shall be determined as follows:

(i) Find the percent which the cost of equipment as used in the formula is to the total of all property cost as used in the formula;

(ii) Apply that percentage to the total State assessment to determine the portion of the assessment attributable to rolling stock;

(iii) Allocate the rolling stock assessment thus determined to each branch on the basis of car and locomotive unit miles on the branch to total car and locomotive unit miles in the State;

(iv) Apply appropriate tax rate or rates to the allocated assessment thus determined.

(j) *Administrative Fee.* One percent of the total revenues attributed to the branch under § 1125.6 shall be allowable as an avoidable cost to the railroad to cover all costs of administering the subsidy program.

(k) *Deferred Subsidy Payment.* If the subsidy estimate or adjustment is paid in deferred payments, the railroad

shall be compensated for the use of its working capital by applying the interest rate established in § 1125.9(b) to the deferred payment for the period of time such payment is outstanding.

(l) *Casualty Reserve Account.* The costs assigned under this account shall be any payment mutually agreed to by the person offering the subsidy and the railroad for the purpose of holding the subsidizer harmless from any liability under those accounts that are used to record any costs incurred by the railroad as a result of personal injury or property damage.

(m) *Termination Costs.* The costs assigned under this subsection shall be the actual costs reasonably and necessarily incurred as a result of terminating service to the subsidized branch. These costs shall not include any costs which the railroad would have incurred had the branch not been operated under the subsidy program. The 15 percent ceiling contained in § 1125.5 is not applicable to those costs unless such costs were included in the estimated subsidy payment.

(n) *Off-Branch Costs.* Until the ICC revises the Rail Form A cost procedure to facilitate the incorporation of the new USOA as well as review and if necessary change the theories contained within the present formula the procedure for determining the off-branch costs will use the existing Rail Form A formula applied to the latest Annual Report, Form R-1, that has been filed by the railroad using the prior unrevised accounting system. The development of the off-branch costs shall be as follows:

(1) Terminal costs, line-haul car costs, and interchange costs shall be considered as the off-branch avoidable costs of providing service over the remainder of the railroad's system. These costs shall be computed by applying variable unit costs to the service units attributed to the branch traffic during the subsidy period.

(2) The following through-train, single-line, variable unit costs shall be developed by a Class I railroad by applying Rail Form A to data contained in its latest Form R-1 filed with the Commission:

(i) Normal Rail Form A carload terminal cost per carload by car type.

(ii) Modified Rail Form A carload terminal cost per carload by car type (i.e., (a) substitute an intertrain switching cost separated between mileage and other than mileage cars, in place of a roadtrain to industry switching cost; (b) substitute modified car ownership costs per car-day for two days developed in accordance with § 1125.7(g), above, for the standard Rail Form A car ownership cost).

(iii) Rail Form A per hundredweight terminal cost.

(iv) Rail Form A cost per car-mile by car type.

(v) Rail Form A cost per ton-mile.

(vi) Rail Form A cost per car interchanged, separated between mileage and other than mileage cars.

These costs shall be applied by Class I railroads in accordance with the procedure set forth below in § 1125.7(n)(3).

(3) Calculations by car type: (i) The sum of all terminal costs incurred off the branch line shall be calculated by multiplying the modified terminal cost per carload by car type, paragraph (n)(2)(ii) above, by the total number of carloads originated or terminated on the branch line during the subsidy year. To this amount add the normal terminal cost per carload by car type, paragraph (n)(2)(i) above, times the number of carloads which originated or terminated on the branch that are local to the railroad serving the branch.

(ii) The sum of the hundredweight terminal costs incurred off the branch line shall be calculated by multiplying the hundredweight of freight originated or terminated on the branch that are local to the railroad serving the branch.

(iii) The sum of the line-haul car-mile costs incurred off the branch line shall be calculated by multiplying the car-mile cost by car type, paragraph (n)(2)(iv) above, by the loaded car-miles generated off the branch line by cars originated or terminated on the branch during the subsidy year. Where overhead movements to and from the branch have been included in the on-branch cost calculation under other sections of section 1125.7, the related loaded car-miles shall be excluded from this calculation.

(iv) The sum of the line-haul ton-mile costs shall be determined by multiplying the ton-mile cost, paragraph (n)(2)(v) above, by the total ton-miles of revenue freight incurred by the railroad on its lines, other than the branch lines, for revenue freight originated or terminated on the branch during the subsidy year.

(v) The interchange cost shall be calculated by multiplying the cost per car interchanged, paragraph (n)(2)(vi) above, by the number of carloads of traffic interchanged at a point off the branch line and originated or terminated on the branch.

(4) Class II line-haul railroads shall calculate off-branch costs as follows:

(i) The estimated system variable expenses shall be calculated by multiplying the sum of the total operating expenses, rents and taxes, including Federal Income Taxes, (schedule 410, total of accounts 201 through 278, columns (b) and (c) and (d)) in the carrier's latest Annual Report (Form R-2) by 0.78, the three-year composite variability ratio for all Class I railroads.

(ii) The cost per ton-mile of revenue freight is calculated by dividing the amount developed in step (i) by the

system total ton-miles of revenue freight (schedule 2601, L. 25, col. (d)) in the carrier's latest Annual Report (Form R-2).

(iii) The cost developed in step (ii) shall be applied to the total revenue ton-miles of traffic which is attributable to the branch and which moves over other portions of the railroad's system.

(o) *Reasonable Management Fee.* Four and one-half percent of the total annual revenues attributable to the branch as determined pursuant to § 1125.6 shall be paid to the railroad as a reasonable management fee. If the railroad and the person offering the subsidy agree to an additional fee designed as an incentive to maximize revenues, minimize expenses, promote efficient service, or otherwise achieve public interest objectives, the railroad shall be paid such fee as determined in accordance with such agreement.

§ 1125.8 Apportionment rules for the assignment of expenses to on-branch costs.

The accounts specified under § 1125.7 (a), (b), (c), and (d) as having an assignment basis other than "Actual", shall be apportioned according to the rules contained in this section.

(a) *Maintenance of Way and Structures.*— (1) *Roadway Machines.* All accounts designated XX-13-36 shall be assigned to the branch on the basis of the average repair cost, for each type of machine, included in the daily rental fees charged by the operating railroad or as published by the General Manager's Association of Chicago (GMA), based on the actual number of days each type of machine is used on the branch.

(2) *Small Tools and Supplies.* All accounts designated XX-13-37 shall be assigned to the branch as follows: (i) The costs of supplies, consumed in the operation of roadway machines, shall be assigned to the branch on the basis of the average costs of supplies per day, included in the daily rental fees charged by the operating railroad or as published by the GMA, multiplied by the actual number of days that the machine is used on the branch; (ii) the costs of small tools shall be assigned to the branch on the basis of the ratio that the branch amounts in Accounts 11-11-10 through 11-11-17 and 11-11-48 plus 11-12-10 through 11-12-17 and 11-12-48 bear to the railroad's system total for the same accounts.

(3) *Fringe Benefits.* Fringe benefits shall be assigned to the branch separated between running, switching and other, on the ratio that the total branch salaries and wages bear to the total system salaries and wages for each activity as follows:

(i) *Fringe Benefits—Running, Account 12-11-00,* total of all 11-11-XX accounts branch to system;

(ii) *Fringe Benefits—Switching, Account 12-12-00*, total of all 11-12-XX accounts branch to system; and

(iii) *Fringe Benefits—Other, Account 12-13-00*, total of all 11-13-XX accounts branch to system.

(b) *Maintenance of Equipment—(1) Locomotive Repairs and Maintenance.* All accounts designated XX-21-41 shall be separated between yard and road with a further separation between diesel and other (electric). The costs for these accounts for yard locomotives shall be assigned to the branch separately for diesel and electric locomotives on the basis of the ratio of branch diesel and electric yard locomotive unit-hours to the total system diesel and electric yard locomotive unit-hours. The costs for these accounts for road locomotives shall be assigned to the branch separately for diesel and electric locomotives on the basis of the ratio of branch diesel and electric locomotive gross ton-miles in road service to the total system diesel and electric locomotive gross ton-miles in road service. The costs assigned under these accounts for specialized equipment devoted exclusively to branch line service shall be the actual costs for the specific equipment used.

(2) *Locomotive Depreciation—Account 61-22-00*, shall be separated between yard and road with a further separation between diesel and other (electric). The cost shall be assigned to the branch on the ratio of locomotive unit hours on the branch to the total locomotive unit hours on the system for the particular type of locomotive used to serve the branch. The cost assigned under this account for specialized equipment devoted exclusively to branch line service shall be the actual cost for the specific equipment used.

(3) *Fringe Benefits.* Fringe benefits for locomotives and other equipment shall be assigned to the branch on the ratio that the total branch salaries and wages bear to the system total salaries and wages for each type of equipment as follows:

(i) *Locomotives—Account 12-21-00*, total of all 11-21-XX accounts branch to system.

(ii) *Other Equipment—Account 12-23-00*, total of all 11-23-XX accounts branch to system.

(iii) Fringe benefits for freight cars shall be calculated by first estimating the total in Account 11-22-42, Freight car repairs—salaries and wages, that is included in the total on branch costs for freight cars as determined from the car day and car mile cost calculations, in §1125.77(g) of these regulations.

To this amount is added the branch totals in the balance of all 11-22-XX accounts. The ratio of this total branch amount to the system total for all 11-22-XX accounts is applied to Account 12-22-00, Fringe Benefits—Freight Cars.

(c) *Transportation.—(1) Train Operations:* (i) *Engine Crews—Materials, Account 21-31-56; Train Crews—Materials, Account 21-31-57; Train Inspection and Lubrication—Salaries and Wages, Account 11-31-62; and Materials—Account 21-31-62.* If the branch is served by a local/way or through train crew, the costs in these accounts shall be assigned to the branch on the ratio of train hours on the branch to the total system train hours.

(ii) *Locomotive Fuel.* All accounts designated XX-31-67 shall be assigned to the branch on the ratio of road diesel locomotive unit hours on the branch to the total system road diesel locomotive unit hours.

(iii) *Electric Power Purchased or Produced for Motive Power.* All accounts designated XX-31-68 shall be assigned to the branch on the ratio of road electric locomotive unit hours on the branch to the total system road electric locomotive unit hours.

(iv) *Servicing Locomotives.* All accounts designated XX-31-69 shall be assigned to the branch on the ratio of road locomotive unit miles on the branch to the total system road locomotive unit miles.

(2) *Yard Operations.—(i) Switch Crews—Materials, Account 21-32-64, and Servicing Locomotives, all accounts designated XX-32-69.* The costs for these accounts shall be assigned to the branch on the ratio of yard locomotive unit hours on the branch to the system total yard locomotive unit hours.

(ii) *Locomotive fuel.* All accounts designated XX-32-67 shall be assigned to the branch on the ratio of yard diesel locomotive unit hours on the branch to the total system yard diesel locomotive unit hours.

(iii) *Electric power purchased or produced for motive power.* All accounts designated XX-32-68 shall be assigned to the branch on the ratio of yard electric locomotive unit hours on the branch to the total system yard electric locomotive unit hours.

(3) *Administrative support operations.—(i) Loss and damage claims processing.* All accounts designated XX-35-78 shall be assigned to the branch on the ratio of the number of claims processed for loss or damage occurring on the branch to the total number of claims processed by the railroad.

(4) *Transportation fringe benefits.* Fringe benefits shall be assigned to the branch separated between train operations, yard operations, train and yard operations common, specialized service operations, and administrative support operations. The costs for each activity shall be assigned to the branch on the ratio that the total branch salaries and wages bear to the total system salaries and wages for each activity shown below.

(i) Train operations, account 12-31-00, total of all 11-31-XX accounts branch to system.

(ii) Yard operations, account 12-32-00, total of all 11-32-XX accounts branch to system.

(iii) Train and yard operations common, account 12-33-00, total of all 11-33-XX accounts branch to system.

(iv) Specialized service operations, account 12-34-00, total of all 11-34-XX accounts branch to system.

(v) Administrative support, account 12-35-00, total of all 11-35-XX accounts branch to system.

(d) *General administrative.* (1) Fringe benefits, account 12-61-00, shall be assigned to the branch on the ratio that the total branch salaries and wages in all 11-61-XX accounts bear to the system total salaries and wages in all 11-61-XX accounts.

§1125.9 Return on the value of rail properties.

(a) *Valuation of rail properties.* The value of the rail properties on a branch shall be determined in accordance with the following:

(1) Only the following properties on a branch may be considered:

(i) Those that are used and useful to provide the rail services requested by the person offering a subsidy.

(ii) In the absence of a request for specific services by that person, those properties that are used and useful to provide the rail service performed on the branch at the time the final system plan became effective, or if no service was being performed at that time, the services that were last performed on the branch.

(2) The value of the properties shall be their net liquidation value for their highest and best use, consistent with applicable zoning and land use regulations, determined by computing their current market value for other than rail transportation purposes, less all costs of dismantling, and disposition of improvements necessary to make the remaining property available for its highest and best use.

(3) If the railroad and person offering a subsidy cannot, within a period of time that either of them considers reasonable after the beginning of negotiations for the payment of the subsidy, agree on the properties that are used and useful or the net liquidation value, or both, the one that considers that a reasonable period of time has elapsed may notify the other of its intention to have the matter arbitrated. Each of the parties shall then appoint a representative and the representatives shall select an arbitrator or arbitrators mutually acceptable to them. The decision of the arbitrator or arbitrators shall be final.

(4) If either party fails to appoint a representative within five days after receiving notice from the other party

of its representative, or if the appointed representatives fail, within five days after the last one of them is appointed, to agree upon a mutually acceptable arbitrator or arbitrators, either party may submit the matter for arbitration to the American Arbitration Association pursuant to its commercial arbitration rules, and the decision of its arbitrator or arbitrators shall be final.

(5) In considering the value of properties under this section, the arbitrator or arbitrators shall consider, among other factors, any bona fide offer for the properties, or a part thereof, recent sales of adjoining or similar properties, any available appraisals, by a reputable appraiser, of the properties, or a part thereof.

(6) If the person offering a subsidy is a public body, each meeting of an arbitrator or arbitrators with the parties for the purpose of receiving information or evidence or to hear arguments or views shall be open to the public. Any interested member of the public may file written views, argument, or information with the arbitrator or arbitrators at any time within three days after the closing of the sessions that are open to the public.

(b) *Reasonable return on the value of the properties.* The reasonable return on the value of rail properties, as determined under § 1125.9(a) shall be the interest rate that is equal to the publicly quoted yield, to maturity or earliest call date, on the first business day of the month in which the subsidy agreement is entered into, for U.S. Treasury bonds or notes maturing or having an earliest call date approximately coterminous with the end of the subsidy period. United States Treasury bonds, redeemable at par before call or maturity for the sole purpose of applying the proceeds to payment of Federal estate taxes, and Treasury notes Series EA or EO shall be excluded from consideration for this purpose.

APPENDIX I.—FORMAT FOR PRESENTATION OF SUBSIDY ESTIMATE

The following information is required to be furnished under § 1125.3(a)(1). All data shall be developed in accordance with the methodology set forth in § 1125.3.

REVENUES ESTIMATED

1. Freight revenues.
2. All other revenues and income.
3. Total estimated revenues (line 1 plus 2).

AVOIDABLE COST ESTIMATES

4. On-branch costs (lines 4A through 4L):
  - A. Maintenance of way and structures.
  - B. Rehabilitation.
  - C. Maintenance of equipment.
  - D. Transportation.
  - E. General administrative expenses.
  - F. Deadheading, taxi, and hotel costs.
  - G. Overhead movement costs.
  - H. Freight car costs.
  - I. Taxes.

- J. Administrative fee.
- K. Casualty reserve account.
- L. Termination costs.
5. Off-branch costs (ratio times line 1).
6. Management fee.
7. Total avoidable cost estimate (lines 4, 5, and 6).

RETURN ON VALUE ESTIMATE

8. Valuation of property.
9. Rate of return.
10. Total return on value (line 8 times line 9).

ESTIMATED SUBSIDY PAYMENT

11. Estimated subsidy payment (line 3 minus lines 7 and 10).

APPENDIX II.—FORMAT FOR FINANCIAL STATUS REPORTS

The following information is required to be furnished under § 1125.4(b). All data shall be developed in accordance with the methodology set forth in §§ 1125.6, 1125.7, and 1125.9. The actual data for the year to date and a projection to the end of the subsidy year shall be shown for each item, except that off-branch costs shall be estimated during the subsidy year by applying the ratio developed in the interim formula under § 1125.3(d) to the actual revenues shown in item 1.

REVENUES

1. Freight revenues.
2. All other revenues and income.
3. Total revenues (line 1 plus line 2).

AVOIDABLE COST

4. On-branch costs (lines 4A through 4L):
  - A. Maintenance of way and structures.
  - B. Rehabilitation.
  - C. Maintenance of equipment.
  - D. Transportation.
  - E. General administrative expenses.
  - F. Deadheading, taxi, and hotel costs.
  - G. Overhead movement costs.
  - H. Freight car costs.
  - I. Taxes.
  - J. Administrative fee.
  - K. Casualty reserve account.
  - L. Termination costs.
5. Off-branch costs.
6. Management fee.
7. Total avoidable cost (lines 4, 5, and 6).

RETURN ON VALUE

8. Valuation of property.
9. Rate of return.
10. Total return of value (line 8 times line 9).

SUBSIDY PAYMENT

11. Subsidy payment (line 3 minus lines 7 and 10).

[FR Doc. 78-408 Filed 1-10-78; 8:45 am]

[7035-01]

[Ex Parte No. 293 (Sub-No. 8)]

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Report and Order

AGENCY: Rail Services Planning Office (RSPO), Interstate Commerce Commission (ICC).

**ACTION:** Restatement of Commuter Standards.

**SUMMARY:** RSPO is restating the Commuter Standards to conform with the ICC's new Uniform System of Accounts for railroad companies (USOA) which was established in accordance with the requirements of section 307 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). Comments are invited on any changes of substance which may have been made and on the applicability of the present apportionment formulae of common costs in view of the new USOA. Also included in this restatement of the standards are changes in the funding and extension of this subsidy program to September 30, 1980.

**DATES:** Effective date January 1, 1978. Comments may be filed on or before January 31, 1978.

**ADDRESS:** An original and six copies of the comments should be mailed to:

Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036. Attn: Commuter Standards.

FOR FURTHER INFORMATION CONTACT:

David S. Rind, Cost Evaluation Branch, Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20036 (202-254-7553).

**SUPPLEMENTARY INFORMATION:** RSPO invites interested parties to comment on any area of the standards that they feel changes of substance were made. Parties are also asked to consider the appropriateness of the apportionment formulae of common costs in relationship to the new USOA.

RSPO was directed by section 205(d) (5) and (6) of the Regional Rail Reorganization Act of 1973 (3R Act), Public Law 93-236, 87 Stat. 985, 994, as amended by section 309 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Public Law 94-210, 90 Stat. 31, 57 to issue regulations containing:

(A) standards for the continuation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Commission under section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a))), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight rail services; and

(B) standards for the determination of emergency commuter rail passenger service operating payments pursuant to section 17 of the Urban Mass Transportation Act of 1964 [section 205(d)(5) of the Regional Rail Reorganization Act of 1973, Pub. L. 93-236 as amended by the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210].

These standards issued August 3, 1976, and amended December 15, 1976,

are published in Title 49 of the Code of Federal Regulations, Part 1127, and are currently in effect. They are based on and refer directly to accounts in the ICC's USOA. The ICC was directed by section 307 of the 4R Act to establish a new USOA for railroad companies; this new USOA becomes effective on January 1, 1978. As a result, RSPO is restating the current standards in a form compatible with the new USOA. The restated standards include a conversion table to help "bridge" from the old to the new accounting system. RSPO intends no changes of substance to the standards other than those necessitated by the new USOA. Included in this restatement of the standards is a more current Speed Factored Gross Tons (SFGT) formula for assigning roadway maintenance running costs attributable to commuter service. This is the same formula as the one presently appearing in the standards with the constant factors updated from a 1971 to a 1975 level.

The standards also include the effects of Public Law 95-187 enacted November 16, 1977, which modifies section 17 of the Urban Mass Transportation Act of 1964 (UMT Act) by changing the present last subsidy period Federal reimbursement from the present 50 percent level to 80 percent and extends the subsidy program for 24 months with 50 percent Federal reimbursement to September 30, 1980. The total Federal funding of the program is increased from \$125 million to \$185 million. Public Law 95-187 also created a new section 18 to the UMT Act which provides for \$20 million in grants to be expended by September 30, 1979, to aid Class I railroads, except the grants cannot be used for intercity rail passenger service operated under agreement with the National Railroad Passenger Corporation and rail service required by section 304(e)(4) of the 3R Act.

Although the restated standards become effective January 1, 1978, parties to existing subsidy agreements may agree to continue to use the present standards for the remainder of the current subsidy period.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, That Part 1127 of Chapter X of Title 49 of the Code of Federal Regulations appended to this report is hereby revised effective January 1, 1978.

Issued December 29, 1977, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,  
Acting Secretary.

#### Sec.

- 1127.1 Definitions.
- 1127.2 Purpose and scope.
- 1127.3 Subsidy agreement.
- 1127.4 Interpretations of the standards.
- 1127.5 Access to records, audit and inspection.
- 1127.6 Revenues attributable to commuter rail service.
- 1127.7 Avoidable costs of providing service.
- 1127.8 Valuation of rail properties.
- 1127.9 Reasonable return on the value of the properties.
- 1127.10 Emergency operating assistance.
- Appendix I Subsidy Estimate.
- Appendix II Financial Status Report.
- Appendix III Speed Factored Gross Tons Formula (SFGT).

AUTHORITY: Sec. 205(d) (5) and (6), Regional Rail Reorganization Act of 1973, Pub. L. 93-236, 87 Stat. 985, 994, as amended by Section 309 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 31, 57.

#### § 1127.1 Definitions.

Unless otherwise required by the context, the following definitions apply in this Part:

"Account" means an account in the ICC's Uniform System of Accounts for Railroad Companies (49 CFR Part 1201).

"3R Act" means the Regional Rail Reorganization Act of 1973 [Pub. L. 93-236 (45 U.S.C. 701 *et seq.*)] as amended by the Railroad Revitalization and Regulatory Reform Act of 1976 [Pub. L. 94-210 (90 Stat. 31 *et seq.*)].

"Actual" means charges in the railroad's accounts for facilities, properties and services which are directly attributable to commuter service.

"Amtrak" means the National Railroad Passenger Corporation.

"Base period" means a minimum of three months and a maximum of twelve months for which the latest traffic, revenue and cost data are available.

"Common costs" means charges in the railroad's accounts for facilities, properties and services in the designated area which are incurred by the subsidizer and other users and which are not solely for the benefit of a particular service.

"Commuter service" means the specific service for which the subsidizer has offered or agreed to make continuation payments.

"ConRail" means the Consolidated Rail Corporation.

"Designated area" means a portion of the railroad's facilities, such as track segments, buildings and yards, for which costs are collected and apportioned between commuter and other services.

"Facilities Utilization Plan" means a document identifying and itemizing

the road and equipment properties used in providing commuter passenger service.

"Form R-1" means the railroad's annual report filed with the ICC in accordance with the requirements of section 20 of the Interstate Commerce Act.

"ICC" means Interstate Commerce Commission.

"Manpower Utilization Plan" means a document identifying the railroad forces used in providing commuter passenger service.

"4R Act" means the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210 (90 Stat. 31 *et seq.*).

"Railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act [49 U.S.C. 1(3)], including Conrail and Amtrak.

"RSPO" means the Rail Services Planning Office of the ICC.

"Secretary" means the Secretary of Transportation or his designated representative.

"Standards" means 49 CFR Part 1127 Standards for Determining Commuter Rail Service Continuation Subsidies and Emergency Operating Payments.

"Subsidizer" means a State or a local or regional transportation authority which offers to make or makes a payment to continue commuter rail service pursuant to section 304(c) and 304(e) of the 3R Act.

"Subsidy period" means the term for which a subsidy agreement has been negotiated and is in operation.

"UMT Act" means the Urban Mass Transportation Act of 1964, as amended (90 Stat. 143).

"XX" means that where this notation precedes the last four digits of an account number (e.g. XX-16-02), all accounts with identical last four digits (e.g. 11-16-02, 21-16-02, 41-16-02 and 61-16-02) are to be included.

#### § 1127.2 Purpose and scope.

(a) Section 304(e)(1) of the 3R Act requires Conrail (or a profitable railroad) to provide commuter rail service for a period of 180 days commencing April 1, 1976, on all rail properties over which a railroad in reorganization in the Northeast and Midwest Region, or a person leased, operated, or controlled by such a railroad, was providing service as of that date regardless of whether or not the properties were designated in the Final System Plan of the United States Railway Association as rail properties over which rail service is required to be operated.

(b) Section 304(c)(2)(A) and section 304(e)(4) of the 3R Act provide that no commuter rail service may be discontinued, and no rail properties may be abandoned, if a subsidizer offers fi-

financial assistance in the form of a rail service continuation payment which is designed to cover the difference between the avoidable costs of providing commuter rail service on the rail properties and the revenues attributable to such properties, together with a reasonable return on the value of the properties. If such an offer is made on or before September 27, 1976, Conrail (or a profitable railroad) shall continue to provide such service thereafter.

(c) Section 205(d)(6) of the 3R Act authorizes RSPO to determine and publish standards for defining (1) The "revenue attributable to the rail properties", (2) the "avoidable cost of providing service", and (3) a "reasonable return on value", as those phrases are used in section 304 of the 3R Act.

(d) Section 205(d)(5) of the 3R Act directs RSPO to determine and publish standards for the computation of subsidies for commuter rail service (except passenger service compensation disputes subject to the jurisdiction of the ICC) which are consistent with the compensation principles described in the Final System Plan and which avoid cross subsidization among commuter, intercity, and freight rail services.

(e) These regulations set forth a method for establishing an estimated subsidy payment, which will enable a prospective subsidizer to formulate a subsidy offer within the context of section 304 of the 3R Act and provide a basis for subsidy payment pending the negotiation of a subsidy agreement. When an agreement is concluded, subsequent payments shall be based on the negotiated subsidy. The final payment shall be adjusted to reflect the actual revenues derived, avoidable costs incurred and value of the properties used in the subsidy period.

(f) Section 304(e)(5)(A) of the 3R Act and section 17(a)(1) of the UMT Act direct the Secretary to reimburse Conrail, Amtrak, other railroads, and, if applicable, the trustee or trustees of a railroad in reorganization in the Midwest and Northeast region for 100 percent of the losses incurred in the 180-day mandatory operation period not otherwise paid by subsidizers which would have been payable had these standards been in effect on April 1, 1976.

(g) Section 304(e)(5)(B) of the 3R Act and section 17(a)(2) of the UMT Act direct the Secretary to reimburse subsidizers for the additional costs incurred by them for commuter operation during the 180-day mandatory operation period and for commuter rail service continuation payments made by them after September 27, 1976. The amount of reimbursement shall be 100 percent for the period April 1, 1976, through March 26, 1977; 90 percent for the period March 27,

1977, through March 31, 1978; 80 percent for the period April 1, 1978, through September 30, 1978; and 50 percent for the period October 1, 1978, through September 30, 1980.

(h) Section 205(d)(5)(B) of the 3R Act directs RSPO to determine the standards under which the Secretary will provide the emergency operating assistance authorized in section 17(a) of the UMT Act.

(i) These regulations also establish the criteria which will govern the reimbursement by the Secretary of: (1) The losses incurred by Conrail, other railroads or trustees for continuing commuter service during the mandatory operation period; and (2) The additional costs incurred by subsidizers for subsidizing commuter service from April 1, 1976, through September 30, 1980.

#### § 1127.3 Subsidy agreement.

(a) *Notice of Intention.* A prospective subsidizer shall notify the railroad of its intention to offer financial assistance for the continuation of commuter service no later than 40 days before the offer is to be tendered. The Notice shall specify:

(1) All modifications in the fares to be charged and in the existing level of service, including changes in routes, schedules, train seating capacity, performance standards, equipment units, and such other dimensions of service as the subsidizer may specify;

(2) The length of the subsidy period; and

(3) The name and address of the prospective subsidizer. A copy of the Notice shall be served concurrently on RSPO and the Secretary.

(b) *Subsidy Estimate.* The railroad shall compute a subsidy estimate predicated on the information contained in the Notice and the revenues attributable, avoidable costs of providing service, and reasonable return on value for the base period in accordance with the methodology prescribed in §§ 1127.6 through 1127.9 and in the format specified in Appendix I. The estimate shall be adjusted as necessary to allow for any actual or projected variations in service, e.g., seasonal fluctuations in traffic or extraordinary events affecting service levels. The bases of any adjustments shall be stated with particularity. The railroad's estimate and the general terms it proposes for an agreement shall be served on the prospective subsidizer (with copies to RSPO and the Secretary) as soon as possible but not later than 30 days after the Notice is received. The railroad's initial estimate (which must be served 30 days after the notice is received but not later than September 17, 1976) may be based on the best data available.

(c) *Offer of Financial Assistance.* The prospective subsidizer must for-

mulate an offer of subsidy predicated on the railroad's estimate, but may propose modifications which are consistent with these standards. The initial offer of subsidy must be served on the railroad (with copies to RSPO and the Secretary) not later than September 27, 1976, to avoid the discontinuance of service. Subsequent offers of subsidy must be served not less than 60 days before the end of the subsidy period. The offer shall contain:

(1) A subsidy estimate in the form prescribed in Appendix I;

(2) A resolution, authorization or other evidence that the prospective subsidizer has, or within a reasonable time will have, the authority to execute and fulfill an agreement to subsidize the service;

(3) Information demonstrating that the prospective subsidizer has, or within a reasonable time will have, the financial resources to subsidize the service and otherwise fulfill its contractual obligations; and

(4) A subsidy payment for the first month of service.

(d) *Negotiations.*—(1) *General.* The railroad and the prospective subsidizer shall negotiate an initial subsidy agreement as soon as possible after September 27, 1976, but in no event later than March 26, 1977. The parties may agree in arm's-length negotiations to provisions which modify the standards, subject to review of such modifications by RSPO. RSPO would not expect to disapprove variations from the standards which are the product of arm's-length negotiations and which are shown to be reasonable in the light of the pertinent facts and circumstances. When an agreement has been reached, a copy shall be filed promptly with RSPO for its review.

(2) *Significant Use.* Unless the parties agree otherwise, the subsidizer shall be deemed a significant user of the rail properties in the areas designated on the facilities utilization plan, and shall be assigned the directly identifiable and common costs of providing the commuter passenger service.

(3) *Insignificant Use.* A subsidizer proposing incidental use of rail properties in the designated area may be assigned the directly identifiable costs incurred in providing the commuter passenger services, plus an allowance for overhead as negotiated by the parties. If the parties are unable to agree on an overhead allowance, the methodology for apportioning common costs specified in § 1127.7 shall apply.

(4) *Mediation.* Upon request of either party, RSPO will mediate disagreements concerning the facilities utilization plan, the manpower utilization plan, the subsidy agreement and the application of these standards.

(e) *Subsidy Payments.* The subsidizer shall make subsidy payments monthly in advance, based either upon

the negotiated estimate, or in the absence of a subsidy agreement, upon the subsidizer's offer of financial assistance. The payment shall be determined by dividing the total subsidy by the number of months in the subsidy period. Interest on overdue subsidy payments shall accrue, at a rate of 100 basis points (1 percentage point) above the prime rate currently quoted at a principal bank in the commuter service area, for such period as they remain unpaid and the railroad has not terminated the service. The final subsidy payment shall be adjusted retroactively within 60 days of the filing of the final Financial Status Report required by paragraph (f) below to reflect the actual revenues derived, avoidable costs incurred and value of the properties used in providing rail commuter service during the subsidy period. The railroad shall establish a system to collect the data necessary to make the adjustment. If the subsidizer is entitled to a refund, the railroad shall pay interest on the overpayment, at a rate of 100 basis points (1 percentage point) above the prime rate currently quoted at a principal bank in the commuter service area, accruing from the end of the subsidy period until the refund is made.

(f) *Financial Status Report.* The railroad shall submit to the subsidizer and RSPO a Financial Status Report in the form prescribed in Appendix II to this Part within 60 days after the end of each three months of the subsidy period. Significant deviations from the subsidy estimate must be explained. Unless the parties otherwise agree, the second-to-last report shall be the basis for negotiating the subsequent subsidy agreement. The final report shall be the basis of the subsidy payment adjustment.

#### § 1127.4 Interpretations of the standards.

Parties desiring an interpretation of the standards should file a written petition citing the section involved and setting forth their position and rationale. If the request arises from a dispute with other parties, the petitioner should identify those parties and serve each of them with a copy. Parties desiring to file a reply must do so within 10 days of their receipt of the petition. RSPO will issue an interpretation, unless it concludes that the matter raised requires amendment of the standards, in which case RSPO will institute a rulemaking proceeding.

#### § 1127.5 Access to records, audit and inspection.

(a) The subsidizer, RSPO, and the Secretary shall have reasonable access to the records, accounts, working papers, and other documents and to the properties and equipment of any

railroad, which provides commuter passenger service or whose properties and equipment are used in providing commuter passenger service for the following purposes:

(1) To verify the accuracy and completeness of the subsidy estimate, the facilities utilization plan, the manpower utilization plan, and the Financial Status Reports;

(2) To audit the actual revenues attributable, costs incurred and service units maintained during the subsidy period;

(3) To inspect the properties and equipment used in providing the commuter passenger service and to measure the performance of the railroad under the offer of financial assistance and the subsidy agreement; or

(4) To confirm facts and representations made or to be made in applications for emergency operating assistance.

(b) The properties and records described in subsection (a) shall be made available for inspection and examination by the subsidizer, RSPO, and the Secretary during regular business hours at a time and place mutually agreeable to the parties. The railroad shall also reproduce such records, provided the requesting party pays the reasonable cost thereof.

#### § 1127.6 Revenues attributable to commuter rail service.

The revenues attributable to commuter rail service shall be the total of the revenues, rentals and allowances assigned in accordance with this section. Where a third party controls revenues or rents attributable to the commuter service, the railroad shall credit the commuter service with the amounts of such revenues or rents credited to it by the third party, and shall use its best efforts to negotiate equitable apportionments. Revenues attributable to two or more commuter services shall be apportioned between them on the basis of car-miles operated under the respective offers of financial assistance or subsidy agreements. The revenues, rentals and allowances assigned shall be derived from the following accounts.

(a) *Revenue accounts.*—(1) *Account 102—Passenger; Account 103—Passenger Related; Account 104—Switching; Account 105—Water Transfers.* The

revenues assigned to these accounts shall be the actual revenues attributable to commuter service that are directly identified with the operation of commuter trains, excluding rail service continuation payments.

(2) *Account 110—Incidental.* The revenues assigned to this account earned on commuter trains shall be credited directly to the commuter service. The commuter service portion of revenues generated at fixed facilities used in common with other services shall be determined from the relative passenger on-off counts (including pass riders) at those facilities. Special studies of on-off counts may be substituted for continuous records of such counts where desired.

(3) *Account 121—Joint facility—Cr.; Account 12—Joint facility—Dr.* To the extent that the terms of joint facility agreements yield apportionments of revenues to commuter services, the amounts so yielded shall be credited or debited directly to the commuter service. If the terms of the agreements do not yield such apportionments, passenger on-off counts (including pass riders) shall be the basis of apportionment at joint facilities where passengers are boarded or discharged; and at other facilities counts of cars handled as developed from special studies or continuous records shall be the basis of apportionment.

(b) *Rentals. Account 510—Miscellaneous rent income.* The rentals assigned to this account which are attributable to commuter service shall be the actual amounts derived from the rental of commuter service equipment or other property.

(c) *Pass Rider Allowance.* Attributable revenues of the commuter service shall be credited with an allowance for passengers using passes or reduced fare tickets issued by the railroad (or predecessor companies). The parties may continue existing practices for crediting such allowances. In the absence of an agreement, the amount of such credit shall be determined on the basis of currently applicable fares charged revenue commuter passengers.

(d) *Conversion Chart for Revenue Accounts.*

Revenue account title	Previous account number	Present account number
Passenger.....	102.....	102
Passenger related.....	103, 104, 105, 108, 131.....	103
Switching.....	110.....	104
Water transfers.....	113.....	105
Incidental.....	132, 133, 142, 143	110
Joint facility—credit.....	151.....	121
Joint facility—debit.....	152.....	122
Miscellaneous rent income.....	510.....	510

§ 1127.7 Avoidable costs of providing service.

(a) *Assignment of costs.* To the maximum extent practicable, the directly identifiable and common costs assigned to the commuter service shall be developed from a facilities utilization plan and a manpower utilization plan, with the assistance of available and appropriate cost and accounting records such as time sheets, material requisitions, charge cards, vouchers, and the like. [All accounts shall be separated between labor and material (non-labor) charges.] Otherwise, costs may be assigned to the commuter service in a manner agreed to by the parties. The parties may rely on historical data; conduct special studies; develop their own apportionment formulae based on use; or agree on a combination of these methods. Upon request of either party, RSPO will mediate disputes concerning the proper methodology for assigning costs. Any costs which are not assigned under the foregoing procedures shall be assigned in accordance with the methodology prescribed in paragraphs (e) and (f) below, subject to the condition that either party may request a special study. The requesting party will be responsible for designing the study and obtaining the other party's approval of the design. The results of the study will be binding on both parties unless they mutually agree to disregard them. Avoidable costs common to two or more commuter services shall be apportioned between them on the basis of car-miles operated under the respective offers of financial assistance or subsidy agreements. In assigning costs, it is understood that the moneys charged to a particular function shall include the commuter portion of the passenger expenses, plus the commuter portion of the common expenses for that function.

(b) *Facilities utilization plan.* The parties shall develop a facilities utilization plan which identifies and itemizes the road and equipment properties of the railroad used in providing the commuter service and assigns to each property or group of properties the agreed percentage of use devoted to the commuter service. The plan shall also identify those road properties which are avoidable upon discontinuance of the commuter service for the purposes of determining road depreci-

ation, retirement and dismantling charges [§ 1127.7(e)-(f)] and value of road properties [§ 1127.8(b)]. The roadway properties and facilities should be divided into areas or segments consisting of stretches of property where operations or use remain fairly constant and identifying those places where the operations or use change (e.g., number of tracks change, branch lines enter or diverge, and other similar changes). Properties and equipment normally covered in a facilities utilization plan include: trackage; signal system; electrification system; interlocking plants; bridges and drawbridges; stations and platforms; rail-highway crossings; yards; power plants; shops; enginehouses and servicing facilities; storehouses; land; rolling stock; and other facilities or equipment. Source data normally includes equipment rosters, track diagrams or maps of the properties in the above categories, and usage measures for each class of facility and equipment by specific facility or segment (e.g., track density charts, train sheets, timetables, blocking records, yarding programs, station workloads, etc.) to determine the percentage of use of facilities or equipment in providing the commuter service.

(c) *Manpower utilization plan.* The parties shall also develop a manpower utilization plan which identifies the railroad forces used in providing the commuter service by listing the persons employed according to job title, work location, account and percentage of time devoted to commuter service duties.

(d) *Special studies.* All special studies shall be conducted jointly by the railroad and the subsidizer. The length and frequency of the studies and the standardized measurement procedures utilized in the studies shall be negotiated by the parties. In the event of impasse, either party may submit the dispute to RSPO for resolution and its decision shall be final. The cost of studies which are prescribed by these standards or which the parties voluntarily agree to perform shall be attributed to the commuter service. The cost of studies performed at the request of only one party shall be borne exclusively by that party and shall not be attributed to the commuter service.

## RULES AND REGULATIONS

(e) Conversion Chart and Assignment Basis of Expense Accounts to Commuter Service.

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
(1) <u>Maintenance of Way and Structures</u>			
<u>Administration</u>			
Track	201	XX-16-02 XX-19-02	Various Accounts (1127.7(f)(1)(I))
Bridges and Buildings	201	XX-16-03 XX-19-03	Various Accounts (1127.7(f)(1)(J))
Signals	201	XX-16-04 XX-19-04	Various Accounts (1127.7(f)(1)(K))
Communications	201	XX-16-05 XX-19-05	Various Accounts (1127.7(f)(1)(N))
Other	201	XX-16-06 XX-19-06	Various Accounts (1127.7(f)(1)(L))
<u>Repair and Maintenance</u>			
<u>Running</u>			
Roadway	202	XX-14-10 XX-17-10	Speed Factored Gross Tons SFGT (1127.7(f)(1)(B))
Tunnels and Subways	206	XX-14-11 XX-17-11	Ditto
Bridges and Culverts	208,210	XX-14-12 XX-17-12	Ditto
Ties	212	XX-14-13 XX-17-13	Ditto
Rails	214	XX-14-14 XX-17-14	Ditto
Other Track Material	216	XX-14-15 XX-17-15	Ditto
Ballast	218	XX-14-16 XX-17-16	Ditto
Track Laying and Surfacing	220	XX-14-17 XX-17-17	Ditto
Road Property Damaged	202-220	XX-14-48 XX-17-48	Ditto
<u>Switching</u>			
Roadway	202	XX-15-10 XX-18-10	Cars Dispatched (1127.7(f)(1)(A))
Tunnels and Subways	206	XX-15-11 XX-18-11	Ditto
Bridges and Culverts	208,210	XX-15-12 XX-18-12	Ditto
Ties	212	21-15-13 21-18-13	Ditto
Rails	214	21-15-14 21-18-14	Ditto
Other Track Material	216	21-15-15 21-18-15	Ditto
Ballast	218	21-15-16 21-18-16	Ditto
Track Laying and Surfacing	220	21-15-17 21-18-17	Ditto
Road Property Damaged	202-220	XX-15-48 XX-18-48	Ditto

**RULES AND REGULATIONS**

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
Station and Office Buildings	227	XX-16-23 XX-19-23	Square Feet and Passenger - On-off Count (1127.7(f)(1)(C))
Road Property Damaged - Other	221-265	XX-15-48 XX-18-48	Repair and Maintenance - Running plus Switching (1127.7(f)(1)(H))
Signals and Interlockers	249		
Running		XX-14-19 XX-17-19	Train Movements (1127.7(f)(1)(D))
Switching		XX-15-19 XX-18-19	Ditto
Communications Systems	247	XX-16-20 XX-19-20	Various Accounts (1127.7(f)(1)(M))
Power Systems	253,257	XX-16-21 XX-19-21	Kilowatt Hours (1127.7(f)(1)(E))
Highway Grade Crossings	273		
Running		XX-14-22 XX-17-22	Repair and Maintenance - Running plus Switching (1127.7(f)(1)(H))
Switching		XX-15-22 XX-18-22	Ditto
Shop Buildings	235,253,257		
Locomotives		XX-16-24 XX-19-24	Labor Charges (1127.7(f)(1)(F))
Other Equipment		XX-16-26 XX-19-26	Ditto
Locomotives Servicing Facilities	231,233	XX-16-27 XX-19-27	Unit Miles, Fuel Dispensed (1127.7(f)(1)(G))
Miscellaneous Buildings and Structures	221,229,239,265	XX-16-28 XX-19-28	Repair and Maintenance - Running plus Switching (1127.7(f)(1)(H))
Roadway Machines	269	XX-16-36 XX-19-36	Ditto
Small Tools and Supplies	271	XX-16-37 XX-19-37	Ditto
Snow Removal	272	XX-16-38 XX-19-38	Ditto
Dismantling Retired Road Property	270		
Running		XX-14-39 XX-17-39	Actual
Switching		XX-15-39 XX-18-39	Actual
Other		XX-16-39 XX-19-39	Actual
Fringe Benefits	277,457		
Running		12-14-00 12-17-00	Various Accounts (1127.7(f)(1)(P))
Switching		12-15-00 12-18-00	Ditto
Other		12-16-00 12-19-00	Ditto
Casualties and Insurance	274,275		
Running		52-14-00 52-17-00 53-14-00 53-17-00	Various Accounts (1127.7(f)(1)(O))

## RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
Switching		52-15-00 52-18-00 53-15-00 53-18-00	Ditto
Other		52-16-00 52-19-00 53-16-00 53-19-00	Ditto
Lease Rentals - Dr.	542		
Running		31-14-00 31-17-00	Actual
Switching		31-15-00 31-18-00	Actual
Other		31-16-00 31-19-00	Actual
Lease Rentals - Cr.	509		
Running		32-14-00 32-17-00	Actual
Switching		32-15-00 32-18-00	Actual
Other		32-16-00 32-19-00	Actual
Joint Facility Rents - Dr.	541		
Running		33-14-00 33-17-00	Agreement or Passenger On-off Count (1127 6(a)(3))
Switching		33-15-00 33-18-00	Ditto
Other		33-16-00 33-19-00	Ditto
Joint Facility Rents - Cr.	508		
Running		34-14-00 34-17-00	Ditto
Switching		34-15-00 34-18-00	Ditto
Other		34-16-00 34-19-00	Ditto
Other Rents - Dr.	543		
Running		35-14-00 35-17-00	Actual
Switching		35-15-00 35-18-00	Actual
Other		35-16-00 35-19-00	Actual
Other Rents - Cr.	510		
Running		36-14-00 36-17-00	Actual
Switching		36-15-00 36-18-00	Actual
Other		36-16-00 36-19-00	Actual

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
Depreciation	266		
Running		62-14-00 62-17-00	Actual - Restricted to Properties Identified in Section (1127.8(b))
Switching		62-15-00 62-18-00	Ditto
Other		62-16-00 62-19-00	Ditto
Joint Facility - Dr.	278		
Running		37-14-00 37-17-00	Agreement or Passenger On-Off Count (1127.6(a)(3))
Switching		37-15-00 37-18-00	Ditto
Other		37-16-00 37-19-00	Ditto
Joint Facility - Cr.	279		
Running		38-14-00 38-17-00	Ditto
Switching		38-15-00 38-18-00	Ditto
Other		38-16-00 38-19-00	Ditto
Other	281,282		
Running		XX-14-99 XX-17-99	Various Accounts (1127.7(f)(1)(0))
Switching		XX-15-99 XX-18-99	Ditto
Other		XX-16-99 XX-19-99	Ditto
(2) <u>Equipment</u>			
<u>Locomotives</u>			
Administration	301	XX-24-01 XX-26-01	Various Accounts (1127.7(f)(2)(B))
Repair and Maintenance	311	XX-24-41 XX-26-41	Special Study and Actual (1127.7(f)(2)(A))
Machinery Repair	302	XX-24-40 XX-26-40	Various Accounts (1127.7(f)(2)(B))
Equipment Damaged	311	XX-24-48 XX-26-48	Special Study and Actual (1127.7(f)(2)(A))
Dismantling Retired Property	306,329	XX-24-39 XX-26-39	Actual
Fringe Benefits	335,457	12-24-00 12-26-00	Various Accounts (1127.7(f)(2)(C))
Other Casualties and Insurance	332,333	52-24-00 52-26-00 53-24-00 53-26-00	Various Accounts (1127.7(f)(2)(B)) Ditto
Lease Rentals - Dr.	537	31-24-00 31-26-00	Actual
Lease Rentals - Cr.	504	32-24-00 32-26-00	Actual
Other Rents - Dr.	537	35-24-00 35-26-00	Actual
Other Rents - Cr.	504	36-24-00 36-26-00	Actual

## RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
Depreciation	331	62-24-00 62-26-00	Actual
Joint Facility - Dr.	336	37-24-00 37-26-00	Agreement or Passenger On-off Count (1127.6(a)(3))
Joint Facility - Cr.	337	38-24-00 38-26-00	Ditto
Repairs Billed to Others - Cr.			
Machinery	302	40-24-40 40-26-40	Actual
Locomotives	311	40-24-41 40-26-41	Actual
Road Property and Equipment Damaged	311,317,318,323, 326,328	40-24-48 40-26-48	Actual
Other	339	XX-24-99 XX-26-99	Various Accounts (1127.7(f)(2)(B))
<u>Other Equipment</u>			
Administration	301	XX-25-01 XX-27-01	Various Accounts (1127.7(f)(2)(E))
Passenger and Other Revenue Equipment	317	XX-25-45 XX-27-45	Actual
Computers and Data Processing Systems	Various Accounts	XX-25-46 XX-27-46	Actual
Machinery	302	XX-25-40 XX-27-40	Various Accounts (1127.7(f)(2)(E))
Work and Other Non-Revenue Equipment	326,328	XX-25-47 XX-27-47	Various Accounts (1127.7(f)(2)(D))
Equipment Damaged	317,318,323,326,328	XX-25-48 XX-27-48	Actual
Dismantling Retired Property	306,329	XX-25-39 XX-27-39	Actual
Fringe Benefits	335,457	12-25-00 12-27-00	Various Accounts (1127.7(f)(2)(F))
Other Casualties and Insurance	332,333	52-25-00 52-27-00 53-25-00 53-27-00	Various Accounts (1127.7(f)(2)(E)) Ditto
Lease Rentals - Dr.	537	31-25-00 31-27-00	Actual
Lease Rentals - Cr.	504	32-25-00 32-27-00	Actual
Joint Facility Rents - Dr.	541	33-25-00 33-27-00	Agreement or Passenger On-Off Count (1127.6(a)(3))

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
Joint Facility Rents - Cr.	508	34-25-00 34-27-00	Ditto
Other Rents - Dr.	537	35-25-00 35-27-00	Actual
Other Rents - Cr.	504	36-25-00 36-27-00	Actual
Depreciation	331	62-25-00 62-27-00	Actual
Joint Facility - Dr.	336	37-25-00 37-27-00	Agreement or Passenger On-Off Count (1127.6(a)(3))
Joint Facility - Cr.	337	38-25-00 38-27-00	Ditto
Repairs Billed to Others - Cr. Passenger and Other Revenue Equipment	317	40-25-45 40-27-45	Actual
Computer and Data Processing Equipment	Various Accounts	40-25-26 40-27-26	Actual
Work and Other Non- Revenue Equipment	326,328	40-25-47 40-27-47	Actual
Road Property and Equipment Damaged	317,318,323,326,328	40-25-48 40-27-48	Actual
Other	330,339	XX-25-99 XX-27-99	Various Accounts (1127.7(f)(2)(E))

(3) Transportation

Train Operations

Administration	371	XX-41-01 XX-51-01	Various Accounts (1127.7(f)(3)(K))
Engine Crews	392,402	XX-41-56 XX-51-56	Actual, Cars Dispatched (1127.7(f)(3)(A))
Train Crews	401,402,403	XX-41-57 XX-51-57	Ditto
Dispatching Trains	372	XX-41-58 XX-51-58	Train Hours (1127.7(f)(3)(B))
Operating Signals and Interlockers	404	XX-41-59 XX-51-59	Train Movements (1127.7(f)(3)(C))
Operating Drawbridges	406	XX-41-60 XX-51-60	Ditto
Highway Crossing Protection	405	XX-41-61 XX-51-61	Ditto
Train Inspection and Lubrication	402	XX-41-62 XX-51-62	Cars Dispatched (1127.7(f)(3)(D))
Locomotive Fuel	394	XX-41-67 XX-51-67	Actual
Electric Power Purchased/ Produced for Motive Power	395,396,445	XX-41-68 XX-51-68	Actual-Weighted (1127.7(f)(3)(E))
Servicing Locomotives	400	XX-41-69 XX-51-69	Locomotive Units (1127.7(f)(3)(F))
Freight Lost or Damaged - Solely Related	418,419	51-41-00 51-51-00	Responsibility/Reserve Account (1127.7(f)(3)(G))
Clearing Wrecks	415	XX-41-63 XX-51-63	Ditto

## RULES AND REGULATIONS

<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
Fringe Benefits	409,457	12-41-00 12-51-00	Various Accounts (1127.7(f)(3)(H))
Other Casualties and Insurance	414,416,417,420	52-41-00 52-51-00 53-41-00 53-51-00	Responsibility/Reserve Account (1127.7(f)(3)(G)) Ditto
Joint Facility - Dr.	412	37-41-00 37-51-00	Agreement or Passenger On-Off Count (1127.6(a)(3))
Joint Facility - Cr.	413	38-41-00 38-51-00	Ditto
Other	402,403,411,441	XX-41-99 XX-51-99	Actual
<u>Yard Operations</u>			
Administration	371	XX-42-01 XX-52-01	Various Accounts (Various Accounts (1127.7(f)(3)(I))
Switch Crews	378,380,389	XX-42-64 XX-52-64	Unit Hours, Special Study (1127.7(f)(3)(I))
Controlling Operations	377,389	XX-42-65 XX-52-65	Ditto
Yard and Terminal Clerical	377,389	XX-42-66 XX-52-66	Ditto
Operating Switches, Signals Retarders and Humps	379,389	XX-42-59 XX-52-59	Ditto
Locomotive Fuel	382	XX-42-67 XX-52-67	Ditto
Electric Power Purchased/Produced for Motive Power	383,384,445	XX-42-68 XX-52-68	Ditto
Servicing Locomotives	388	XX-42-69 XX-52-69	Ditto
Freight Lost or Damaged Solely Related	418,419	51-42-00 51-52-00	Responsibility/Reserve Account (1127.7(f)(3)(G))
Clearing Wrecks	415	XX-42-63 XX-52-63	Ditto
Fringe Benefits	409,457	12-42-00 12-52-00	Various Accounts (1127.7(f)(3)(H))
Other Casualties and Insurance	414,416,420	52-42-00 52-52-00 53-42-00 53-52-00	Responsibility/Reserve Account (1127.7(f)(3)(G)) Ditto
Joint Facility - Dr.	390,412	37-42-00 37-52-00	Agreement or Passenger On-Off Count (1127.6(a)(3))
Joint Facility - Cr.	391,413	38-42-00 38-52-00	Ditto
Other	411	XX-42-99 XX-52-99	Actual
<u>Train and Yard Operations Common</u>			
Cleaning Car Interiors	402	XX-43-70 XX-53-70	Actual

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<u>Operating Expense Group and Accounts</u>	<u>Previous Account Number</u>	<u>Present Account Number</u>	<u>Basis of Assignment to Commuter Service</u>
Freight Lost or Damaged - All Other	418,419	51-43-00 51-53-00	Responsibility/Reserve Account (1127.7(f)(3)(G))
Fringe Benefits	409	12-43-00 12-53-00	Various Accounts (1127.7(f)(3)(H))
<u>Administrative Support Operations</u>			
Administration	371	XX-45-01 XX-55-01	Various Accounts (1127.7(f)(3)(K))
Employees Performing Clerical And Accounting Functions	373,376	XX-45-76 XX-55-76	Various Accounts (1127.7(f)(3)(J))
Communication Systems Operations	373,376	XX-45-77 XX-55-77	Administrative Accounts (1127.7(f)(3)(L))
Loss and Damage Claims Processing	418,419	XX-45-78 XX-55-78	Responsibility/Reserve Account (1127.7(f)(3)(G))
Fringe Benefits	409,457	12-45-00 12-55-00	Various Accounts (1127.7(f)(3)(H))
Casualties and Insurance	414,416,420	52-45-00 52-55-00 53-45-00 53-55-00	Responsibility/Reserve Account (1127.7(f)(3)(G)) Ditto
Joint Facility - Dr.	412,447	37-45-00 37-55-00	Agreement or Passenger On-Off Count (1127.6(a)(3))
Joint Facility - Cr.	413,448	38-45-00 38-55-00	Ditto
Other	411	XX-45-99 XX-55-99	Actual
<u>(4) General and Administrative</u>			
Officers - General Superintendence	351,451,453	XX-62-01 XX-63-01	Actual <u>1/</u>
Accounting, Auditing, and Finance	452	XX-62-86 XX-63-86	Actual <u>1/</u>
Management Services and Data Processing	452	XX-62-87 XX-63-87	Actual <u>1/</u>
Marketing	352	XX-62-88 XX-63-88	Actual <u>1/</u>
Sales	352	XX-62-89 XX-63-89	Actual <u>1/</u>
Personnel and Labor Relations	452	XX-62-91 XX-63-91	Actual <u>1/</u>
Legal and Secretarial	452,454	XX-62-92 XX-63-92	Actual <u>1/</u>
Public Relations and Advertising	353,354	XX-62-93 XX-63-93	Actual <u>1/</u>
Research and Development	Various Accounts	XX-62-94 XX-63-94	Actual <u>1/</u>
Other	360,460	XX-62-99 XX-63-99	Actual <u>1/</u>
Casualties and Insurance	357-455	52-62-00 52-63-00 53-62-00 53-63-00	Various Accounts (1127.7(f)(4))

## RULES AND REGULATIONS

Operating Expense Group and Accounts	Previous Account Number	Present Account Number	Basis of Assignment to Commuter Service
Writedown of Uncollectible Accounts	Various Accounts	63-62-00 63-63-00	Actual <sup>1/</sup>
Fringe Benefits	359,456,457	12-62-00 12-63-00	Various Accounts (1127.7(f)(4))
Property Taxes	532	64-62-00 64-63-00	Actual - As determined under Section 1127.8(b)
Other Taxes Except on Corporate Income or Payrolls	532	65-62-00 65-63-00	Actual
Joint Facility - Dr.	461	37-62-00 37-63-00	Agreement or Passenger On-Off Count (1127.6)(a)(3))
Joint Facility - Cr.	462	38-62-00 38-63-00	Ditto

<sup>1/</sup> These costs may include the actual expenses incurred in administering the subsidy program.

(f) *Apportionment rules for assigning common costs to commuter service.* The accounts specified under § 1127.7(e) which have an assignment basis other than "actual" shall be apportioned according to the rules contained in this section.

(1) *Maintenance of way and structures.—(i) Repair and maintenance—switching.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter service cars dispatched in the designated area to the total cars dispatched in the designated area.

(ii) *Repair and maintenance—running.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter service speed factored gross tons (SFGT) for the designated area. The commuter service SFGT shall be derived by subtracting the SFGT for freight and/or intercity passenger from the total SFGT for all traffic. The SFGT shall be calculated in accordance with the formula set forth in Appendix III of this Part.

(iii) *Station and office buildings.* The common costs assigned to these accounts shall be first apportioned on the ratio of total square feet devoted to passenger service to the total square feet used in the facility. The passenger portion shall then be apportioned on the ratio of the commuter service on-off passenger count (includ-

ing pass riders) in the designated area to the total on-off passenger count (including pass riders) in the designated area.

(iv) *Signals and interlockers.* The common costs assigned to these accounts shall be apportioned on the ratio of the number of commuter service train movements through these facilities to the total of all train movements through these facilities.

(v) *Power systems.* The common costs assigned to these accounts shall be apportioned on the ratio of the kilowatt-hours consumed by the commuter service to the total kilowatt-hours consumed by all services in the designated area.

(vi) *Shop buildings.* The common costs assigned to these accounts shall be apportioned on the ratio of the labor charges expended servicing commuter service equipment in the designated area to the railroad's total labor charges expended servicing all equipment in the designated area.

(vii) *Locomotive servicing facilities.* The common costs assigned to fuel stations shall be kept separate from the common costs assigned to the balance of the locomotive servicing facilities. The common costs assigned to fuel stations shall be apportioned on the ratio of the amount of fuel dispensed in commuter service to the total amount of fuel dispensed for all services using these facilities. The

common costs assigned to the balance of the locomotive servicing facilities shall be apportioned on the ratio of the locomotive unit miles (diesel and electric) generated from commuter service using these facilities in the designated area to the railroad's total locomotive unit miles in the designated area (diesel and electric) for all services.

(viii) *Road property damaged—other; miscellaneous buildings and structures.* The common costs assigned to these accounts shall be apportioned on the ratio of the amounts assigned to commuter service to the railroad's total in the designated area for the following accounts:

XX-14-10, XX-17-10, XX-14-11, XX-17-11, XX-14-12, XX-17-12, 21-14-13, 21-17-13, 21-14-14, 21-17-14, 21-14-15, 21-17-15, 21-14-16, 21-17-16, 21-14-17, 21-17-17, XX-14-48, XX-17-48, XX-15-10, XX-18-10, XX-15-11, XX-18-11, XX-15-12, XX-18-12, 21-15-13, 21-18-13, 21-15-14, 21-18-14, 21-15-15, 21-18-15, 21-15-16, 21-18-16, 21-15-17, 21-18-17, XX-15-48, XX-18-48.

(ix) *Administration—Track.* The common costs assigned to these accounts shall be apportioned on the ratio of the amounts assigned to commuter service to the railroad's total in the designated area for the following accounts:

XX-14-10, XX-17-10, XX-14-11, XX-17-11, 21-14-13, 21-17-13, 21-14-14, 21-17-14, 21-14-15, 21-17-15, 21-14-16, 21-17-16, 21-14-17, 21-17-17, XX-14-48, XX-17-48, XX-15-10, XX-18-10, XX-15-11, XX-18-11, 21-15-13, 21-18-13, 21-15-14, 21-18-14, 21-15-15, 21-18-15, 21-15-16, 21-18-16, 21-15-17, 21-18-17, XX-15-48, XX-18-48, XX-14-22, XX-17-22, XX-15-22, XX-18-22, XX-16-36, XX-19-36, XX-16-37, XX-19-37, XX-16-38, XX-19-38, XX-14-39, XX-17-39, XX-15-39, XX-18-39, XX-16-21, XX-19-21.

(x) *Administration—Bridges and buildings.* The common cost assigned to these accounts shall be apportioned on the ratio of the amounts assigned to commuter service to the railroad's total in the designated area for the following accounts:

XX-14-12, XX-17-12, XX-15-12, XX-18-12, XX-16-23, XX-19-23, XX-15-48, XX-18-48, XX-16-24, XX-19-24, XX-16-26, XX-19-26, XX-16-27, XX-19-27, XX-16-28, XX-19-28.

(xi) *Administration—Signals.* The common costs assigned to these accounts shall be apportioned on the ratio of amounts in accounts XX-14-19, XX-15-19, XX-17-19, XX-18-19, assigned to commuter service to the railroad's total in these accounts for the designated area.

(xii) *Administration—Other.* The common costs assigned to these accounts shall be apportioned on the ratio of the amounts in all of the accounts under § 1127.(e)(1)(B) assigned to commuter service (excluding accounts XX-16-20, XX-19-20, 12-14-00,

12-17-00, 12-15-00, 12-18-00, 12-16-00, 12-19-00, all rentals accounts, joint facility accounts, fringe benefits accounts, casualties and insurance accounts, and depreciation accounts) to the railroad's total in these accounts for the designated area.

(xiii) *Communications systems.* The common costs assigned to these accounts shall be apportioned on the ratio of the amounts assigned to commuter service to the railroad's total in the designated area for the following accounts:

XX-16-12, XX-19-02, XX-16-03, XX-19-03, XX-16-04, XX-19-04, XX-16-06, XX-19-16, XX-42-65, XX-52-65, XX-42-66, XX-52-66, XX-24-01, XX-26-01, XX-25-01, XX-27-01, XX-41-01, XX-51-01, XX-45-01, XX-55-01, XX-42-01, XX-52-01, XX-62-01, XX-63-01, XX-41-58, XX-51-58.

(xiv) *Administration—Communications.* The common costs assigned to these accounts shall be apportioned on the ratio of accounts in the following accounts: XX-16-20, XX-19-20 assigned to commuter service to the railroad's total in these accounts for the designated area.

(xv) *Casualties and insurance—Other.* The common costs assigned to these accounts shall be apportioned, separated between running, switching and other, on the ratio of the amounts in all of the accounts under § 1127.(e)(1)(B) assigned to commuter service (excluding accounts 12-14-00, 12-17-00, 12-15-00, 12-18-00, 12-16-00, 12-19-00, all rental accounts, joint facility accounts, and depreciation accounts) to the railroad's total in these accounts for the designated area.

(xvi) *Fringe benefits.* Fringe benefits shall be assigned to commuter service, separated between running, switching and other, on the ratio of the commuter service amounts in the respective salary and wage accounts to the railroad's system total for these accounts.

#### (2) Equipment.

#### LOCOMOTIVES

(i) *Repair and maintenance; equipment damaged.* These accounts shall be separated between yard and other (road) with a further separation between diesel and other (electric). The common costs assigned to these accounts for yard locomotives shall be based on the results of the special study described in § 1127.(f)(4). The costs assigned to these accounts for other locomotives (road) shall be the actual costs that are directly attributable to commuter service.

(ii) *Administration; machinery repairs; other casualties and insurance—Other.* The common costs assigned to these accounts shall be apportioned on the ratio of the amounts assigned to commuter service to the railroad's total in the designated area for the following accounts:

XX-24-41, XX-26-41, XX-24-48, XX-26-48, XX-24-39, XX-26-39, 37-24-00, 37-26-00,

38-24-00, 38-26-00, 40-24-40, 40-26-40, 40-24-41, 40-26-41, 40-24-48, 40-26-48.

(iii) *Fringe benefits—Locomotives.* Fringe benefits shall be assigned to commuter service on the ratio of the commuter service amounts in the respective salary and wage accounts to the railroad's system total for these accounts.

#### OTHER EQUIPMENT

(iv) *Work and other non-revenue equipment.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter service amounts in the repair and maintenance running and switching accounts, identified in § 1127.7(f)(1)(H) to the railroad's total for these accounts in the designated area.

(v) *Administration; machinery; other casualties and insurance—Other.* The common costs assigned to these accounts shall be apportioned on the ratio of the amounts assigned to commuter service to the railroad's total in the designated area for the following accounts:

XX-25-45, XX-27-45, 37-25-00, 37-27-00, 40-25-48, 40-27-48, XX-25-46, XX-27-46, 38-25-00, 38-27-00, XX-25-47, XX-27-47, 40-25-45, 40-27-45, XX-25-48, XX-27-48, 40-25-46, 40-27-46, XX-25-39, XX-27-39, 40-25-47, 40-27-47.

(vi) *Fringe benefits—Other equipment.* Fringe benefits shall be assigned to commuter service on the ratio of the commuter service amounts in the respective salary and wage accounts to the railroad's system total for these accounts.

(3) *Transportation.*—(i) *Engine crews; train crews.* These accounts shall be separated between salary and wages and train supplies and expenses. The salary and wage portion shall be assigned to commuter service on an actual basis. The common costs assigned to these accounts for train supplies and expenses shall be apportioned on the ratio of commuter cars dispatched in the designated area to the railroad's total cars dispatched in the designated area. Commuter cars shall include passenger cars and motor cars.

(ii) *Dispatching trains.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter train hours in the designated area to total train hours in the designated area.

(iii) *Operating signals and interlockers; operating drawbridges; highway crossing protection.* The common costs assigned to these accounts shall be apportioned on the ratio of the number of commuter service train movements in the designated area to the total train movements in the designated area.

(iv) *Train inspection and lubrication.* The common costs assigned to

these accounts shall be apportioned on the ratio of commuter cars dispatched in the designated area to the railroad's total cars dispatched in the designated area. Commuter cars shall include passenger cars and motor cars.

(v) *Electric power purchased/produced for motive power.* There shall be no apportionment of common costs under these accounts. The costs assigned to these accounts shall be the actual costs of the kilowatt hours (KWH) consumed for commuter service in the designated area. These KWH shall be weighted to reflect the peak period power demands, i.e., time of day and volume of power demanded.

(vi) *Servicing locomotives.* The common costs assigned to these accounts shall be apportioned on the ratio of the total locomotive units (road) serviced in commuter service in the designated area to the railroad's total locomotive units (road) serviced in the designated area.

(vii) *Freight lost or damaged—Solely related; clearing wrecks; other casualties and insurance.* The subsidizers shall be responsible for any costs incurred under these accounts resulting from the operation of the commuter service. The railroad shall, if the subsidizer agrees, establish a reserve for the purpose of holding the subsidizer harmless from any liabilities under these accounts arising out of the operation of commuter services on its properties, and each commuter service participating in the reserve shall bear a proportion of the costs of the reserve equal to its proportion of the total passenger miles (including non-revenue passenger miles) generated by participating services. The costs assigned to these accounts for commuter service insurance shall be determined by ascertaining from the railroad's underwriters: (A) The difference in the current premium if commuter service were not operated, and (B) the additional premium required to hold the railroad and the subsidizers harmless from any liability. Such amounts shall be apportioned between the several commuter services operated by the railroad on the basis of the relative numbers of passenger miles (including pass riders).

(viii) *Fringe benefits.* Fringe benefits shall be assigned to commuter service on the ratio of the commuter service amounts in the respective salary and wage accounts to the railroad's system total for these accounts. Separate ratios shall be developed for each of the categories of transportation expenses (i.e., train operations, yard operations, train and yard operations—common and administrative support operations).

(ix) *Switch crews; controlling operations; yard and terminal clerical; operating switches, signals, retarders,*

*and humps; locomotive fuel; electric power purchased/produced for motive power; servicing locomotives.* A special study shall be conducted to determine the ratio of the commuter service (diesel, electric) yard locomotive unit hours in the designated area to the railroad's total (diesel, electric) yard locomotive unit hours in the designated area. The common costs assigned to these accounts shall be the amounts in the railroad's accounts for the designated area multiplied by the ratio determined from the study. For this purpose, the term "locomotive" shall include motor cars. In conducting such a study, the railroad should recognize the variances of: (A) Weekend versus weekday demand; (B) required yard crew manning to perform the switching services for various users; and (C) the effect of peak service on yard manning.

(x) *Employees performing clerical and accounting functions; communication system operations.* (A) The common costs assigned to these accounts, exclusive of material, shall be subdivided into 4 categories: (1) Ticket sales and service; (2) other station costs; (3) station master; and (4) mail and baggage.

(B) The common costs in these subaccounts, exclusive of material, shall be apportioned on the ratio of commuter service units in the designated area to the total units in the designated area for the respective units: (1) Weighted ticket sales; (2) passenger on-off count (including pass riders); (3) trains stopping at stations in the designated area; and (4) units of mail and baggage handled. The common material costs assigned to these accounts shall be apportioned on the ratio of the commuter service amounts in these accounts exclusive of material determined above to the railroad's total for these accounts in the designated area.

(xi) *Administration.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter service amounts in all other transportation accounts in each subcategory except fringe benefits and communication systems operations to the railroad's total for these accounts in the designated area.

(xii) *Communication system operations.* The common costs assigned to these accounts shall be apportioned on the ratio of the total commuter service amounts in the Administration accounts (§ 1127.7(f)(3)(K)) assigned to commuter service to the railroad's total for these accounts in the designated area.

(4) *General and administrative. Fringe benefits.* Fringe benefits shall be assigned to commuter service on the ratio of the commuter service amounts in the respective salary and wage accounts to the railroad's system total for these accounts.

(g) *Performance standards—penalties and incentives.* The subsidy agreements may include reasonable provisions as agreed by the parties for penalties for service inferior to stipulated performance standards and incentive payments for superior performance. Penalties withheld from subsidy payments by the subsidizer under such agreements shall be treated as reductions of avoidable costs and incentive payments shall be treated as additions to avoidable costs.

#### § 1127.8 Value of rail properties.

The value of rail properties on which a reasonable return is allowed shall consist of:

(a) The net book value of equipment furnished by the contracting carrier for commuter service, after deduction of accrued depreciation; and

(b) The net book value of those roadway and structures properties which are used in commuter services and which could be disposed of if commuter service were discontinued. Such net book value shall include the net liquidation value of the properties as of April 1, 1976, determined for their highest and best use for other than rail transportation purposes, plus the value of additions and betterments after that date for commuter service, less depreciation accrued from that date. It shall not include the value of properties owned by public bodies; or of properties owned by the trustees of debtor estates if such properties are entitled to a return computed under 49 CFR 1125.9.

(c) If the book values of road or equipment property are adjusted upward or downward as a result of final orders of the special court, such adjusted values shall be reflected in future subsidy payments, but without retroactive effect.

#### § 1127.9 Reasonable return on the value of the properties.

The reasonable return shall be 7.5 percent per annum on the sum of the two elements of the investment base computed in accordance with § 1127.8.

#### § 1127.10 Emergency operating assistance.

(a) *Mandatory period losses.* The railroad shall be entitled to reimbursement by the Secretary for 100 percent of the losses reasonably and necessarily incurred by it for continuing service during the mandatory period (from April 1, 1976, through September 27, 1976, or any extension of such period resulting from the application of Federal law), the same level of commuter rail service as was provided during the 12-month period ended March 31, 1976. The reimbursement shall be an amount equal to the railroad's actual net avoidable loss and reasonable return on the value of properties, as determined in accordance

with §§ 1127.3 through 1127.9, minus such financial assistance as it received or was entitled to receive (whichever is greater) under section 304(e)(2) of the 3R Act from a subsidizer during the mandatory operation period. Should the service be terminated by agreement of the railroad and the subsidizer prior to the close of the mandatory operation period, the reimbursement under this subsection shall be proportionately reduced.

(b) *Mandatory period—Additional costs.* A subsidizer shall be entitled to reimbursement by the Secretary for 100 percent of the additional costs reasonably and necessarily incurred by it, during the period April 1, 1976, through September 27, 1976, in preparing the offer of financial assistance or negotiating the subsidy agreement. Payments by the Secretary under this subsection shall not be duplicative of amounts disbursed under paragraphs (a) and (c) of this section.

(c) *Post mandatory period—Additional costs.* A subsidizer which makes subsidy payments for the continuance of commuter rail service, during the period from September 28, 1976, through September 30, 1980, shall be entitled to be reimbursed by the Secretary for the additional costs reasonably and necessarily incurred by it to sustain the same level of service being provided during the 12-month period ended March 31, 1976. The amount of reimbursement shall be 100 percent of additional costs for the period September 28, 1976, through March 26, 1977; 90 percent of such costs for the period March 27, 1977, through March 31, 1978; 80 percent of such costs for the period April 1, 1978, through September 30, 1978, and 50 percent for the period October 1, 1978, through September 30, 1980. The appropriate percentage for each subsidy period shall be applied to the difference between the actual net avoidable losses and reasonable return incurred in continuing the service, as determined in accordance with §§ 1127.3 through 1127.9, and the financial assistance the subsidizer was obligated to pay under section 304(e)(2) of the 3R Act during the mandatory period, plus the amounts of any additional administrative costs reasonably and necessarily incurred in complying with these standards.

(d) *Level of service.* The same level of service includes the routes, schedules, train seating capacity, performance standards, and equipment units provided during the 12-month period ended March 31, 1976, and any modifications thereof which do not increase the net avoidable loss and reasonable return on the value of the properties as determined in accordance with §§ 1127.3 through 1127.9 in excess of the amount which would have resulted from the service level provided during the 12-month period ended March 31, 1976.

The railroad or subsidizer may be reimbursed for additional costs necessary to sustain the same level of service arising from wage or price increases or equipment purchases to the extent that the railroad (or its predecessor) had not agreed to absorb, nor the subsidizer to pay, such costs increases. The railroad or subsidizer may not be reimbursed for losses incurred in providing service on new routes; but the level of service on existing routes may be adjusted to the extent that the total of the net avoidable losses and the reasonable return, as determined in accordance with §§ 1127.3 through 1127.9, based on the level of service provided in the 12-month period ended March 31, 1976, is not thereby exceeded.

(e) *Reductions in service.* If a rail continuation payment is decreased because service is reduced below the level provided during the 12-month period ended March 31, 1976, the financial assistance provided by the subsidizer and the reimbursement of additional costs by the Secretary under § 1127.10(c) shall be reduced in proportion to their respective contributions to the total of the rail service continuation payment as computed prior to such reduction in the level of service.

(f) *Fare increases.* The railroad shall maintain records for each subsidy period segregating the amounts of passenger revenues included in account 102 resulting from fare increases initiated on or after April 1, 1976. For the purpose of determining the reimbursement by the Secretary of additional costs under § 1127.10(c), such amounts shall be deducted from the attributable revenues computed under § 1127.6. Under no circumstances, however, shall the application of this section result in reimbursement by the Secretary of an amount exceeding the subsidy payment determined pursuant to §§ 1127.3 through 1127.9.

(g) *Interest on overdue payments.* The amounts of interest accrued on overdue payments under § 1127.3(e) shall be excluded from avoidable costs determined under § 1127.7 for the purpose of determining the reimbursement by the Secretary of additional costs under § 1127.10(c).

(h) *Advance payments.* To assist the subsidizer in making the monthly interim subsidy payments required under § 1127.3(e), the Secretary shall pay monthly in advance to the subsidizer the estimated amounts for reimbursement of additional costs under § 1127.10(c) as modified by § 1127.10 (e), (f), and (g). The final payment of such reimbursement shall be adjusted retroactively within 60 days of the filing of the last Financial Status Report for each subsidy period to reflect the actual amounts of attributable revenues, avoidable costs, and return on the value of the properties,

and the financial assistance the subsidizer was obligated to provide during that subsidy period. The receipt by the subsidizer of any estimated or final payment for reimbursement of additional costs shall be conditioned upon the furnishing by the recipient of such certification or documentation at such times as the Secretary may by regulation require.

(i) *Arbitration.* Under section 304(e)(5)(c) of the 3R Act, the railroad, the subsidizer, and the Secretary may submit any disputes regarding the application of this section to arbitration by a disinterested third person. If the parties are unable to agree upon an arbitrator, the Chairman of the ICC or his designated representative shall serve in that capacity.

APPENDIX I—SUBSIDY ESTIMATE

The following information is required to be furnished under § 1127.3(b) in accordance with the methodology set forth in §§ 1127.3 through 1127.9. The base period data shall be shown for each item.

REVENUES ATTRIBUTABLE (BASE PERIOD)

1. Passenger.
2. All other.
3. Total revenues attributable (lines 1 plus 2).

AVOIDABLE COSTS

4. Maintenance of way and structures.
5. Maintenance of equipment.
6. Transportation.
7. General and administrative.
8. Casualty reserve account.
9. Performance standards.
10. Total avoidable costs (lines 4 through 9).

RETURN ON VALUE

11. Valuation of property (lines 11a plus 11b):
  - (a) Book value of equipment.
  - (b) Book value of roadway and structures.
12. Rate of return.
13. Total return on value (line 11 times line 12).

ESTIMATED SUBSIDY PAYMENT

14. Subsidy estimate (line 3 minus lines 10 and 13).
15. Financial assistance from subsidizer.
16. Estimated emergency operating assistance from the Secretary (line 14 minus line 15).

TRAFFIC AND OPERATING DATA

1. Numbers of passengers carried.
2. Total car miles.

APPENDIX II—FINANCIAL STATUS REPORT

A railroad entering into a subsidy agreement shall compile the information prescribed below in accordance with the standards set forth in §§ 1127.3 through 1127.9. The actual data for the period to date and a projection to the end of the subsidy period shall be shown for each item.

REVENUES ATTRIBUTABLE (ACTUAL) (PROJECTED)

1. Passenger.
2. All other.
3. Total revenues attributable (lines 1 plus 2).

AVOIDABLE COSTS

4. Maintenance of way and structures.
5. Maintenance of equipment.
6. Transportation.
7. General and administrative.
8. Casualty reserve account.
9. Performance standards.
10. Total avoidable costs (lines 4 through 9).

RETURN ON VALUE

11. Valuation of property (lines 11a plus 11b):
  - (a) Book value of equipment.
  - (b) Book value of roadway and structures.
12. Rate of return.
13. Total return on value (line 11 times line 12).

SUBSIDY PAYMENT

14. Subsidy payment (line 3 minus lines 10 and 13).
15. Financial assistance from subsidizer.
16. Emergency operating assistance from the Secretary (line 14 minus 15).

TRAFFIC AND OPERATING DATA

1. Number of passengers carried.
2. Total car miles.

APPENDIX III—SPEED FACTORED GROSS TONS FORMULA (SFGT)

The following formula is required to calculate the SFGT to be used under § 1127.7(f)(1)(B) of this part. All track and roadbed maintenance:

$$SFGT = Y(0.670 + 0.910 N) + N [1.840 + 0.870 \sqrt{GT} + 0.058 GTF + 0.029 GTP + 0.048 J - [GTF (1 + VF/600 + (VF)^2/6000) + GTP (1 + VP/750 + (VP)^2/9375)]]$$

or in cases where freight speeds are equal to or greater than 80 percent of passenger speeds, the freight and passengers terms may be combined as shown below:

$$SFGT = Y(0.670 + 0.910 N) + N [1.840 + 0.870 \sqrt{GT} + 0.058 GTF + 0.029 GTP + 0.048 J [GT(1 + V/600 + V^2/6000)]]$$

where:

- GT = Total gross tons of traffic (in millions) per track mile per year.
- GTF = Freight traffic gross tons (in millions) per track mile per year.
- GTP = Passenger traffic gross tons (in millions) per track mile per year.
- N = Number of tracks per route mile.
- V = Speed factor (the larger of freight speed or 0.8 times passenger speed).
- VF = Freight speed.
- VP = Passenger speed.
- J = 1 for welded rail; 1.5 for bolted rail.
- Y = As shown below:

FRA class of tracks and type of operation	Value of Y		
	Main line	Branch line	Yard and switch
Class 1,2,3; freight only up to 10 MGT per mile per year	1.00	0.56	0.14
Class 1,2; passenger, or class 1,2,3; freight more than 10 MGT per mile per year	1.12	0.66	.....
Class 3; passenger, or class 4,5,8; all traffic	1.15	0.69	.....

The speed factors used shall be governed by the highest authorized speed in the des-

ignated area for the respective types of service.

Special studies may be conducted from time to time to update the constants used in the formula.

[FR Doc. 78-409 Filed 1-10-78; 8:45 am]

[7035-01]

SUBCHAPTER C—ACCOUNTS, REPORTS AND RECORDS

[Docket No. 36366]

PART 1201—UNIFORM SYSTEM OF ACCOUNTS

Subpart B—Branch Line Accounting System

REVISION TO THE BRANCH LINE ACCOUNTING SYSTEM

AGENCY: Rail Services Planning Office (RSPO), Interstate Commerce Commission.

ACTION: Restatement of regulations.

SUMMARY: The Branch Line Accounting System regulations which specify records which must be maintained for certain lines of railroads are being restated to be compatible with the ICC's new Uniform System of Accounts (USOA), for railroad companies, which was established in accordance with the requirements of section 307 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). Although no substantive changes have been made to the existing requirements of the Branch Line Accounting System, RSPO invites comments from persons who believe that substantive changes have been made.

DATES: Effective date: January 1, 1978. Comments may be made on or before January 31, 1978.

ADDRESS: An original and six copies of such comments should be mailed to RSPO at the following address: Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036, Attention: Branch Line Accounting System.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: The Rail Services Planning Office (RSPO), is directed by section 205(e)(1)(A) of the Regional Rail Reorganization Act of 1973, 45 USC 701 (3R Act), as amended by section 309 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 USC 801 (4R Act) to:

Develop an accounting system which will permit the collection and publication by the (Consolidated Rail) Corp. or by profitable railroads providing service over lines scheduled for abandonment, of information necessary for an accurate determination of the

attributable revenues, avoidable costs, and operations of light-density lines as operating and economic units.

The Branch Line Accounting System (published in Subpart B of Part 1201 of Subchapter C of Chapter X of Title 49 of the Code of Federal Regulations), which is currently in effect, requires the collection of data for any rail line designated in categories (1), (2), (3), or (4) of a railroad's system diagram map. These categories indicate lines of railroad which the carriers (1) intend to abandon, (2) are studying for possible abandonment, (3) have petitioned for abandonment, or (4) operate under subsidy. The Branch Line Accounting System is based on and refers directly to the ICC's Uniform System of Accounts for Railroad Companies (USOA). The ICC was directed by section 307 of the 4R Act to establish a new USOA; the ICC adopted the new USOA June 13, 1977, to become effective January 1, 1978. As a result, RSPO is restating the current Branch Line Accounting System in a form compatible with the new USOA.

A new section (950), has been added to the Branch Line Accounting System. This section explains the elements included in each account, supplementing the account numbers with a description of the specific revenues or costs which are included in an account. This section is a restatement of similar information which is included in the USOA; it is presented in the Branch Line Accounting System regulations to assist the railroads and the State transportation agencies and other interested persons in applying and utilizing the Branch Line Accounting System.

*NOTE.*—This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, That Part 1201, Subpart B, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations be revised to read as set forth below, effective January 1, 1978.

Issued December 29, 1977, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

Subpart B—Branch Line Accounting System

- Sec.
- 900 Definitions.
- 910 Purpose and Scope.
- 920 Collection of Data.
- 930 Publication of Data.
- 940 Annual Branch Line Report.
- 950 Text and Chart of Accounts.

*AUTHORITY:* Sec. 205(e)(1)(A), Regional Rail Reorganization Act of 1973, Pub. L. 93-

236, 87 Stat. 985, 994, as amended by Sec. 309 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 92-210, 90 Stat. 31, 57.

Subpart B—Branch Line Accounting System

§ 900 Definitions.

Unless otherwise required by context, the following definitions apply in this subpart:

"Account" means an account in the ICC's Uniform System of Accounts (USOA), for Railroad companies (49 CFR Part 1201, Subpart A).

"IC Act" means the Interstate Commerce Act (49 U.S.C. 1 et seq.), as amended.

"Branch Line" or "Branch" means a rail line or segment of line which (a) has been designated on a transportation system diagram in Categories (1), (2), (3), or (4) (49 CFR 1121.20(b) (1), (2), (3), (4)); or (b) is the subject of a directed service order under section 304(d)(3) of the 3R Act; or (c) is the subject of a rail continuation service agreement entered into prior to the designation of the line on a system diagram.

"ICC" or "Commission" means the Interstate Commerce Commission.

"Designated State agency" means the instrumentality created by a State or designated by appropriate authority to administer or coordinate its State rail plan as required by section 5(j)(2) of the Department of Transportation Act (90 Stat. 131) or section 402(c)(1)(A) of the 3R Act (87 Stat. 985) or regulations promulgated pursuant thereto.

"RSPO" means the Rail Services Planning Office of the Interstate Commerce Commission.

"Railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)).

"3R Act" means the Regional Rail Reorganization Act of 1973, Pub. L. 93-236, 87 Stat. 985, as amended.

"4R Act" means the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 31.

"XX", when used in place of digits in a six-digit account number, means that all accounts containing the remaining four-digits are included. Example: "11-21-XX" refers to all salary and wage accounts for locomotives because "11" designates salaries and wages and "21" designates locomotives. Thus, "11-21-XX" includes all of the following accounts: 11-21-01; 11-21-40; 11-21-48; 11-21-39; and 11-21-99. Similarly, "XX-31-67" means all accounts containing "31" (train operations) and "67" (locomotive fuel).

910 Purpose and scope.

(a) Section 205(e)(1)(A) of the 3R Act directs the office to issue regulations which will permit the collection and publication by the Consolidated

Rail Corp. (ConRail), or by profitable railroads of information necessary to determine accurately the revenues attributable, avoidable costs, and service units of light-density lines scheduled for abandonment. This accurate information is intended to facilitate the determination of the revenues and avoidable costs in abandonment proceedings and in potential offers of subsidy. This information is intended to be compatible with the Regional Subsidy Standards (49 CFR Part 1125), for those lines which were not conveyed to ConRail under the final system plan and with the National Subsidy Standards (49 CFR Part 1121, Subpart D), for all other lines. The purpose of the Branch Line Accounting System regulations is to specify an accounting system for the collection and publication of this information.

(b) For further information regarding the Branch Line Accounting System, persons may contact the RSPO's Cost Evaluation Branch: Cost Evaluation Branch, Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036, 202-254-7552.

§ 920 Collection of data.

(a) *Lines for which data collection is required.* The railroad shall collect data on all branch lines which meet the criteria listed in paragraphs 1 through 4 below. The data to be collected is specified in section 920(b).

(1) Branch lines in categories (1), (2), and (3) on the System Diagram Map include, respectively, lines for which a carrier intends to file an abandonment application within three years, lines which the carrier has under study and are potentially subject to abandonment, and lines for which an abandonment application is pending before the Commission. The collection of data on such lines shall commence on the first day of the month after the line has been designated in one of the categories and will continue so long as the branch line is retained in one of these categories. The assignment and apportionment methodology set forth in Part 1121, Subchapter B (National Subsidy Standards), shall be applied.

(2) For branch lines operated under an order directing service, under section 304(d)(3) of the 3R Act, data shall be collected from the effective date of the order until the order is withdrawn. The assignment and apportionment methodology set forth in Part 1125, Subchapter B (Regional Subsidy Standards), shall be applied.

(3) For branch lines operated under a rail service continuation agreement under section 1a(6)(a) of the IC Act, data shall be collected from the effective date of the agreement until the termination of the agreement. The assignment and apportionment methodology set forth in Part 1121, Subchapter B (National Subsidy Standards), shall be applied.

## RULES AND REGULATIONS

(4) For branch lines operated under a rail service continuation agreement under section 304 of the 3R Act, data collection shall commence on the effective date of the agreement and shall continue until the termination date of the agreement. The assignment and apportionment methodology set forth in Part 1125, Subchapter B (Regional Subsidy Standards), shall be applied.

(b) *Data to be collected.* The data collected shall include the items of revenue, expense, and service units which are specified in Parts 1121 and 1125, Subchapter B (National and Regional Subsidy Standards), as described in the account texts listed in section 950. The format for presentation of these data is specified in section 940.

#### § 930 Publication of data.

(a) *General.* The railroad shall file on or before June 30 of each year a report listing account by account totals of the aggregate revenue, cost, and service unit data for all branch lines for which it must maintain a system of accounts. Only such data as are required by Parts 1121 or 1125 must be reported. The data shall be accumulated for the prior calendar

year or portion thereof and reported in the format set forth in section 940. Separate reports for each branch line are not required; however, the railroad shall list and describe each branch line using the format set forth in 49 CFR 1121.21; that section prescribes the branch line information required in conjunction with the system diagram maps specifying the line's designation, States and counties traversed, delineation of mileposts, and location of agency and terminal stations.

(b) *Public inspection.* The original report shall be filed with and made available for public inspection at the Commission's offices in Washington, D.C.; copies of the report shall be filed with and made available for public inspection at field offices in the State or States in which the branch lines are situated.

(c) *Access to records.* The records, accounts, working papers, and other documents reflecting the revenues, cost, and service unit data of each branch line for which the railroad must maintain data shall be made available for inspection and examination by the Commission and, for lines situated within its State, by the designated State agency at a time and place mutually agreeable to the parties. The railroad shall also reproduce such re-

ords for the designated State agency, provided the agency pays the reasonable cost thereof.

(d) *Waivers and modifications.* The Office may, with respect to individual requests, upon good cause shown, waive or modify any requirement of this section not required by law.

#### 940 Annual branch line report.

This section specifies the format to be used in the Annual Branch Line Report. Definitions of each account are presented in section 950.

(A) Attributable revenue	Amount
101 Freight .....	
104 Switching .....	
105 Water transfers .....	
106 Demurrage .....	
110 Incidental .....	
121 Joint facility—credit .....	
122 Joint facility—debit .....	
506 Revenue from property used in other than carrier operations .....	
510 Miscellaneous net income .....	
519 Miscellaneous income .....	
Total attributable revenues .....	

(B) *On-branch avoidable costs.* (1) *Actual or apportioned expense accounts.*

FREIGHT

LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
WAY AND STRUCTURES:					
ADMINISTRATION:					
001	Track				
002	Bridge and Building				
003	Signal				
004	Communication				
005	Other				
REPAIR AND MAINTENANCE:					
006	Roadway - Running				
007	Roadway - Switching				
008	Tunnels and Subways - Running				
009	Tunnels and Subways - Switching				
010	Bridges and Culverts - Running				
011	Bridges and Culverts - Switching				
012	Ties - Running	N/A		N/A	N/A
013	Ties - Switching	N/A		N/A	N/A
014	Rail - Running	N/A		N/A	N/A
015	Rail - Switching	N/A		N/A	N/A
016	Other Track Material - Running	N/A		N/A	N/A
017	Other Track Material - Switching	N/A		N/A	N/A
018	Ballast - Running	N/A		N/A	N/A
019	Ballast - Switching	N/A		N/A	N/A
020	Track Laying and Surfacing - Running				
021	Track Laying and Surfacing - Switching				
022	Road Property Damaged - Running				
023	Road Property Damaged - Switching				
024	Road Property Damaged - Other				
025	Signals and Interlockers - Running				
026	Signals and Interlockers - Switching				
027	Communications Systems				
028	Electric Power Systems				
029	Highway Grade Crossings - Running				
030	Highway Grade Crossings - Switching				
031	Station and Office Buildings				
032	Shop Buildings - Locomotives				
033	Shop Buildings - Freight Cars				
034	Shop Buildings - Other Equipment				

## RULES AND REGULATIONS

## FREIGHT

LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
101	Locomotive Servicing Facilities				
102	Miscellaneous Buildings and Structures				
103	Coal Terminals				
104	Ore Terminals				
105	Other Marine Terminals				
106	TOFC/COFC - Terminals				
107	Motor Vehicle Loading and Distribution Facilities				
108	Facilities for Other Specialized Service Operations				
109	Roadway Machines				
110	Small Tools and Supplies				
111	Snow Removal				
112	Fringe Benefits - Running	N/A	N/A	N/A	
113	Fringe Benefits - Switching	N/A	N/A	N/A	
114	Fringe Benefits - Other	N/A	N/A	N/A	
115	Casualties and Insurance - Running	N/A	N/A	N/A	
116	Casualties and Insurance - Switching	N/A	N/A	N/A	
117	Casualties and Insurance - Other	N/A	N/A	N/A	
118	Lease Rentals - Debit - Running	N/A	N/A		N/A
119	Lease Rentals - Debit - Switching	N/A	N/A		N/A
120	Lease Rentals - Debit - Other	N/A	N/A		N/A
121	Lease Rentals - (Credit) - Running	N/A	N/A		N/A
122	Lease Rentals - (Credit) - Switching	N/A	N/A		N/A
123	Lease Rentals - (Credit) - Other	N/A	N/A		N/A
124	Joint Facility Rent - Debit - Running	N/A	N/A		N/A
125	Joint Facility Rent - Debit - Switching	N/A	N/A		N/A
126	Joint Facility Rent - Debit - Other	N/A	N/A		N/A
127	Joint Facility Rent - (Credit) - Running	N/A	N/A		N/A
128	Joint Facility Rent - (Credit) - Switching	N/A	N/A		N/A
129	Joint Facility Rent - (Credit) - Other	N/A	N/A		N/A
130	Other Rents - Debit - Running	N/A	N/A		N/A
131	Other Rents - Debit - Switching	N/A	N/A		N/A
132	Other Rents - Debit - Other	N/A	N/A		N/A
133	Other Rents - (Credit) - Running	N/A	N/A		N/A

RULES AND REGULATIONS

FREIGHT

LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
134	Other Rents - (Credit) - Switching	N/A	N/A		N/A
135	Other Rents - (Credit) - Other	N/A	N/A		N/A
136	Depreciation - Running	N/A	N/A	N/A	
137	Depreciation - Switching	N/A	N/A	N/A	
138	Depreciation - Other	N/A	N/A	N/A	
139	Joint Facility - Debit - Running	N/A	N/A		N/A
140	Joint Facility - Debit - Switching	N/A	N/A		N/A
141	Joint Facility - Debit - Other	N/A	N/A		N/A
142	Joint Facility - (Credit) - Running	N/A	N/A		N/A
143	Joint Facility - (Credit) - Switching	N/A	N/A		N/A
144	Joint Facility - (Credit) - Other	N/A	N/A		N/A
145	Dismantling Retired Road Property - Running				
146	Dismantling Retired Road Property - Switching				
147	Dismantling Retired Road Property - Other				
148	Other - Running				
149	Other - Switching				
150	Other - Other				
151	TOTAL WAY AND STRUCTURES				

## RULES AND REGULATIONS

## FREIGHT

LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
EQUIPMENT:					
LOCOMOTIVES:					
201	Administration				
202	Repair and Maintenance				
203	Machinery Repair				
204	Equipment Damaged				
205	Fringe Benefits	N/A	N/A	N/A	
206	Other Casualties and Insurance	N/A	N/A	N/A	
207	Lease Rentals - Debit	N/A	N/A		N/A
208	Lease Rentals - (Credit)	N/A	N/A		N/A
209	Joint Facility Rent - Debit	N/A	N/A		N/A
210	Joint Facility Rent - (Credit)	N/A	N/A		N/A
211	Other Rents - Debit	N/A	N/A		N/A
212	Other Rents - (Credit)	N/A	N/A		N/A
213	Depreciation	N/A	N/A	N/A	
214	Joint Facility - Debit	N/A	N/A		N/A
215	Joint Facility - (Credit)	N/A	N/A		N/A
216	Repairs Billed to Others - (Credit)	N/A	N/A		N/A
217	Dismantling Retired Property				
218	Other				
219	Total Locomotives				
FREIGHT CARS:					
220	Administration				
221	Repair and Maintenance				
222	Machinery Repair				
223	Equipment Damaged				
224	Fringe Benefits	N/A	N/A	N/A	
225	Other Casualties and Insurance	N/A	N/A	N/A	
226	Lease Rentals - Debit	N/A	N/A		N/A
227	Lease Rentals - (Credit)	N/A	N/A		N/A
228	Joint Facility Rent - Debit	N/A	N/A		N/A
229	Joint Facility Rent - (Credit)	N/A	N/A		N/A
230	Other Rents - Debit	N/A	N/A		N/A
231	Other Rents - (Credit)	N/A	N/A		N/A
232	Depreciation	N/A	N/A	N/A	
233	Joint Facility - Debit	N/A	N/A		N/A
234	Joint Facility - (Credit)	N/A	N/A		N/A
235	Repairs Billed to Others - (Credit)	N/A	N/A		N/A
236	Dismantling Retired Property				
237	Other				
238	Total Freight Cars				

RULES AND REGULATIONS

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		FREIGHT			
LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
OTHER EQUIPMENT:					
301	Administration				
Repair and Maintenance:					
302	Trucks, Trailers, and Containers - Revenue Service				
303	Floating Equipment - Revenue Service				
304	Floating and Other Revenue Equipment				
305	Computers and Data Processing Systems				
306	Machinery				
307	Work and Other Non-Revenue Equipment				
308	Equipment Damaged				
309	Fringe Benefits	N/A	N/A	N/A	
310	Other Casualties and Insurance	N/A	N/A	N/A	
311	Lease Rentals - Debit	N/A	N/A		N/A
312	Lease Rentals - (Credit)	N/A	N/A		N/A
313	Joint Facility Rent - Debit	N/A	N/A		N/A
314	Joint Facility Rent - (Credit)	N/A	N/A		N/A
315	Other Rents - Debit	N/A	N/A		N/A
316	Other Rents - (Credit)	N/A	N/A		N/A
317	Depreciation	N/A	N/A	N/A	
318	Joint Facility - Debit	N/A	N/A		N/A
319	Joint Facility - (Credit)	N/A	N/A		N/A
320	Repairs Billed to Others - (Credit)				
321	Dismantling Retired Property				
322	Other				
323	Total Other Equipment				
324	TOTAL EQUIPMENT				

## RULES AND REGULATIONS

## FREIGHT

LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
TRANSPORTATION:					
TRAIN OPERATIONS:					
401	Administration				
402	Engine Crews				
403	Train Crews				
404	Dispatching Trains				
405	Operating Signals and Interlockers				
406	Operating Drawbridges				
407	Highway Crossing Protection				
408	Train Inspection and Lubrication				
409	Locomotive Fuel				
410	Electric Power Purchased or Produced for Motive Power				
411	Servicing Locomotives				
412	Freight Lost or Damaged - Solely Related	N/A	N/A	N/A	
413	Clearing Wrecks				
414	Fringe Benefits	N/A	N/A	N/A	
415	Other Casualties and Insurance	N/A	N/A	N/A	
416	Joint Facility - Debit	N/A	N/A		N/A
417	Joint Facility - (Credit)	N/A	N/A		N/A
418	Other				
419	Total Train Operations				
YARD OPERATIONS:					
420	Administration				
421	Switch Crews				
422	Controlling Operations				
423	Yard and Terminal Clerical				
424	Operating Switches, Signals Retarders and Humps				
425	Locomotive Fuel				
426	Electric Power Purchased or Produced for Motive Power				
427	Servicing Locomotives				
428	Freight Lost Or Damaged - Solely Related	N/A	N/A	N/A	
429	Clearing Wrecks				
430	Fringe Benefits	N/A	N/A	N/A	
431	Other Casualties and Insurance	N/A	N/A	N/A	
432	Joint Facility - Debit	N/A	N/A		N/A
433	Joint Facility - (Credit)	N/A	N/A		N/A
434	Other				
435	Total Yard Operations				

RULES AND REGULATIONS

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FREIGHT

LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
TRAIN AND YARD OPERATIONS COMMON:					
501	Cleaning Car Interiors				N/A
502	Adjusting and Transferring Loads				N/A
503	Car Loading Devices and Grain Doors				N/A
504	Freight Lost or Damaged - all other	N/A	N/A	N/A	
505	Fringe Benefits	N/A	N/A	N/A	
506	Total Train and Yard Operations Common				
SPECIALIZED SERVICE OPERATIONS:					
507	Administration				
508	Pickup & Delivery and Marine Line Haul				
509	Loading & Unloading and Local Marine				
510	Protection Services				
511	Freight Lost or Damaged - Solely Related	N/A	N/A	N/A	
512	Fringe Benefits	N/A	N/A	N/A	
513	Casualties and Insurance	N/A	N/A	N/A	
514	Joint Facility - Debit	N/A	N/A		N/A
515	Joint Facility - (Credit)	N/A	N/A		N/A
516	Other				
517	Total Specialized Services Operations				
ADMINISTRATIVE SUPPORT OPERATIONS:					
518	Administration				
519	Employees Performing Clerical and Accounting Functions				
520	Communication Systems Operation				
521	Loss and Damage Claims Processing				
522	Fringe Benefits	N/A	N/A	N/A	
523	Casualties and Insurance	N/A	N/A	N/A	
524	Joint Facility - Debit	N/A	N/A		N/A
525	Joint Facility - (Credit)	N/A	N/A		N/A
526	Other				
527	Total Administrative Support Operations				
528	TOTAL TRANSPORTATION				

## RULES AND REGULATIONS

## FREIGHT

LINE ITEM	(a)	SALARIES AND WAGES (b)	MATERIAL, TOOLS, SUPPLIES, FUELS, AND LUBRICANTS (c)	PURCHASED SERVICES (d)	GENERAL (e)
GENERAL AND ADMINISTRATIVE:					
601	Officers - General Administration				
602	Accounting, Auditing and Finance				
603	Management Services and Data Processing				
604	Marketing				
605	Sales				
606	Industrial Development				
607	Personnel and Labor Relations				
608	Legal and Secretarial				
609	Public Relations and Advertising				
610	Research and Development				
611	Fringe Benefits	N/A	N/A	N/A	
612	Casualties and Insurance	N/A	N/A	N/A	
613	Writedown of Uncollectible Accounts	N/A	N/A	N/A	
614	Property Taxes	N/A	N/A	N/A	
615	Other Taxes Except on Corporate Income or Payrolls	N/A	N/A	N/A	
616	Joint Facility - Debit	N/A	N/A		N/A
617	Joint Facility - (Credit)	N/A	N/A		N/A
618	Other				
619	TOTAL GENERAL AND ADMINISTRATIVE				
620	TOTAL CARRIER OPERATING EXPENSES				

(2) <u>Other Computed Cost Elements</u>	<u>Amount</u>
651 Locomotives return on investment	_____
652 Freight train car costs	_____
01 Per day costs	_____
02 Mileage costs	_____
654 Rehabilitation	_____
664 Deadheading, taxi and hotel costs	_____
01 Deadheading	_____
02 Taxi	_____
03 Hotel	_____
665 Overhead movement costs	_____
01 Transportation	_____
02 Equipment	_____
03 Freight train cars - mileage portion	_____
Total Computed On-Branch Costs	_____

(3) <u>Off-Branch Avoidable Costs</u>	<u>Amount</u>
661 Terminal Costs	_____
01 Modified terminal costs	_____
02 Normal terminal costs	_____
03 Interchange costs	_____
662 Freight train car costs	_____
663 Freight train revenue ton-mile costs	_____
Total Off-Branch Avoidable Costs	_____

(4) <u>All Other Avoidable Costs</u>	<u>Amount</u>
671 Working capital	_____
672 Required capital expenditures	_____
673 Deferred maintenance	_____
674 Current cost of freight train cars, locomotives, and other equipment	_____
675 Foregone tax benefits	_____
676 Administrative costs	_____
677 Deferred subsidy payment costs	_____
678 Casualty reserve expenses	_____
Total, all other avoidable costs	_____
681 Reasonable return on the value of properties	_____
682 Management fee	_____

(5) <u>Total of avoidable costs, reasonable return and     management fee</u>	\$ _____
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## RULES AND REGULATIONS

(C) SERVICE UNITS(1) On-Branch Service Units

Freight-Car Accounts		<u>Direct</u> <u>On-Branch</u>	<u>Overhead</u> <u>Movement</u>
821	Freight train car miles (loaded and empty)		
01	Box - Plain 40 foot	_____	_____
02	Box - Plain 50 foot or longer	_____	_____
03	Box - Equipped	_____	_____
04	Gondola - Plain	_____	_____
05	Gondola - Equipped	_____	_____
06	Hopper - Covered	_____	_____
07	Hopper - Open top - General Service	_____	_____
08	Hopper - Open top - Special Service	_____	_____
09	Refrigerator - Mechanical	_____	_____
10	Refrigerator - Nonmechanical	_____	_____
11	Flat - TOFC/COFC	_____	_____
12	Flat - Multi-level	_____	_____
13	Flat - General Service	_____	_____
14	Flat - Other	_____	_____
15	All other cars	_____	_____
823	Freight-train Car-days (loaded and empty)		
01	Box - Plain 40 foot	_____	_____
02	Box - Plain 50 foot or longer	_____	_____
03	Box - Equipped	_____	_____
04	Gondola - Plain	_____	_____
05	Gondola - Equipped	_____	_____
06	Hopper - Covered	_____	_____
07	Hopper - Open top - General Service	_____	_____
08	Hopper - Open top - Special Service	_____	_____
09	Refrigerator - Mechanical	_____	_____
10	Refrigerator - Nonmechanical	_____	_____
11	Flat - TOFC/COFC	_____	_____
12	Flat - Multi-level	_____	_____
13	Flat - General Service	_____	_____
14	Flat - Other	_____	_____
15	All other cars	_____	_____
Locomotive-Mile Accounts:			
813	Road locomotive unit miles	_____	_____
841	Road diesel locomotive gross ton-miles	_____	_____
842	Road electric locomotive gross ton-miles	_____	_____
Locomotive Unit Hour Accounts:			
832	Road locomotive unit hours	_____	_____
833	Road diesel locomotive unit hours	_____	_____
834	Road electric locomotive unit hours	_____	_____
835	Yard locomotive unit hours	_____	_____
836	Yard diesel locomotive unit hours	_____	_____
837	Yard electric locomotive unit hours	_____	_____

Rented or Leased Equipment:

851	Freight train car-days	_____	_____
852	Floating equipment car-days	_____	_____
855	Locomotive days	_____	_____

Train hours:

861	Train hours	_____	_____
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(2) Off-Branch Service Units

Car-Mile Accounts:		<u>Total</u> <u>Off-Branch</u>	<u>Overhead</u> <u>Movement</u>	<u>Net</u> <u>Off-Branch</u>
822	Freight train loaded car-miles by car type			
01	Box - General service - unequipped	_____	_____	_____
02	Box - General service - equipped	_____	_____	_____
03	Box - Special service	_____	_____	_____
04	Gondola - General service	_____	_____	_____
05	Gondola - Special service	_____	_____	_____
06	Hopper - open - General service	_____	_____	_____
07	Hopper - open Special service	_____	_____	_____
08	Hopper - covered	_____	_____	_____
09	Stock	_____	_____	_____
10	Flat - General service	_____	_____	_____
11	Flat - Special service	_____	_____	_____
12	Flat - TOFC	_____	_____	_____
13	Autorack	_____	_____	_____
14	Refrigerator - Meat mechanical	_____	_____	_____
15	Refrigerator - Other mechanical	_____	_____	_____
16	Refrigerator - Meat nonmechanical	_____	_____	_____
17	Refrigerator - Other nonmechanical	_____	_____	_____
18	Tank 9,999 gallons and under	_____	_____	_____
19	Tank 10,000 - 18,999 gal.	_____	_____	_____
20	Tank 19,000 - 21,999 gal.	_____	_____	_____
21	Tank 22,000 - 27,999 gal.	_____	_____	_____
22	Tank 28,000 - 31,999 gal.	_____	_____	_____
23	Tank 32,000 and over	_____	_____	_____
24	All other	_____	_____	_____

Ton-Mile Accounts:

831	Revenue ton-miles	_____	_____	_____
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## § 950 Text and chart of accounts.

This section defines each account outlined in the format for the Annual Branch Line Report.

(a) *Attributable revenues.—101 Freight.* (1) This account shall include revenue from the transportation of freight and from transit, stop, and recognizing privileges, upon the basis of lawful tariff rates.

(2) This account shall include collections in excess of tariff charges, except where such amounts are segregated and held subject to refund.

(3) Proceeds derived from the sale of unclaimed and refused freight which has been transported in accordance with the contract of shipment shall be credited to this account in cases where such items can be readily identified. Uncollectible tariff charges on such shipments shall be charged to this account.

(4) Amounts determined to be uncollectible shall be accounted for in accordance with the text of account 63-61-00, "General—Uncollectible accounts."

## ITEMS TO BE CREDITED

(a) Revenue upon the basis of local freight tariff rates, regardless of class of train in which the freight is transported.

(b) The carrier's proportion of revenue upon the basis of through freight tariff rates, regardless of class of train in which the freight is transported.

(c) Revenue from transportation of mail matter, and empty mail pouches, at freight rates.

(d) Revenue from transportation of freight on special trains at rates based on weights of shipments.

(e) Revenue on basis of classifications and freight tariffs from transportation of caretakers of freight shipments.

(f) Revenue from reconsigning privileges.

(g) Revenue from stop privileges.

(h) Revenue from transit privileges.

(i) Revenue upon the basis of arbitraries out of freight, rates for water transfers (ferriage, lighterage, and floatage).

(j) Revenue from transportation of trailers and containers on flat cars in TOFC/COFC service upon the basis of all-rail line-haul freight tariff rates and under arrangements for motor carrier-railroad joint haul, and from the loading and unloading of trailers and containers on and from flat cars upon the basis of tariff rates and under arrangements for motor carrier-railroad joint haul.

## ITEMS TO BE CHARGED

(a) Amounts paid as bridge and ferry arbitraries on freight.

(b) Amounts paid for completing a haul.

(c) Amounts paid for elevation of freight.

(d) Amounts paid for switching services, in connection with the transportation of freight, on the basis of switching tariffs, and allowances out of through rates, including amounts paid for switching empty cars in connection with a freight revenue movement.

(e) Amounts paid for transferring freight between stations.

(f) Arbitraries and allowances to others for lighterage and wharfage.

(g) The carrier's proportion of overcharges resulting from the use of erroneous rates, weights, classifications or computations.

(h) The carrier's proportion of refunds on account of errors in routing and billing.

(i) The carrier's proportion of uncollected revenue on freight lost or destroyed in transit.

(j) The carrier's proportion of uncollected tariff charges on damaged shipments for which charges neither shipper nor consignee is liable.

(k) Amounts paid on basis of tariff rates for loading and unloading livestock.

(l) Amounts paid to motor truck companies for hauling trailers and containers to and from TOFC/COFC terminals, and allowances to shippers who perform such service on the basis of tariff rates.

**NOTE A.**—Amounts paid for switching empty cars other than in connection with loaded movements shall be charged to operating expense account 61-32-XX, "General—Other Expenses—Transportation, Yard, Freight," except that amounts paid for switching equipment for repairs shall be included in the appropriate equipment repair accounts.

**NOTE B.**—Other carriers' proportion of revenue and of uncollectible undercharges paid by the carrier on account of its errors in routing and billing shall be charged to operating expense account 61-35-76, "General—Other Expenses—Transportation, Administrative Support."

**NOTE C.**—When a lessee company transports freight over the tracks of another carrier on the basis of a proportion of revenues under a joint arrangement, it shall include the entire compensation in its revenue and statistics, charging the appropriate joint facility expense and rental accounts with the amounts paid the lessor company, and the lessor company shall credit the corresponding accounts.

**NOTE D.**—Revenue from the transportation of caretakers of freight shipments, when not included as a part of the freight charges on the waybill covering the freight shipments, shall be credited to account 102, "Passenger."

**NOTE E.**—This account shall be maintained so as to show separately payments and allowances for (a) terminal collection and delivery services when performed in connection with line-haul transportation of freight on the basis of freight tariff rates, further separated between (1) TOFC/COFC service, and (2) all other freight service; also (b) payments for switching services when performed in connection with line-haul transportation of freight on the basis of switching tariffs and allowances out of freight rates, including the switching of empty cars in connection with a revenue movement, and (c) payments on basis of tariff rates for loading and unloading livestock.

**104 Switching.** (1) This account shall include the revenue from switching service upon the basis of lawful tariff rates. To this account shall be credited the carrier's revenue upon the basis of tariff rates, or the carrier's allowance out of through rates, from the switching of cars of all kinds, loaded or empty, either locally at a station or within a switching district, between connecting lines, between local industries, or between connecting lines and

local industries; revenue upon the basis of distinct tariff rates for "trap-car" and "ferry-car" service and for spotting cars; also the revenue from interwork switching at industrial plants, and the revenue from "penalty switching" incident to the improper delivery of cars by other carriers.

(2) To this account shall be charged amounts paid for switching when such switching service is provided for in the switching rate charged by the carrier.

**NOTE.**—"Penalty switching" charges paid by the carrier shall be included in expense account 61-32-XX, "General—Other Expenses—Transportation, Yard, Freight."

**105 Water transfers.** (1) This account shall include the revenue, from the transfer by water (ferriage, lighterage, and floatage), of passenger, freight, vehicles, and livestock, upon the basis of lawful local tariff rates.

(2) This account also shall include revenue from water transfers of other traffic, such as the revenue from towing beyond lighterage limits and all other towing for which an extra charge is made; insurance of freight afloat when billed out at other than cost; storage of freight afloat; grain overage in boats; pumping performed for outside parties; and for other similar sources.

(3) To this account shall be charged amounts payable to other companies or individuals for extra lighterage, extra towing, and for all other service when such payments represent revenue collected and credited to this account and not a directed expense.

**NOTE.**—No revenue shall be included in this account for water transfers of passengers or shipments upon the basis of arbitraries out of rates for transportation involving rail line haul.

**106 Demurrage.** This account shall include the revenue from the detention of cars incident to loading, unloading, reconsigning, and stops in transit upon the basis of lawful tariffs for demurrage. This account shall also include the revenue from the detention of trailers and containers used in TOFC/COFC service, incident to loading and unloading, upon the basis of tariff rates.

**NOTE.**—This account shall be maintained so as to reflect separately (1) revenue from detention of cars, and (2) revenue from detention of trailers and containers used in TOFC/COFC service.

**110 Incidental.** This account is designed to show the amounts which the carrier becomes entitled to receive from services rendered incidentally with rail-line and water-line transportation; for the use of facilities of which the expenses for operation and maintenance are not separable from railway expenses and from incidental sources not provided for elsewhere. Among the items included in this account are revenues derived from (1)

hotels and restaurants, (2) operations conducted at stations and on trains by individual or companies other than railway companies, (3) storage, (4) the sale of electric power, (5) renting property operated and maintained in connection with the property used in the carrier's transportation operations and from railway operations not provided for elsewhere.

**121 Joint facility, credit.** This account shall include the carrier's proportion of revenue collected by others in connection with the operation of joint tracks, yards, terminals, and other facilities, including revenue from hotels, restaurants, grain elevators, sale of power, and other miscellaneous operations.

**NOTE A.**—The purpose of this account is to show the amounts of revenue from the operation of joint tracks, yards, terminals and other facilities operated by other companies, which under existing contracts or agreements are credited by the operating company to the tenant companies which participate therein. The bill rendered by any creditor company against a debtor company for the latter's proportion of the expense of maintenance and operation of joint facilities, which includes also a credit covering a proportion of the revenue to be paid over, shall show the distribution of the credit for such proportion of the revenue separately from the distribution of the expense of operation.

**NOTE B.**—No credits shall be made to this account representing amounts creditable by the operating company to primary accounts 101-103, 105, and 110.

**122 Joint facility, debit.** This account shall include that proportion of revenue from the operation of joint tracks, yards, terminals, and other facilities, which is creditable to other companies, including revenue from hotels, restaurants, grain elevators, sale of power, and other miscellaneous operations.

**NOTE A.**—The purpose of this account is to show the amount of revenue from operation of a terminal company or other carrier which, under the terms of existing contracts or agreements covering the joint use of tracks, yards, and other facilities, is credited to other carriers that participate in the benefits from such joint use. The bill rendered by a creditor company against a debtor company for the latter's proportion of expense of maintaining and operating joint facilities, which includes a credit covering the debtor company's proportion of the revenues from operation of such joint facilities, shall indicate separately the proper distribution of both the revenues and the expenses included in the bill, and such distribution shall be adhered to the debtor.

**NOTE B.**—No debits shall be made to this account representing amounts creditable by the operating company to primary accounts 101-103, 105, and 110.

**OTHER INCOME ACCOUNTS**

**506 Revenues from property used in other than carrier operations.** This account shall include the total revenues

derived from property used in other than carrier operations, the cost of which is includible in balance-sheet account 737, "Property used in other than carrier operations."

**510 Miscellaneous rent income.** (1) This account shall include such rents of property owned and controlled by the accounting carrier as are not provided for in the foregoing accounts.

(2) This account shall be charged with the cost of maintenance of the property rented, also specific incidental expenses in connection with such property, such as the cost of negotiating contracts, advertising for tenants, fees paid conveyancers, collectors' commissions, and analogous items.

**NOTE A.**—If property the rent of which is chargeable to account 543—"Miscellaneous rents," is sublet by the accounting company, the rent receivable therefore shall be credited to this account.

**NOTE B.**—Taxes on property the rent of which is creditable to this account shall be charged to account 553—"Taxes on property used in other than carrier operations."

**NOTE C.**—The rent from property carried in balance-sheet account 737—"Property used in other than carrier operations," shall not be included in this account, but in account 506—"Revenues from property used in other than carrier operations."

**NOTE D.**—Rent and other income from real estate acquired for new lines or for additions and betterments shall be credited to the appropriate road and equipment accounts until the completion or coming into service of the property.

**519 Miscellaneous income.** (1) This account shall include all items, not provided for elsewhere, properly creditable to income accounts during the current year. Among the items which shall be included in this account are:

(i) Cancellation of balance sheet accounts representing unclaimed wages and vouchered accounts written off because of carrier's inability to locate the creditor.

(ii) Profit from sale of land used for transportation purposes, of noncarrier property and of securities acquired for investment purposes.

(2) Gains from extinguishment of debt shall be aggregated and, if material, credited to account 570—"Extraordinary Items," upon approval by the Commission; however, gains from extinguishment of debt (excluding debt maturing serially), which is made to satisfy sinking fund requirements, shall be recorded in this account regardless of amount.

(b) *On-branch avoidable cost.*

(1) *Actual and apportioned expense accounts.*

**PERSONNEL**

Control..... 10-00-00

This account may be used as a control account for all accounts in the PERSONNEL Series: Salaries and Wages; Fringe Benefits Not Included in Compensation.

**Salaries and Wages—Control.** This control account includes the compensation payable to employees for services performed. It includes amounts

payable in connection with profit sharing and stock option plans that are part of employee compensation. This control account also includes amounts of compensation payable to employees for paid time off as a fringe benefit: vacation pay, holiday pay, sick pay, and other payments considered direct compensation for time not worked. Amounts of labor billed by contractors, other companies, and joint facilities, are not considered salaries and wages of the carrier company and are not to be included in this account group. Its components shall be distributed to the following accounts in accordance with Instruction 1-14 of Part 1201, Subpart A:

Salaries and wages—way and structures—running: Freight..... 11-11-XX

This account includes the compensation payable to all repair and maintenance employees and others who are associated with the repair and maintenance of the carrier's roadway and track on the line of road and outside of classification yards. Compensation payable to officers and technical and clerical employees shall only be assigned to Way and Structures—Other. This account shall be subdivided by the following functions:

*Repair and maintenance*

Roadway..... 11-11-10  
Tunnels and subways..... 11-11-11  
Bridges and culverts..... 11-11-12  
Track laying and surfacing..... 11-11-17  
Signals and interlockers..... 11-11-19  
Highway grade crossings..... 11-11-22  
Dismantling retired property..... 11-11-39  
Road property and equipment damaged..... 11-11-48  
Other—other..... 11-11-99

Salaries and wages—way and structures—switching: Freight..... 11-12-XX

This account includes the compensation payable to all repair and maintenance employees and others who are associated with the repair and maintenance of the carrier's roadway and track within classification yards and stations. Compensation payable to officers and technical and clerical employees shall be assigned to Way and Structures—Other. This account shall be subdivided by the following functions:

*Repair and maintenance*

Roadway..... 11-12-10  
Tunnels and subways..... 11-12-11  
Bridges and culverts..... 11-12-12  
Track laying and surfacing..... 11-12-17  
Signals and interlockers..... 11-12-19  
Highway grade crossings..... 11-12-22  
Dismantling retired property..... 11-12-39  
Road property and equipment damaged..... 11-12-48  
Other—other..... 11-12-99

Salaries and wages—way and structures—other: Freight..... 11-13-XX

This account includes the compensation payable to all repair and maintenance employees and others who are associated with the repair and maintenance of the carrier's structures other than roadway and track. Each administration account (functions 02-06) includes the compensation payable to all officers and technical and clerical employees associated with the Way and Structures Activity. This account shall be subdivided by the following functions:

*Administration*

Track..... 11-13-02  
Bridges and buildings..... 11-13-03  
Signals..... 11-13-04  
Communications..... 11-13-05  
Other..... 11-13-06

*Repair and maintenance*

Communication systems..... 11-13-20  
Electric power systems..... 11-13-21  
Station and office buildings..... 11-13-23  
Shop buildings—locomotives..... 11-13-24  
Shop buildings—freight cars..... 11-13-25  
Shop buildings—other..... 11-13-26  
Locomotive servicing facilities..... 11-13-27  
Miscellaneous buildings and structures..... 11-13-28  
Coal terminals..... 11-13-29  
Ore terminals..... 11-13-30  
TOFC/COPC terminals..... 11-13-31

<i>Repair and maintenance</i>		<i>Operations</i>			
Other marine terminals.....	11-13-32	Operating drawbridges.....	11-31-60	Administrative, legal, financial, treasury, accounting, budgeting, taxation, corporate planning, costing, marketing, advertising, traffic, corporate secretary, public relations, real estate, insurance administration, personnel administration, pension plan administration, general purchasing, labor relations, internal auditing, industrial engineering, and regulatory reporting. For further clarification refer to the definition of the General and Administrative Activity contained in Part 1201, Subpart A. This account shall be subdivided by the following functions:	
Motor vehicle loading and distribution facilities.....	11-13-33	Highway crossing protection.....	11-31-61	Administration—general.....	11-61-01
Facilities for other specialized services operations.....	11-13-35	Train inspection and lubrication.....	11-31-62	<i>General</i>	
Roadway machines.....	11-13-36	Clearing wrecks.....	11-31-63	Accounting, auditing, finance.....	11-61-86
Small tools and supplies.....	11-13-37	Locomotive fuel.....	11-31-63	Management services and data processing.....	11-61-87
Snow removal.....	11-13-38	Electric power purchased/produced for motive power.....	11-31-68	Marketing.....	11-61-88
Dismantling retired property.....	11-13-39	Servicing locomotives.....	11-31-69	Sales.....	11-61-89
Road property and equipment damaged.....	11-13-48	Other—other.....	11-31-99	Industrial development.....	11-61-90
Other—other.....	11-13-99	Salaries and wages—transportation—yard: Freight.....	11-32-XX	Personnel and labor relations.....	11-61-91
Salaries and wages—equipment—locomotives: Freight.....	11-21-XX	This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and other operational employees, who are associated with the movement of freight cars within classification yards and in terminal switching and transfer service. This account shall be subdivided by the following functions:		Legal and secretarial.....	11-61-92
This account includes the compensation payable to all officers and technical and clerical employees, repair and maintenance employees, and others who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others. This account shall be subdivided by the following functions:		Administration—general.....	11-32-01	Public relations and advertising.....	11-61-93
Administration—general.....	11-21-01	<i>Operations</i>		Research and development.....	11-61-94
<i>Repair and maintenance</i>		Operating switches, signals, interlockers, retarders, humps.....	11-32-59	Other—other.....	11-61-99
Dismantling retired property.....	11-21-39	Clearing wrecks.....	11-32-63	Fringe benefits not included in compensation—control.....	12-00-00
Shop machinery.....	11-21-40	Switch crews.....	11-32-64	This control account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation. These benefits include the carrier portions of Railroad Retirement contributions, pension expense, unemployment taxes, dental plans, health plans, hospitalization insurance, life insurance, subsidies for employee lunchrooms, company entertainment facilities for personal use, and other benefits to employees that are not includable in direct compensation. They exclude travel expense on company business, casualties, workmen's compensation, as well as dues, memberships, and similar items when the direct beneficiary is clearly the company rather than the employee.	
Locomotives.....	11-21-41	Controlling operations.....	11-32-65	Fringe benefits not included in compensation—way and structures—running: Freight.....	12-11-00
Road property and equipment damaged.....	11-21-48	Yard and terminal clerical.....	11-32-66	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of the carrier's roadway and track on the line of road and outside of classification yards.	
Other—other.....	11-21-99	Locomotive fuel.....	11-32-67	Fringe benefits not included in compensation—way and structures—switching: Freight.....	12-12-00
Salaries and Wages—Equipment—Freight Cars: Freight.....	11-22-XX	Electrical power purchased/produced for motive power.....	11-32-68	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of the carrier's roadway and track within classification yards and stations.	
This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and others, who are associated with the repair and maintenance of freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:		Servicing locomotives.....	11-32-69	Fringe benefits not included in compensation—way and structures—other: Freight.....	12-13-00
Administration—general.....	11-22-01	Other—other.....	11-32-99	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of the carrier's structures other than roadway and track, and who are associated with the Administration of the Way and Structures Activity.	
<i>Repair and maintenance</i>		Salaries and wages—transportation—train and yard common: Freight.....	11-33-XX	Fringe benefits not included in compensation—equipment—locomotives: Freight.....	12-21-00
Dismantling retired property.....	11-22-39	This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and other operational employees performing functions incurred on behalf of both train and yard operations. This account shall be subdivided by the following functions:		This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others.	
Shop machinery.....	11-22-40	<i>Operations</i>		Fringe benefits not included in compensation—equipment—freight cars: Freight.....	12-22-00
Freight cars.....	11-22-42	Cleaning car interiors.....	11-33-70	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others.	
Road property and equipment damaged.....	11-22-48	Adjusting and transferring loads.....	11-33-71	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others.	
Other—other.....	11-22-99	Car loading devices and grain doors.....	11-33-72	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others.	
Salaries and wages—equipment—other equipment: Freight.....	11-23-XX	Salaries and wages—transportation—specialized services: Freight.....	11-34-XX	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others.	
This account includes the compensation payable to all officers, technical and clerical employees, repair and maintenance employees, and others, who are associated with the repair and maintenance of equipment other than locomotives and freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:		This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and other operational employees which are specialized in nature and in cost characteristics. The specialized services designated by the Commission appear within the definition of specialized services. This account shall be subdivided by the following functions:		This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others.	
Administration—general.....	11-23-01	Administration—general.....	11-34-01	This account includes amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of locomotives, whether owned by the carrier or by others.	
<i>Repair and maintenance</i>		<i>Operations</i>			
Dismantling retired property.....	11-23-39	Pickup and delivery, marine line haul, and rail substitute service.....	11-34-73		
Shop machinery.....	11-23-40	Loading, unloading, and local marine..	11-34-74		
Trucks, trailers, containers in revenue service.....	11-23-43	Protective service.....	11-34-75		
Floating equipment—revenue service..	11-23-44	Other—other.....	11-34-99		
Passenger and other revenue equipment.....	11-23-45	Salaries and wages—transportation—administrative support: Freight.....	11-35-XX		
Computers and data processing equipment.....	11-23-46	This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and other operational employees, who are associated with providing direct administrative support for the Transportation Activity. For further clarification refer to the definition of the Administrative Support Operations Subactivity contained in Part 1201, Subpart A. This account shall be subdivided by the following functions:			
Work and other non-revenue equipment.....	11-23-47	Administration—general.....	11-35-01		
Road property and equipment damaged.....	11-23-48	<i>Operations</i>			
Other—other.....	11-23-99	Clerical and accounting employees.....	11-35-76		
Salaries and wages—transportation—train: Freight.....	11-31-XX	Communication systems operations.....	11-35-77		
This account includes the compensation payable to all officers, technical and clerical employees, engine and train crews, and other operational employees, who are associated with the dispatching and operation of freight trains over the roadway and outside of classification yards. This account shall be subdivided by the following functions:		Loss and damage claims processing.....	11-35-78		
Administration—general.....	11-31-01	Other—other.....	11-35-99		
<i>Operations</i>		Salaries and wages—general and administrative: Freight.....	11-61-XX		
Engine crews.....	11-31-56	This account includes the compensation payable to all employees who are associated with overall administration or other general support for carrier operations. Overall administration includes execu-			
Train crews.....	11-31-57				
Dispatching trains.....	11-31-58				
Operating switches, signals, interlockers, retarders, humps.....	11-31-59				

with the repair and maintenance of freight cars, whether owned by the carrier or by others.

Fringe benefits not included in compensation—equipment—other equipment: 12-23-00

This account includes the amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the repair and maintenance of equipment other than locomotives and freight cars, whether owned by the carrier or by others.

Fringe benefits not included in compensation—transportation—train: Freight 12-31-00

This account includes the amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the dispatching and operating of freight trains over the roadway and outside of classification yards.

Fringe benefits not included in compensation—transportation—yard: Freight 12-32-00

This account includes the amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with the movement of freight cars within classification yards and in terminal switching and transfer service.

Fringe benefits not included in compensation—transportation—train and yard Common: Freight 12-33-00

This account includes the amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees performing functions incurred on behalf of both train and yard operations.

Fringe benefits not included in compensation—transportation—specialized services: Freight 12-34-00

This account includes the amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with operating services which are specialized in nature and in cost characteristics. The specialized services designated by the Commission appear within the definition of specialized services.

Fringe benefits not included in compensation—transportation—administrative support: Freight 12-35-00

This account includes the amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who are associated with providing direct administrative support for the Transportation Activity. For further clarification refer to the definition of the Administrative Support Operations Subactivity contained in Part 1201, Subpart A.

Fringe benefits not included in compensation—general and administrative: Freight 12-61-00

This account includes the amounts payable to others, or other costs charged to expense, for employee benefits which are not considered part of direct compensation for employees who provide overall administration or other general support for carrier operations. Overall administration includes executive, legal, financial, treasury, accounting, budgeting, taxation, corporate planning, costing, marketing, advertising, traffic, corporate secretary, public relations, real estate, insurance administration, personnel administration, pension plan administration, general purchasing, labor relations, internal auditing, industrial engineering, and regulatory reporting. For further clarification refer to the definition of the General and Administrative Activity contained in Part 1201, Subpart A.

MATERIEL

Control 20-00-00

This account may be used as a control account for the MATERIEL series: Materials, Tools, Supplies,

Fuels, Lubricants.

Materials, tools, supplies, fuels, lubricants—Control 21-00-00

This account group includes the cost of items installed or commodities consumed which are charged to expense in connection with carrier operations. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. This account excludes purchased services such as utilities, communications, postage and other items of similar nature.

Materials, tools, supplies, fuels, lubricants—way and structures—Running: Freight 21-11-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of the carrier's roadway and track on the line of the road and outside of classification yards. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials, and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Repair and maintenance

- Roadway 21-11-10
- Tunnels and subways 21-11-11
- Bridges and culverts 21-11-12
- Ties 21-11-13
- Rails 21-11-14
- Other track material 21-11-15
- Ballast 21-11-16
- Track laying and surfacing 21-11-17
- Signals and interlockers 21-11-19
- Highway grade crossings 21-11-22
- Dismantling retired property 21-11-39
- Road property and equipment damaged 21-11-48
- Other—other 21-11-99

Materials, tools, supplies, fuels, lubricants—way and structures—switching: Freight 21-12-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of the carrier's roadway and track within classification yards and stations. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Repair and maintenance

- Roadway 21-12-10
- Tunnels and subways 21-12-11
- Bridges and culverts 21-12-12
- Ties 21-12-13
- Rails 21-12-14
- Other track material 21-12-15
- Ballast 21-12-16
- Track laying and surfacing 21-12-17
- Signals and interlockers 21-12-19
- Highway grade crossings 21-12-22
- Dismantling retired property 21-12-39
- Road property and equipment damaged 21-12-48
- Other—other 21-12-99

Materials, tools, supplies, fuels, lubricants—way and structures—other: Freight 21-13-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of the carrier's structures not provided for in running or switching. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Administration

- Track 21-13-02
- Bridges and buildings 21-13-03
- Signals 21-13-04
- Communications 21-13-05
- Other 21-13-06

Repair and maintenance

- Communication systems 21-13-20
- Electric power systems 21-13-21
- Station and office buildings 21-13-23
- Shop buildings—locomotives 21-13-24
- Shop buildings—freight cars 21-13-25
- Shop buildings—other equipment 21-13-26
- Locomotive servicing facilities 21-13-27
- Miscellaneous buildings and structures 21-13-28
- Coal terminals 21-13-29
- Ore terminals 21-13-30
- TOFC/COFC terminals 21-13-31
- Other marine terminals 21-13-32
- Motor vehicle loading and distribution facilities 21-13-33
- Facilities for other specialized services operations 21-13-35
- Roadway machines 21-13-36
- Small tools and supplies 21-13-37
- Snow removal 21-13-38
- Dismantling retired property 21-13-39
- Road property and equipment damaged 21-13-48
- Other—other 21-13-99

Materials, tools, supplies, fuels, lubricants—equipment—locomotives: Freight 21-21-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of locomotives, whether owned by the carrier or by others. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Administration—General 21-21-01

Repair and maintenance

- Dismantling retired property 21-21-39
- Machinery 21-21-40
- Locomotives 21-21-41
- Road property and equipment 21-21-48
- Other—other 21-21-99

Materials, tools, supplies, fuels, lubricants—equipment—freight cars: Freight 21-22-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of freight cars, whether owned by the carrier or by others. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Administration—general 21-22-01

Repair and maintenance

- Dismantling retired property 21-22-39
- Machinery 21-22-40
- Freight cars 21-22-42
- Road property and equipment damaged 21-22-48
- Other—other 21-22-99

Materials, tools, supplies, fuels, lubricants—equipment—other equipment: Freight 21-23-XX

This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in the performance or support of the repair and maintenance of equipment other than locomotives and freight cars, whether owned by the carrier or by others. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its

components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Administration—general .....	21-23-01
<i>Repair and maintenance</i>	
Dismantling retired property .....	21-23-39
Machinery .....	21-23-40
Trucks, trailers, containers in revenue service .....	21-23-43
Floating equipment—revenue service ..	21-23-44
Passenger and other revenue equipment .....	21-23-45
Computers and data processing equipment .....	21-23-46
Work and other nonrevenue equipment .....	21-23-47
Road property and equipment damaged .....	21-23-48
Other—other .....	21-23-99

Materials, tools, supplies, fuels, lubricants—transportation—train: Freight .....	21-31-XX
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This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in association with the dispatching and operation of freight trains over the roadway and outside of classification yards. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Administration—general .....	21-31-01
<i>Operations</i>	
Engine crews .....	21-31-56
Train crews .....	21-31-57
Dispatching trains .....	21-31-58
Operating switches, signals, interlockers, retarders, humps .....	21-31-59
Operating drawbridges .....	21-31-60
Highway crossing protection .....	21-31-61
Train inspection and lubrication .....	21-31-62
Clearing wrecks .....	21-31-63
Locomotive fuels .....	21-31-67
Electric power purchased/produced for motive power .....	21-31-68
Servicing locomotives .....	21-31-69
Other—other .....	21-31-99

Materials, tools, supplies, fuels, lubricants—transportation—yard: Freight .....	21-32-XX
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This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in association with the movement of freight cars within classification yards and in terminal switching and transfer service. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

Administration—general .....	21-32-01
<i>Operations</i>	
Operating switches, signals, interlockers, retarders, humps .....	21-32-59
Clearing wrecks .....	21-32-63
Switch crews .....	21-32-64
Controlling operations .....	21-32-65
Yard and terminal clerical .....	21-32-66
Locomotive fuel .....	21-32-67
Electric power purchased/produced for motive power .....	21-32-68
Servicing locomotives .....	21-32-69
Other—other .....	21-32-99

Materials, tools, supplies, fuels, lubricants—transportation—train and yard common: Freight .....	21-33-XX
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This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed on behalf of both train and yard operations. This account includes charges to expense for all materials, small tools, supplies, fuels, lubricants, purchased standard stationery and forms, freight-in on materials and supplies, and similar items. Its components

shall be distributed to the following functions in accordance with Instruction 1-8 of Part 1201, Subpart A:

<i>Operations</i>	
Cleaning car interiors .....	21-33-70
Adjusting, transferring loads .....	21-33-71
Car loading devices and grain doors .....	21-33-72

Materials, tools, supplies, fuels, lubricants—transportation—specialized services: Freight .....	21-34-XX
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This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in operating services which are specialized in nature and in cost characteristics. The specialized services designated by the Commission appear within the definition of specialized services. This account shall be subdivided by the following functions:

Administration—general .....	21-34-01
<i>Operations</i>	
Pick up and delivery, marine line haul, and rail substitute service .....	21-34-73
Loading, unloading, and local marine ..	21-34-74
Protective services .....	21-34-75
Other—other .....	21-34-99

Materials, tools, supplies, fuels, lubricants—transportation—administrative support: Freight .....	21-35-XX
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This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in association with providing direct administrative support for the Transportation Activity. For further clarification refer to the definition of the Administrative Support Operations Subactivity contained in Part 1201, Subpart A. This account shall be subdivided by the following functions.

Administration—general .....	21-35-01
<i>Operations</i>	
Clerks, accounting employees .....	21-35-76
Communication systems operations .....	21-35-77
Loss and damage claims processing .....	21-35-78
Other—other .....	21-35-99

Materials, tools, supplies, fuels, lubricants—general and administrative: Freight .....	21-61-XX
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This account includes the cost of items installed or commodities consumed which are charged to expense, where such items are consumed in providing overall administration or other general support for carrier operations. For further clarification refer to the definition of the General and Administrative Activity contained in Part 1201, Subpart A. This account shall be subdivided by the following functions:

Administration—general .....	21-61-01
<i>General</i>	
Accounting, auditing, finance .....	21-61-86
Management services and data processing .....	21-61-87
Marketing .....	21-61-88
Sales .....	21-61-89
Industrial development .....	21-61-90
Personnel and labor relations .....	21-61-91
Legal and secretarial .....	21-61-92
Public relations and advertising .....	21-61-93
Research and development .....	21-61-94
Other—other .....	21-61-99

Administration—general .....	21-61-01
<i>General</i>	
Accounting, auditing, finance .....	21-61-86
Management services and data processing .....	21-61-87
Marketing .....	21-61-88
Sales .....	21-61-89
Industrial development .....	21-61-90
Personnel and labor relations .....	21-61-91
Legal and secretarial .....	21-61-92
Public relations and advertising .....	21-61-93
Research and development .....	21-61-94
Other—other .....	21-61-99

#### PURCHASED SERVICES

This account may be used as a control account for all accounts in the PURCHASED SERVICES series:

Control .....	30-00-00
Lease rentals—Debit .....	
Lease rentals—Credit .....	
Joint facility rent—Debit .....	
Joint facility rent—Credit .....	
Other rents—Debit .....	
Other rents—Credit .....	
Joint facility—Debit .....	
Joint facility—Credit .....	
Repairs billed by others—Debit .....	
Repairs billed to others—Credit .....	
Other purchased services .....	
Lease rentals—debit—control .....	31-00-00

This control account includes the rentals of road

property and equipment with terms of 30 days or more. This account excludes joint facility and joint trackage rents, insurance and maintenance elements of lease payments, and all elements of capital leases as defined in FASB Statement No. 13. The components of this natural expense will be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Lease rentals—debit—way and structures—running: freight .....	31-11-00
Lease rentals—debit—way and structures—switching: freight .....	31-12-00
Lease rentals—debit—way and structures—other: freight .....	31-13-00
Lease rentals—debit—equipment—locomotives: freight .....	31-21-00
Lease rentals—debit—equipment—freight cars: freight .....	31-22-00
Lease rentals—debit—equipment—other equipment: freight .....	31-23-00
Lease rentals—credit—control .....	32-00-00

This control account includes the rentals of owned property and equipment or subleases of leased road property and equipment with terms of from 30 days to one year. Longer term leases are indicative of a non-carrier operation and all revenues and expenses related to such property and equipment should be classified accordingly and excluded from railroad operations. This account excludes joint facilities and joint trackage, capital leases, and portions of lease receipts covering maintenance and insurance. The components of this natural expense account will be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Lease rentals—credit—way and structures—running: freight .....	32-11-00
Lease rentals—credit—way and structures—switching: freight .....	32-12-00
Lease rentals—credit—way and structures—other: freight .....	32-13-00
Lease rentals—credit—equipment—locomotives: freight .....	32-21-00
Lease rentals—credit—equipment—freight cars: freight .....	32-22-00
Lease rentals—credit—equipment—other equipment: freight .....	32-23-00
Joint facility rents—debit—control .....	33-00-00

This control account includes amounts payable accrued as rent for equipment, tracks, yards, terminals, and other facilities owned or controlled by other carriers, companies, or individuals, and in the joint use of which the accounting company participates. Amounts paid or payable by the accounting company in reimbursement for taxes on property jointly used shall be charged to this account.

NOTE.—The cost of maintenance, operation, or administration of joint facilities, chargeable to the accounting company, shall be charged to the various joint facility accounts (37-XX-00). When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per ton, car, or other unit, it shall be fairly apportioned between this account and Joint Facility—Dr. (37-XX-00). This apportionment shall be made by the operating company, and shall be followed by the accounting company. The components of this natural expense consist of the following accounts:

Joint facility rents—debit—way and structures—running: Freight .....	33-11-00
Joint facility rents—debit—way and structures—switching: Freight .....	33-12-00
Joint facility rents—debit—way and structures—other: Freight .....	33-13-00
Joint facility rents—debit—equipment—locomotives: Freight .....	33-21-00
Joint facility rents—debit—equipment—freight cars: Freight .....	33-22-00
Joint facility rents—debit—equipment—other equipment: Freight .....	33-23-00
Joint facility rents—credit—control .....	34-00-00

This control account includes amounts receivable accrued for rent of equipment, tracks, yards, terminals and other facilities owned or controlled by the accounting company and used jointly with other companies or individuals. Amounts receivable from other companies in reimbursement for taxes on property jointly used shall be credited to this account.

NOTE.—The portion of the cost of maintenance, operation, or administration of joint facilities re-

coverable from others shall be credited to the various joint facility accounts (38-XX-00). When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per ton, car, or other unit, it shall be fairly apportioned by the creditor between this account and Joint Facility-credit (28-XX-00).

Joint facility rents—credit—way and structures—running: Freight.....	34-11-00
Joint facility rents—credit—way and structures—switching: Freight.....	34-12-00
Joint facility rents—credit—way and structures—other: Freight.....	34-13-00
Joint facility rents—credit—equipment—locomotives: Freight.....	34-21-00
Joint facility rents—credit—equipment—freight cars: Freight.....	34-22-00
Joint facility rents—credit—equipment—other equipment: Freight.....	34-23-00
Other rents—debit—control.....	35-00-00

This account includes the rents with terms of less than 30 days which are not renewed. This account includes all time and mileage payments for interchange locomotive, freight car, and other revenue equipment hire. The components of this account will be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Other rents—debit—way and structures—running: Freight.....	35-11-00
Other rents—debit—way and structures—switching: Freight.....	35-12-00
Other rents—debit—way and structures—other: Freight.....	35-13-00
Other rents—debit—equipment—locomotives: Freight.....	35-21-00
Other rents—debit—equipment—freight cars: Freight.....	35-22-00
Other rents—debit—equipment—other equipment: Freight.....	35-23-00
Other rents—credit—control.....	36-00-00

This account includes rents with terms of less than 30 days which are not renewed. This account includes all time and mileage receipts for interchanged locomotive, freight car, and other revenue equipment hire. The components of this account will be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Other rents—credit—way and structures—running: Freight.....	36-11-00
Other rents—credit—way and structures—switching: Freight.....	36-12-00
Other rents—credit—way and structures—other: Freight.....	36-13-00
Other rents—credit—equipment—locomotives: Freight.....	36-21-00
Other rents—credit—equipment—freight cars: Freight.....	36-22-00
Other rents—credit—equipment—other equipment: Freight.....	36-23-00
Joint facility—debit—control.....	37-00-00

This account includes joint trackage and joint facility costs, exclusive of rents, payable by the railroad to others. The components of this account will be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Joint Facility—debit—way and structures—running: Freight.....	37-11-00
Joint Facility—debit—way and structures—switching: Freight.....	37-12-00
Joint Facility—debit—way and structures—other: Freight.....	37-13-00
Joint facility—debit—equipment—locomotives: Freight.....	37-21-00
Joint facility—debit—equipment—freight cars: Freight.....	37-22-00
Joint facility—debit—equipment—other equipment: Freight.....	37-23-00
Joint facility—debit—transportation—train: Freight.....	37-31-00
Joint facility—debit—transportation—yard: Freight.....	37-32-00
Joint facility—debit—transportation—specialized services: Freight.....	37-34-00
Joint facility—debit—transportation—administrative support: Freight.....	37-35-00
Joint facility—debit—general and administrative: Freight.....	37-61-00
Joint facility—credit—control.....	38-00-00

This account includes joint trackage and joint facility costs, exclusive of rents, payable by others to the railroad. The components of this account will be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Joint facility—credit—way and structures—running: Freight.....	38-11-00
Joint facility—credit—way and structures—switching: Freight.....	38-12-00
Joint facility—credit—way and structures—other: Freight.....	38-13-00
Joint facility—credit—equipment—locomotives: Freight.....	38-21-00
Joint facility—credit—equipment—freight cars: Freight.....	38-22-00
Joint facility—credit—equipment—other equipment: Freight.....	38-23-00
Joint facility—credit—transportation—train: Freight.....	38-31-00
Joint facility—credit—transportation—yard: Freight.....	38-32-00
Joint facility—credit—transportation—specialized services: Freight.....	38-34-00
Joint facility—credit—transportation—administrative support: Freight.....	38-35-00
Joint facility—credit—general and administrative: Freight.....	38-61-00
Repairs billed by others—debit—control.....	39-00-00

This account includes amounts payable by the railroad to others for repair and maintenance of the reporting railroad's property and equipment. The components of this account shall be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Repairs billed by others—debit—way and structures—running: Freight.....	39-11-XX
Repairs billed by others—debit—way and structures—switching: Freight.....	39-12-XX
Repairs billed by others—debit—way and structures—other: Freight.....	39-13-XX

This account includes amounts payable by the railroad to others for repair and maintenance of the reporting railroad's property associated with the carrier's roadway and track on the line of road and outside of classification yards. This account shall be subdivided by the following functions:

<i>Repair and maintenance</i>	
Roadway.....	39-11-10
Tunnels and subways.....	39-11-11
Bridges and culverts.....	39-11-12
Track laying and surfacing.....	39-11-17
Signals and interlockers.....	39-11-19
Highway grade crossings.....	39-11-22
Road property and equipment damaged.....	39-11-48
Repairs billed by others—debit—way and structures—switching: Freight.....	39-12-XX

This account includes amounts payable by the railroad to others for repair and maintenance of the reporting railroad's property associated with the carrier's roadway and track within classification yards and stations. This account shall be subdivided by the following functions:

<i>Repair and maintenance</i>	
Roadway.....	39-12-10
Tunnels and subways.....	39-12-11
Bridges and culverts.....	39-12-12
Track laying and surfacing.....	39-12-17
Signals and interlockers.....	39-12-19
Highway grade crossings.....	39-12-22
Road property and equipment damaged.....	39-12-48
Repairs billed by others—debit—way and structures—other: Freight.....	39-13-XX

<i>Repair and maintenance</i>	
Communication systems.....	39-13-20
Electric power systems.....	39-13-21
Station and office buildings.....	39-13-23
Shop buildings—locomotives.....	39-13-24
Shop buildings—freight cars.....	39-13-25
Shop buildings—other equipment.....	39-13-26
Locomotive servicing facilities.....	39-13-27
Miscellaneous buildings and structures.....	39-13-28
Coal terminals.....	39-13-29
Ore terminals.....	39-13-30

<i>Repair and maintenance</i>	
TOFC/COFC terminals.....	39-13-31
Other marine terminals.....	39-13-32
Motor vehicle loading and distribution facilities.....	39-13-33
Facilities for other specialized services operations.....	39-13-35
Roadway machines.....	39-13-36
Small tools and supplies.....	39-13-37
Snow removal.....	39-13-38
Road property and equipment damaged.....	39-13-48
Repairs billed by others—debit—equipment—locomotives: Freight.....	39-21-XX

This account includes amounts payable by the railroad to others for repair and maintenance under the locomotive subactivity. This account shall be subdivided by the following functions:

<i>Repair and maintenance</i>	
Machinery.....	39-21-40
Locomotives.....	39-21-41
Road property and equipment damaged.....	39-21-48
Repairs billed by others—debit—equipment—freight cars: Freight.....	39-22-XX

This account includes amounts payable by the railroad to others for repair and maintenance under the freight car subactivity. This account shall be subdivided by the following function:

<i>Repair and maintenance</i>	
Machinery.....	39-22-40
Freight cars.....	39-22-42
Road property and equipment damaged.....	39-22-48
Repairs billed by others—debit—equipment—other equipment: Freight.....	39-23-XX

This account includes amounts payable by the railroad to others for the repair and maintenance of equipment not pertaining to the locomotive or freight car subactivity. This account shall be subdivided by the following functions:

<i>Repair and maintenance</i>	
Machinery.....	39-23-40
Trucks, trailers, and containers in revenue service.....	39-23-43
Floating equipment—revenue service.....	39-23-44
Passenger and other revenue equipment.....	39-23-45
Computers and data processing equipment.....	39-23-46
Work and other nonrevenue equipment.....	39-23-47
Road property and equipment damaged.....	39-23-48
Repairs billed to others—credit—control.....	40-00-00

This control account includes amounts payable by others to the railroad for repair and maintenance of others' road property and equipment. The components of this account shall be distributed to the following accounts in accordance with instruction 1-8 of Part 1201, Subpart A:

Repairs billed to others—credit—way and structures—running: Freight.....	40-11-XX
Repairs billed to others—credit—way and structures—switching: Freight.....	40-12-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' roadway and track on the line of road and outside of classification yards. This account shall be subdivided by the following functions:

<i>Repair and maintenance</i>	
Roadway.....	40-11-10
Tunnels and subways.....	40-11-11
Bridges and culverts.....	40-11-12
Track laying and surfacing.....	40-11-17
Signals and interlockers.....	40-11-19
Highway grade crossings.....	40-11-22
Road property and equipment damaged.....	40-11-48
Repairs billed to others—credit—way and structures—switching: Freight.....	40-12-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' roadway and track within classification yards and stations. This account shall be subdivided by the following functions:

**RULES AND REGULATIONS**

*Repair and maintenance*

Roadway..... 40-12-10  
 Tunnels and subways..... 40-12-11  
 Bridges and culverts..... 40-12-12  
 Track laying and surfacing..... 40-12-17  
 Signals and interlockers..... 40-12-19  
 Highway grade crossings..... 40-12-22  
 Road property and equipment damaged..... 40-12-48

Repairs billed to others—credit—way and structures—other: Freight..... 40-13-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' structures other than roadway and track. This account shall be subdivided by the following functions:

*Repair and maintenance*

Communication systems..... 40-13-20  
 Electric power systems..... 40-13-21  
 Station and office buildings..... 40-13-23  
 Shop buildings—locomotives..... 40-13-24  
 Shop buildings—freight cars..... 40-13-25  
 Shop buildings—other equipment..... 40-13-26  
 Locomotive servicing facilities..... 40-13-27  
 Miscellaneous buildings and structures..... 40-13-28  
 Coal terminals..... 40-13-29  
 Ore terminals..... 40-13-30  
 TOFC/COFC terminals..... 40-13-31  
 Other marine terminals..... 40-13-32  
 Motor vehicle loading and distribution facilities..... 40-13-33  
 Facilities for other specialized services operations..... 40-13-35  
 Roadway machines..... 40-13-36  
 Small tools and supplies..... 40-13-37  
 Snow removal..... 40-13-38  
 Road property and equipment damaged..... 40-13-48

Repairs billed to others—credit—equipment—locomotives: Freight..... 40-21-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' locomotives. This account shall be subdivided by the following functions:

*Repair and maintenance*

Machinery..... 40-21-40  
 Locomotives..... 40-21-41  
 Road property and equipment damaged..... 40-21-48

Repairs billed to others—credit—equipment—freight cars: Freight..... 40-22-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' freight cars. This account shall be subdivided by the following functions:

*Repair and maintenance*

Machinery..... 40-22-40  
 Freight cars..... 40-22-42  
 Road property and equipment damaged..... 40-22-48

Repairs billed to others—credit—equipment—other equipment: Freight..... 40-23-XX

This account includes amounts payable by others to the railroad for repair and maintenance of other railroads' other equipment. This account shall be subdivided by the following functions:

*Repair and maintenance*

Machinery..... 40-23-40  
 Trucks, trailers, and containers in revenue service..... 40-23-43  
 Floating equipment—revenue service..... 40-23-44  
 Passenger and other revenue equipment..... 40-23-45  
 Computers and data processing equipment..... 40-23-46  
 Work and other non-revenue equipment..... 40-23-47  
 Road property and equipment damaged..... 40-23-48  
 Other purchased services—control..... 41-00-00

This control account includes amounts charged or credited to operating expenses for purchased advertising; purchased printing; outside professional services such as legal, accounting, audit, engineering, and consulting; payments for detour of trains; util-

ties, telephone, postage, subscriptions, communications, purchased electric power for train and locomotive propulsion; and other services purchased. The components of this account shall be distributed to the following accounts in accordance with Instruction 1-8 of Part 1201, Subpart A:

Other purchased services—way and structures—running: Freight..... 41-11-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

*Repair and maintenance*

Roadway..... 41-11-10  
 Tunnels and subways..... 41-11-11  
 Bridges and culverts..... 41-11-12  
 Track laying and surfacing..... 41-11-17  
 Signals and interlockers..... 41-11-19  
 Highway grade crossings..... 41-11-22  
 Dismantling retired property..... 41-11-39  
 Road property and equipment damaged..... 41-11-48  
 Other—other..... 41-11-99

Other purchased services—way and structures—switching: Freight..... 41-12-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

*Repair and maintenance*

Roadway..... 41-12-10  
 Tunnels and subways..... 41-12-11  
 Bridges and culverts..... 41-12-12  
 Track laying and surfacing..... 41-12-17  
 Signals and interlockers..... 41-12-19  
 Highway grade crossings..... 41-12-22  
 Dismantling retired property..... 41-12-39  
 Road property and equipment damaged..... 41-12-48  
 Other—other..... 41-12-99

Other purchased services—way and structures—other: Freight..... 41-13-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

*Administration*

Track..... 41-13-02  
 Bridges and buildings..... 41-13-03  
 Signals..... 41-13-04  
 Communications..... 41-13-05  
 Other..... 41-13-06

*Repair and maintenance*

Communication systems..... 41-13-20  
 Electric power systems..... 41-13-21  
 Station and office buildings..... 41-13-23  
 Shop buildings—locomotives..... 41-13-24  
 Shop buildings—freight cars..... 41-13-25  
 Shop buildings—other equipment..... 41-13-26  
 Locomotive servicing facilities..... 41-13-27  
 Miscellaneous buildings and structures..... 41-13-28  
 Coal terminals..... 41-13-29  
 Ore terminals..... 41-13-30  
 TOFC/COFC terminals..... 41-13-31  
 Other marine terminals..... 41-13-32  
 Motor vehicle loading and distribution facilities..... 41-13-33  
 Facilities for other specialized services operations..... 41-13-35  
 Roadway machines..... 41-13-36  
 Small tools and supplies..... 41-13-37  
 Snow removal..... 41-13-38  
 Dismantling retired property..... 41-13-39  
 Road property and equipment damaged..... 41-13-48  
 Other—other..... 41-13-99

Other purchased services—equipment—locomotives: Freight..... 41-21-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general..... 41-21-01

*Repair and maintenance*

Dismantling retired property..... 41-21-39  
 Machinery..... 41-21-40  
 Locomotive..... 41-21-41  
 Road property and equipment damaged..... 41-21-48  
 Other—other..... 41-21-99

Other purchased services—equipment—freight cars: Freight..... 41-22-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general..... 41-22-01

*Repair and maintenance*

Dismantling retired property..... 41-22-39  
 Machinery..... 41-22-40  
 Freight cars..... 41-22-42  
 Road property and equipment damaged..... 41-22-48  
 Other—other..... 41-22-99

Other purchased services—equipment—other equipment: Freight..... 41-23-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general..... 41-23-01

*Repair and maintenance*

Dismantling retired property..... 41-23-39  
 Machinery..... 41-23-40  
 Trucks, trailers, containers in revenue service..... 41-23-43  
 Floating equipment—revenue service..... 41-23-44  
 Passenger and other revenue equipment..... 41-23-45  
 Computers and data processing equipment..... 41-23-46  
 Work and other nonrevenue equipment..... 41-23-47  
 Road property and equipment damaged..... 41-23-48  
 Other—other..... 41-23-99

Other purchased services—transportation—train: Freight..... 41-31-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general..... 41-31-01

*Operations*

Engine crews..... 41-31-56  
 Train crews..... 41-31-57  
 Dispatching trains..... 41-31-58  
 Operating switches, signals, interlockers, retarders, humps..... 41-31-59  
 Operating drawbridges..... 41-31-60  
 Highway crossing protection..... 41-31-61  
 Train inspection and lubrication..... 41-31-62  
 Clearing wrecks..... 41-31-63  
 Locomotive fuel..... 41-31-67  
 Electric power purchased/produced for motive power..... 41-31-68  
 Servicing locomotives..... 41-31-69  
 Other—other..... 41-31-99

Other purchased services—transportation—yard: Freight..... 41-32-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general..... 41-32-01

*Operations*

Operating switches, signals, interlockers, retarders, humps..... 41-32-59  
 Clearing wrecks..... 41-32-63  
 Switch crews..... 41-32-64  
 Controlling operations..... 41-32-65  
 Yard and terminal clerical..... 41-32-66  
 Locomotive fuel..... 41-32-67  
 Electric power purchased/produced for motive power..... 41-32-68  
 Servicing locomotives..... 41-32-69

**Operations**

Other—other ..... 41-32-99

Other purchased services—transportation—train and yard common: Freight ..... 41-33-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

**Operations**

Cleaning car interiors ..... 41-33-70

Adjusting, transferring loads ..... 41-33-71

Car loading devices and grain doors ..... 41-33-72

Other purchased services—transportation—specialized services: Freight ..... 41-34-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general ..... 41-34-01

**Operations**

Pick up and delivery, marine line haul, and rail substitute service ..... 41-34-73

Loading, unloading, and local marine .. 41-34-74

Protective Services ..... 41-34-75

Other—other ..... 41-34-99

Other purchased services—transportation—administrative support: freight ..... 41-35-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general ..... 41-35-01

**Operations**

Clerks, accounting employees ..... 41-35-76

Communication systems operations ..... 41-35-77

Loss and damage claims processing ..... 41-35-78

Other—other ..... 41-35-99

Other purchased services—general and administrative: freight ..... 41-61-XX

This account includes amounts charged or credited to operating expenses for other purchased services specified in control account 41-00-00. This account shall be subdivided by the following functions:

Administration—general ..... 41-61-01

**General**

Accounting, auditing, finance ..... 41-61-86

Management services and data processing ..... 41-61-87

Marketing ..... 41-61-88

Sales ..... 41-61-89

Industrial development ..... 41-61-90

Personnel and labor relations ..... 41-61-91

Legal and secretarial ..... 41-61-92

Public relations and advertising ..... 41-61-93

Research and development ..... 41-61-94

Other—other ..... 41-61-99

**CLAIMS AND INSURANCE**

Control ..... 50-00-00

This account may be used as a control account for all accounts in the CLAIMS AND INSURANCE series: loss and damage claims; other casualties; insurance.

Loss and damage claims—control ..... 51-00-00

This account includes amounts payable to compensate for the loss or damage of freight or other goods carried in revenue service. This account excludes amounts payable to employees or other parties for injuries sustained or loss of life; for damage to real property of others or personal property not carried in revenue service; all payments for other damages of any kind; and related insurance premiums.

Loss and damage claims—transportation—train: freight ..... 51-31-00

This account includes amounts payable to compensate for the loss or damage of freight or other goods carried in revenue service while operating all

trains except those performing yard functions in terminals.

Loss and damage claims—transportation—yard: freight ..... 51-32-00

This account includes amounts payable to compensate for the loss or damage of freight or other goods carried in revenue service which is lost or damaged in yards or terminals.

Loss and damage claims—transportation—train and yard common: freight ..... 51-33-00

This account includes amounts payable to compensate for the loss or damage of freight or other goods carried in revenue service which are not predominantly train or yard.

Loss and damage claims—transportation—specialized services: freight ..... 51-34-00

This account includes amounts payable to compensate for the loss or damage of freight or other goods carried in revenue service incurred in designated specialized services operations.

Other casualties—control ..... 52-00-00

This account includes amounts payable to employees or other parties for injuries sustained or loss of life in connection with the construction, maintenance, operations, and administration of railroad property and equipment; for damage to real property, property of others or personal property not carried in revenue service; all payments for other damages of any kind. This account excludes freight and other goods carried in revenue service, and insurance premiums related to the casualties chargeable to this account.

Note.—The costs of clearing wrecks and repairing casualty-caused damage to the railroad's property and equipment are properly classified under other natural expense accounts as appropriate and further classified by relevant activities and functions.

These costs are appropriately charged to the following natural accounts:

Other casualties—way and structures—running: freight ..... 52-11-00

Other casualties—way and structures—switching: freight ..... 52-12-00

Other casualties—way and structures—other: freight ..... 52-13-00

Other casualties—equipment—locomotives: freight ..... 52-21-00

Other casualties—equipment—freight cars: freight ..... 52-22-00

Other casualties—equipment—Other equipment: freight ..... 52-23-00

Other casualties—transportation—train: freight ..... 51-31-00

Other casualties—transportation—yard: freight ..... 51-32-00

Other casualties—transportation—specialized services: freight ..... 52-34-00

Other casualties—transportation—administrative support: freight ..... 52-35-00

Other casualties—general and administrative: freight ..... 52-61-00

Insurance—control ..... 53-00-00

This account includes premiums for insurance to cover property and equipment loss and damage, liability, business interruption, and the like. These costs are appropriately charged to the following accounts:

Insurance—way and structures—running: freight ..... 53-11-00

Insurance—way and structures—switching: freight ..... 53-12-00

Insurance—way and structures—other: freight ..... 53-13-00

Insurance—equipment—locomotives: freight ..... 53-21-00

Insurance—equipment—freight cars: freight ..... 53-22-00

Insurance—equipment—other equipment: freight ..... 53-23-00

Insurance—transportation—train: freight ..... 53-31-00

Insurance—transportation—yard: freight ..... 53-32-00

Insurance—transportation—specialized services: freight ..... 53-34-00

Insurance—transportation—administrative support: freight ..... 53-35-00

Insurance—general and administrative: freight ..... 53-61-00

**GENERAL**

Control ..... 60-00-00

This account may be used as a control account for all accounts in the GENERAL series: other expenses; depreciation; uncollectible accounts; property taxes; other taxes.

Other expenses—control ..... 61-00-00

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property and equipment retirement losses, and other items of a general nature.

Other expenses—way and structures—running: freight ..... 61-11-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property retirement losses, and other items of a general nature associated with the carrier's roadway and track on the line of road and outside of classification yards. This account shall be subdivided by the following functions:

**Repair and maintenance**

Roadway ..... 61-11-10

Tunnels and subways ..... 61-11-11

Bridges and culverts ..... 61-11-12

Track laying and surfacing ..... 61-11-17

Signals and interlockers ..... 61-11-19

Highway grade crossings ..... 61-11-22

Dismantling retired property ..... 61-11-39

Road property and equipment damaged ..... 61-11-48

Other—other ..... 61-11-99

Other expenses—way and structures—switching: freight ..... 61-12-XX

This account includes amount charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property retirement losses, and other items of a general nature associated with the carrier's roadway and track within classification yards and stations. This account shall be subdivided by the following functions:

**Repair and maintenance**

Roadway ..... 61-12-10

Tunnels and subways ..... 61-12-11

Bridges and culverts ..... 61-12-12

Track laying and surfacing ..... 61-12-17

Signals and interlockers ..... 61-12-19

Highway grade crossings ..... 61-12-22

Dismantling retired property ..... 61-12-39

Road property and equipment damaged ..... 61-12-48

Other—other ..... 61-12-99

Other expenses—way and structures—other: freight ..... 161-13-XX

This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, road property retirement losses, and other items of a general nature associated with the carrier's structures other than roadway and track. This account shall be subdivided by the following functions:

**Administration**

Track ..... 61-13-02

Bridges and buildings ..... 61-13-03

Signals ..... 61-13-04

Communications ..... 61-13-05

Other ..... 61-13-06

**Repair and maintenance**

Communication systems ..... 61-13-20

Electric power systems ..... 61-13-21

Station and office buildings ..... 61-13-23

Shop buildings—locomotives ..... 61-13-24

Shop buildings—freight cars ..... 61-13-25

Shop buildings—other equipment ..... 61-13-26

Locomotive servicing facilities ..... 61-13-27

Miscellaneous buildings and structures ..... 61-13-28

Coal terminals ..... 61-13-29

Ore terminals ..... 61-13-30

TOPC/COPC terminals ..... 61-13-31

## RULES AND REGULATIONS

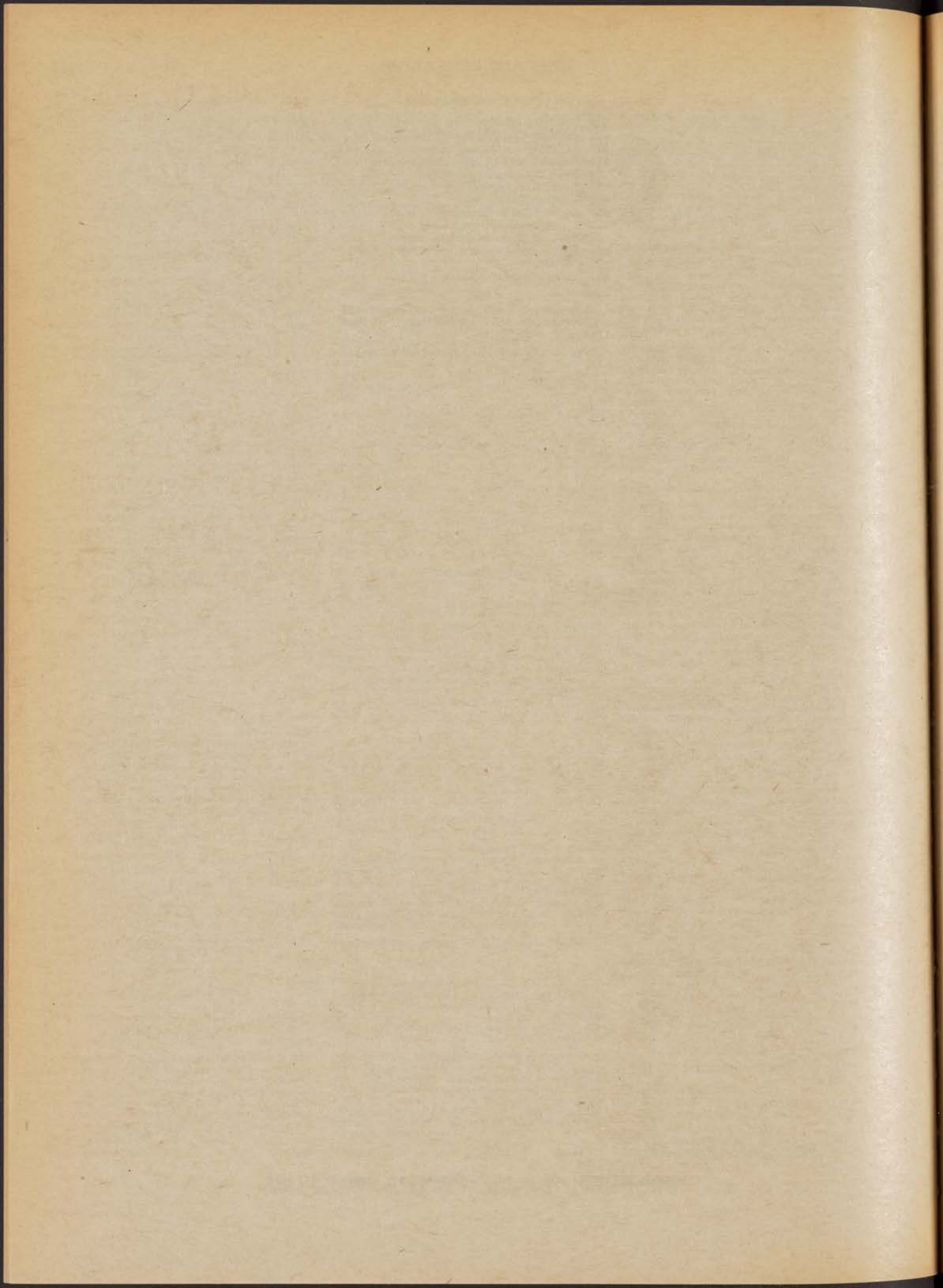
<i>Repair and maintenance</i>		<i>Operations</i>		<i>General</i>	
Other marine terminals.....	61-13-32	Engine crews.....	61-31-56	Accounting, auditing, finance.....	61-61-86
Motor vehicle loading and distribution facilities.....	61-13-33	Train crews.....	61-31-57	Management services and data processing.....	61-61-87
Facilities for other specialized services operations.....	61-13-35	Dispatching trains.....	61-31-58	Marketing.....	61-61-88
Roadway machines.....	61-13-36	Operating switches, signals, interlockers, retarders, humps.....	61-31-59	Sales.....	61-61-89
Small tools and supplies.....	61-13-37	Operating drawbridges.....	61-31-60	Industrial development.....	61-61-90
Snow removal.....	61-13-38	Highway crossing protection.....	61-31-61	Personnel labor relations.....	61-61-91
Dismantling retired property.....	61-13-39	Train inspection and lubrication.....	61-31-62	Legal and secretarial.....	61-61-92
Road property and equipment damaged.....	61-13-48	Clearing wrecks.....	61-31-63	Public relations and advertising.....	61-61-93
Other—other.....	61-13-99	Locomotive fuel.....	61-31-67	Research and development.....	61-61-94
Other expenses—equipment—locomotives: Freight.....	61-21-XX	Electric power purchased/produced for motive power.....	61-31-68	Other—other.....	61-61-99
This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees and equipment retirement losses, associated with the repair and maintenance of locomotives, whether owned by the carrier or by others. This account shall be subdivided by the following functions:		Servicing locomotives.....	61-31-69	Depreciation—control.....	62-00-00
Administration—general.....	61-21-01	Other—other.....	61-31-99	This control account includes the amounts charged to operating expenses for depreciation of owned road property and equipment, and the depreciation element of road property held under capital lease in accordance with FASB Statement No. 13. These costs are appropriately charged to the following natural accounts:	
<i>Repair and maintenance</i>		Other expenses—transportation—yard: Freight.....	61-32-XX	Depreciation—way and structures—running: Freight.....	62-11-00
Dismantling retired property.....	61-21-39	This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature associated with the movement of freight cars within classification yards and in terminal switching and transfer service. This account shall be subdivided by the following functions:		Depreciation—way and structures—switching: Freight.....	62-12-00
Machinery.....	61-21-40	Administration—general.....	61-32-01	Depreciation—way and structures—other: Freight.....	62-13-00
Locomotives.....	61-21-41	<i>Operations</i>		Depreciation—equipment—locomotives: Freight.....	62-21-00
Road property and equipment damaged.....	61-21-48	Operating switches, signals, interlockers, retarders, humps.....	61-32-59	Depreciation—equipment—freight cars: Freight.....	62-22-00
Other—other.....	61-21-99	Clearing wrecks.....	61-32-63	Depreciation—equipment—other equipment: Freight.....	62-23-00
Other expenses—equipment—freight cars: Freight.....	61-22-XX	Switch crews.....	61-32-64	Uncollectible accounts—control.....	63-00-00
This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, equipment retirement losses, associated with the repair and maintenance of freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:		Controlling operations.....	61-32-65	This account includes charges to operating expenses for the writedown of accounts and notes due to the railroad, whether classified as current or long-term. This account includes any credits to allowance accounts for collectibility and total write-off of receivables. This account does not include writedowns of property, equipment, or investments (except accounts, notes, or other receivables held as investments). Proper adjustments of incorrect receivables are not to be charged to this account. Collections of amounts previously written off or down are to be credited to this account. The total of this account shall be charged to the following account:	
Administration—general.....	61-22-01	Yard and terminal clerical.....	61-32-66	Uncollectible accounts—general and administrative: Freight.....	63-61-00
<i>Repair and maintenance</i>		Locomotive fuel.....	61-32-67	Property taxes—control.....	64-00-00
Dismantling retired property.....	61-22-39	Electric power purchased/produced for motive power.....	61-32-68	This account includes only taxes based on the value of real estate and personal property used in railroad operations. The total of this account shall be charged to the following account:	
Machinery.....	61-22-40	Servicing locomotives.....	61-32-69	Property taxes—general and administrative: Freight.....	64-61-00
Freight cars.....	61-22-42	Other—other.....	61-32-99	Other taxes—control.....	65-00-00
Road property and equipment damaged.....	61-22-48	Other expenses—transportation—specialized services: Freight.....	61-34-XX	This account includes taxes on gross receipts, franchise fees, excise taxes, and similar items. This account excludes property taxes and taxes chargeable as employee benefits. The total of this account shall be charged to the following account:	
Other—other.....	61-22-99	This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature incurred in association with providing direct administrative support for the Transportation Activity. This account shall be subdivided by the following functions:		Other taxes—general and administrative: Freight.....	65-61-00
Other expenses—equipment—other equipment: Freight.....	61-23-XX	Administration—general.....	61-34-01	(2) <i>Other computed cost elements.</i>	
This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, equipment retirement losses, associated with the repair and maintenance of equipment other than locomotives and freight cars, whether owned by the carrier or by others. This account shall be subdivided by the following functions:		<i>Operations</i>		651 Locomotives return on investment.	
Administration—general.....	61-23-01	Pick up and delivery, marine line haul, and rail substitute service.....	61-34-73	652 Freight train car costs.	
<i>Repair and maintenance</i>		Loading, unloading, and local marine..	61-34-74	01 Per day costs.	
Dismantling retired property.....	61-23-39	Protective services.....	61-34-75	02 Mileage costs.	
Machinery.....	61-23-40	Other—other.....	61-34-99	654 Rehabilitation.	
Trucks, trailers, containers in revenue service.....	61-23-43	Other expenses—transportation—administrative support: Freight.....	61-35-XX	664 Deadheading, taxi and hotel costs.	
Floating equipment—revenue service..	61-23-44	This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature incurred in association with providing direct administrative support for the Transportation Activity. This account shall be subdivided by the following functions:		01 Deadheading.	
Passenger and other revenue equipment.....	61-23-45	Administration—general.....	61-35-01	02 Taxi.	
Computers and data processing equipment.....	61-23-46	<i>Operations</i>		03 Hotel.	
Work and other nonrevenue equipment.....	61-23-47	Clerks, accounting employees.....	61-35-76	665 Overhead movement costs.	
Road property and equipment damaged.....	61-23-48	Communication systems operations.....	61-35-77	01 Transportation.	
Other—other.....	61-23-99	Loss and damage claims processing.....	61-35-78	02 Equipment.	
Other expenses—transportation—train: Freight.....	61-31-XX	Other—other.....	61-35-99	03 Freight-train cars—mileage portion.	
This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, associated with the dispatching and operations of freight trains over the roadway and outside of classification yards. This account shall be subdivided by the following functions:		Other expenses—general and administrative: Freight.....	61-61-XX	(3) <i>Off-branch avoidable costs.</i>	
Administration—general.....	61-31-01	This account includes amounts charged to operating expenses for items not otherwise provided for in the other natural expense accounts, including travel and other expenses of employees, and other items of a general nature incurred in providing overall administration of other support for carrier operations. This account shall be subdivided by the following functions:		661 Terminal costs.	
		Administration—general.....	61-61-01	01 Modified terminal costs.	
				02 Normal terminal costs.	
				03 Interchange costs.	
				662 Freight train car costs.	
				663 Freight train revenue ton-mile costs.	

(4) *All other avoidable costs.*<sup>1</sup>

- 671 Working capital.
- 672 Required capital expenditures.
- 673 Deferred maintenance.
- 674 Current cost of freight train cars, locomotives, and other equipment.
- 675 Foregone tax benefits.
- 676 Administrative costs.
- 677 Deferred subsidy payment costs.
- 678 Casualty reserve expenses.
- Total, all other avoidable costs.
- 681 Reasonable return on the value of properties.
- 682 Management fee.

<sup>1</sup>Accounts 671-675 apply to Part 1121 only. Accounts 677 and 682 apply to Part 1125 only.

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Register  
Federal Register

WEDNESDAY, JANUARY 11, 1978  
PART III



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DEPARTMENT OF  
HEALTH,  
EDUCATION,  
AND WELFARE

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ADDITIONAL  
PROTECTIONS  
PERTAINING  
TO RESEARCH,  
DEVELOPMENT AND  
RELATED ACTIVITIES  
INVOLVING FETUSES,  
PREGNANT WOMEN  
AND IN VITRO  
FERTILIZATION

[4110-08]

## Title 45—Public Welfare

## SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

## PART 46—PROTECTION OF HUMAN SUBJECTS

## Subpart B—Additional Protections Pertaining to Research, Development and Related Activities Involving Fetuses, Pregnant Women and In Vitro Fertilization

## MISCELLANEOUS AMENDMENTS

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: These amendments clarify the definitions of "Pregnancy" and "Fetus" as used in the original rule, modify provisions governing establishment of Ethical Advisory Boards, and delete provisions which would have permitted artificial maintenance of the vital functions of nonviable fetuses when the purpose of the research was to develop new methods for enabling fetuses to survive to the point of viability.

EFFECTIVE DATE: These amendments shall become effective on January 11, 1978.

## FOR FURTHER INFORMATION CONTACT:

D. T. Chalkley, Ph. D., Director, Office for Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, 301-496-7005.

SUPPLEMENTARY INFORMATION: Proposed amendments were published in the FEDERAL REGISTER on Thursday, January 13, 1977. In addition, some 5,000 copies of the amendments were distributed to research institutions, to public interest organizations concerned with research and other activities related to human reproduction, and to other persons who had shown concern with these issues by commenting on earlier proposed rulemakings and on the Report and Recommendations on Research on the Fetus of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (40 FR 33530). Interested persons, institutions and organizations were given until March 13, 1977, to submit comments and criticism. A total of 130 comments were received. None were addressed to the proposed additions in policy (§ 46.102) concerning steps to be taken to avoid involvement of pregnant women in research or to proposed changes in provisions regarding the Ethical Advisory Boards (§ 46.204).

One commentator suggested that § 46.209(a) as written seemed to imply that experimentation with a fetus ex

utero would be permissible if an investigator decided that it was not medically viable. Since 1,000 grams is the accepted medical boundary of viability, this would permit otherwise prohibited experimentation on smaller fetuses, even though fetuses weighing far less than 1,000 grams have been known to survive.

*Response.* Section 46.209(b) substantially limits the kinds of research that may be performed on nonviable fetuses. In addition, in a notice published at 40 FR 33530, the Secretary determined that any fetus ex utero, other than a dead fetus, weighing 500 grams or more and having a gestational age of 20 weeks or more is to be considered viable and a premature infant for the purposes of these regulations. (This determination reflects the finding of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research that no fetus weighing less than 600 grams and of less than 24 weeks gestational age has been reliably reported to have survived.) A simple determination by a physician that a particular fetus ex utero is medically nonviable would not automatically permit involvement of that fetus in research under these regulations. The Secretary is awaiting the National Commission's report on research involving children before proposing regulations regarding research with and for premature and term infants.

This same commentator noted that the definition of fetus as amended at § 46.201(c) was "something of an improvement" but expressed continued concern that the definition of the life span of the fetus as beginning at implantation would allow time for research between fertilization and implantation without the informed consent of the pregnant woman.

*Response.* Basic DHEW regulations contained in Subpart A of 45 CFR Part 46 require at § 46.109 that any institution proposing to place any subject at risk is obligated to obtain legally effective informed consent. The provisions of Subpart B, including those relating to consent, are additional protections pertaining to research activities involving fetuses and pregnant women and do not substitute for the basic protections available to all classes of subjects.

Approximately 128 comments were directed almost entirely to aspects of the definitions of the terms "fetus" and "pregnancy" in § 46.203(b) and (c), which are not changed by the proposed amendments. Usually, they addressed issues discussed both in the preamble to the final regulations published on August 8, 1975 (40 FR 33526), and in the preamble to the notice of proposed rulemaking published in the FEDERAL REGISTER on August 23, 1974 (39 FR 30648), which

preceded the final regulations. There seems no reason to repeat these discussions here. Certain criticisms explored new ground. These centered on the following issues: (i) There had been inadequate prior notice of the definitions, (ii) particularly, there had been inadequate prior notice to medical practitioners, (iii) the definitions were inconsistent with existing dictionary definitions and were medically incorrect in that they did not define pregnancy and fetal life to begin at fertilization.

*Response.* The criticisms are not sound. (i) The basic definitions of "fetus" and "pregnancy" to be amended as described in the proposed rulemaking are essentially the same definitions that appeared in a draft proposed rulemaking on November 16, 1973 (38 FR 31738), in a formal notice of proposed rulemaking on August 23, 1974 (39 FR 30648), and in a final rule issued August 8, 1975 (40 FR 33526). (ii) Added notice to practitioners *per se* is inappropriate and unnecessary since the regulations are concerned solely with research, development and related activities conducted or supported by the Department of Health, Education, and Welfare, not with the practice of medicine. Practitioners must be in compliance with applicable State or local laws bearing upon activities involving the fetus including laws concerning consent and the provision of due care. (iii) The term fetus is variously defined in popular and medical dictionaries as the product of conception from the eighth or ninth week, the latter part of the third month or "from the time the embryo is formed" until birth. The definitions of "fetus" and "pregnancy" employed in § 46.203 cover the period of gestation from the time of implantation, about seven days after fertilization, until termination of pregnancy. The definitions of "fetus" and "pregnancy" agree in essence with those of the American College of Obstetrics and Gynecology, in *Obstetric-Gynecologic Terminology*, Edward C. Hughes, ED., Philadelphia (1972) and that employed in the most recently issued medical dictionary, *Stedman's Medical Dictionary*, 23d Edition (1976). Both of these authorities define "fetus" and "pregnancy" to begin at conception and define conception to coincide with implantation.

Two commentators noted that the definition of "fetus" was at variance with the findings of the First International Conference on Abortion held in 1967. The medical group assembled at the Conference is quoted as stating that "The majority of our group could find no point of time between the union of sperm and egg, or at least the blastocyst stage, and the birth of the infant at which point we could say that this was not a human life. The changes occurring between implanta-

tion and \* \* \* a mature adult are mere stages of development and maturation" (emphases added).

*Response.* Since implantation occurs at the blastocyst stage, the proposed definition of fetus is within the scope of the findings of the Conference.

One commentator suggested that the terms "fetus" and "pregnancy" must of necessity include all or part of the period between fertilization and implantation, citing the work of Saxena, B. B. et al. (Science, 184:794) and Landesman, R., and Saxena, B. B. (Fertil. and Steril. 27:357, 1976), describing results obtained with a pregnancy test dependent upon radioreceptor assay for human chorionic gonadotropin. The data presented in these articles suggested that the presence of the fertilized and developing ovum could be confirmed as early as four days following fertilization, and three days prior to implantation, while the developing ovum is still in a free-floating state.

*Response.* As stated in the prior notice of proposed rulemaking (42 FR 2792), designation of a precise time for the start of the fetal period is a matter of practical and regulatory necessity. The regulations impose additional duties and responsibilities on investigators and research institutions over and above those generally imposed by statute and common law on medical practitioners and medical institutions. As of the time of drafting of the proposed rule, it appeared that the time of implantation not only coincided with the onset of fetal life as defined by the medical profession, but also with the first point in the course of human development which could be medically confirmed by existing pregnancy tests. This still appears to be the case. Saxena's suggestion that the developing ovum might be detected prior to implantation has not been supported (Catt, K. J. et al., Jour. Clin. End. Met., 40:537, 1975) and is not repeated by him in a more recent publication (Saxena, B. B. et al., Fertil. and Steril. 28:163, 1977). Since the radioreceptor assay fails to distinguish between luteinizing hormone levels, which peak sharply at the time of ovulation, and human chorionic gonadotropin levels, which rise shortly after implantation, some confusion in assay is inevitable. Identification of the confirmation of pregnancy as the point at which these additional protections must be imposed appears to be scientifically sound.

While no comments were received on the proposed changes in provisions regarding the Ethical Advisory Board

(§ 46.204), the Secretary has determined that the prohibition in this section against the appointment as a member of the Board of any full-time employee of the Federal Government is unnecessarily restrictive and denies to the Board expertise available elsewhere within the Federal Government. Therefore, the last sentence of this section is changed to read, "No board member may be a regular, full-time employee of the Department of Health, Education, and Welfare." With the exception of this change and the correction of typographical errors, the proposed amendments are adopted as published in 42 FR 2792.

*NOTE.*—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement as required by Executive Order 11821 and by OMB Circular A-107.

Dated: July 29, 1977.

JAMES F. DICKSON,  
*Acting Assistant Secretary  
for Health.*

Approved: December 29, 1977.

JOSEPH A. CALIFANO, Jr.,  
*Secretary.*

Accordingly, Part 46 of 45 CFR, Subtitle A, is amended by:

1. Revising § 46.102(c) to read:

§ 46.102 Policy.

(c) Unless the activity is covered by subpart B of this part, if it involves as subjects women who could become pregnant, the Board shall also determine as part of its review that adequate and appropriate steps will be taken to avoid involvement of women who are in fact pregnant (as evidenced by any of the presumptive signs of pregnancy, such as missed menses, or by a medically acceptable pregnancy test), when such activity would involve risk to a fetus.

2. Revising §§ 46.203(b) and 46.203(c) to read:

§ 46.203 Definitions.

(b) "Pregnancy" encompasses the period of time from confirmation of implantation (through any of the presumptive signs of pregnancy, such as missed menses, or by a medically acceptable pregnancy test), until expulsion or extraction of the fetus.

(c) "Fetus" means the product of conception from the time of implantation (as evidenced by any of the pre-

sumptive signs of pregnancy, such as missed menses, or a medically acceptable pregnancy test), until a determination is made, following expulsion or extraction of the fetus, that it is viable.

§ 46.204 [Amended].

3. Revising § 46.204(a) to read:

(a) One or more Ethical Advisory Boards shall be established by the Secretary. Members of these board(s) shall be so selected that the board(s) will be competent to deal with medical, legal, social, ethical, and related issues and may include, for example, research scientists, physicians, psychologists, sociologists, educators, lawyers, and ethicists, as well as representatives of the general public. No board member may be a regular, full-time employee of the Department of Health, Education, and Welfare.

4. Deleting § 46.204(b) and redesignating §§ 46.204(c) through 46.204(e) as §§ 46.204(b) through 46.204(d).

5. Amending § 46.204(b), as so redesignated, by deleting the word "appropriate" wherever it occurs.

6. Amending §§ 46.209(a) and 46.209(b) to read:

§ 46.209 Activities directed toward fetuses ex utero, including nonviable fetuses, as subjects.

(a) Until it has been ascertained whether or not a fetus ex utero is viable, a fetus ex utero may not be involved as a subject in an activity covered by this subpart unless:

(1) There will be no added risk to the fetus resulting from the activity, and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means, or

(2) The purpose of the activity is to enhance the possibility of survival of the particular fetus to the point of viability.

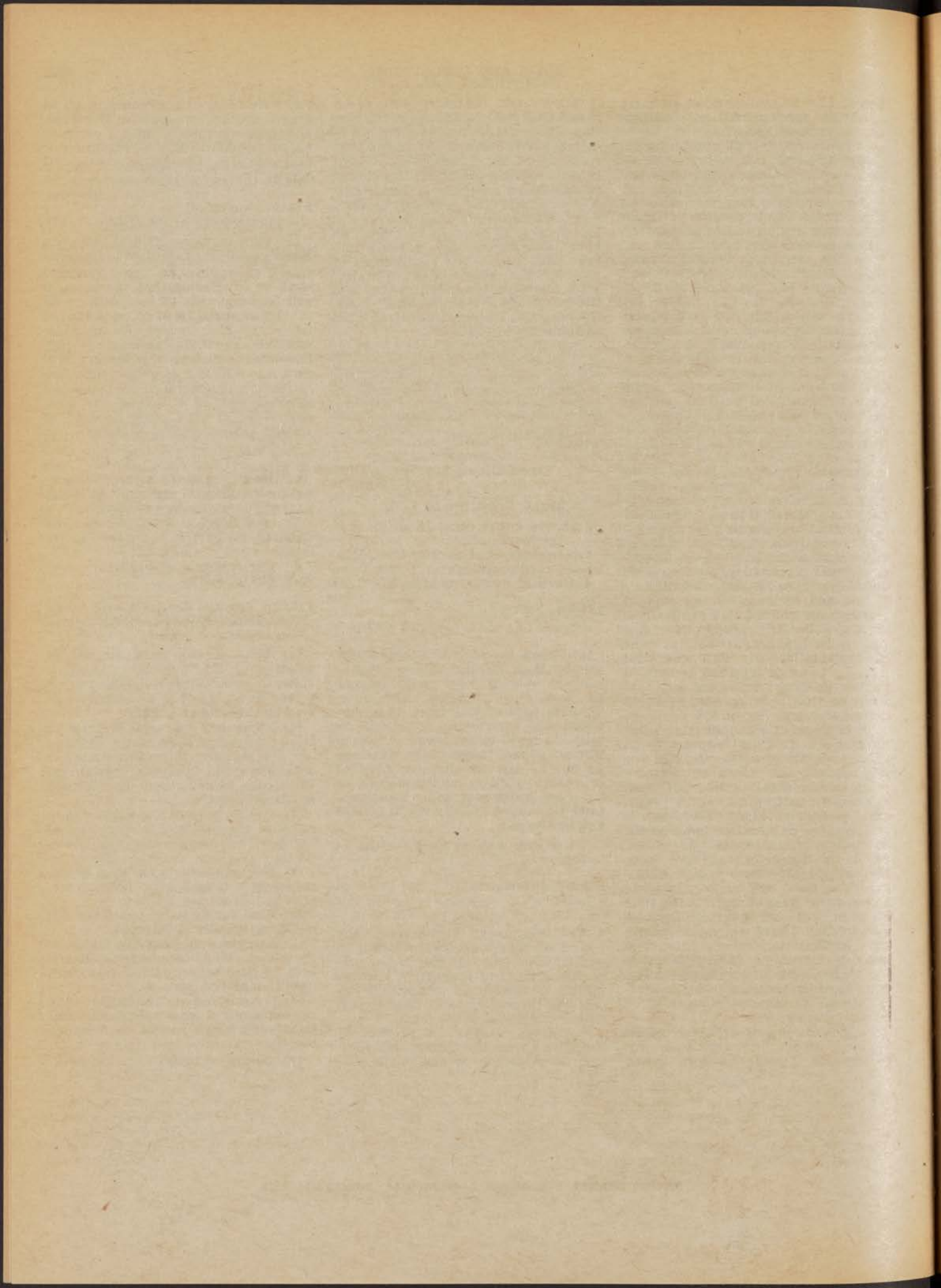
(b) No nonviable fetus may be involved as a subject in an activity covered by this subpart unless:

(1) Vital functions of the fetus will not be artificially maintained,

(2) Experimental activities which of themselves would terminate the heart-beat or respiration of the fetus will not be employed, and

(3) The purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means.

[FR Doc. 78-662 Filed 1-10-78; 8:45 am]



WEDNESDAY, JANUARY 11, 1978

PART IV



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DEPARTMENT OF  
HEALTH,  
EDUCATION,  
AND WELFARE

Office of Education



TEACHER CENTERS  
PROGRAM

Grant Requirements

Registered  
Federal

[4110-02]

## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

## PART 197—TEACHER CENTERS PROGRAM

## Grants to Local Educational Agencies

AGENCY: Office of Education, HEW.

ACTION: Final Regulation.

**SUMMARY:** This regulation implements Section 532 of the Higher Education Act of 1965, as amended and governs grants to local educational agencies to plan, establish, or operate teacher centers and to institutions of higher education to operate teacher centers. The regulation also governs compensation to State educational agencies for services under the program. The purpose of teacher centers supported under the program is to provide elementary and secondary school teachers with opportunities for training and curriculum development which meet their needs and enable them to serve better their students. Each teacher center is supervised by a teacher center policy board the majority of which is representative of elementary and secondary classroom teachers in the area to be served.

**EFFECTIVE DATE:** Under section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. Section 431(d) provides that regulations subject to the section shall become effective on the 45th day following the date of transmission to the Congress, subject to the provisions in the section concerning congressional action and adjournment.

## FOR FURTHER INFORMATION, CONTACT:

Dr. A. Bruce Gaarder, Regional Office Building No. 3, Room 5652, 7th and D Streets, SW., Washington, D.C. 20202. Telephone: 202-245-9786.

## SUPPLEMENTARY INFORMATION:

## A. OVERVIEW OF THE PROGRAM AND REGULATION

Section 532 of the Higher Education Act of 1965 (the Act), as enacted by Section 153 of the Education Amendments of 1976 (Pub. L. 94-482), authorizes the Commissioner of Education to make grants to local educational agencies to assist them in planning, establishing, and operating teacher centers. The statute also authorizes the Commissioner to make grants to institutions of higher education with ten

percent of the program's funds to operate teacher centers.

Section 532(a)(2) of the Act defines "teacher center" as a site which serves teachers from public and nonpublic schools of a State, or an area or community within a State, in which teachers, with the assistance of such consultants and experts as may be necessary, may develop and produce curricula, utilize research findings, and provide training to improve the skills of teachers to enable the teachers to meet better the educational needs of their students.

The regulation implements these provisions by broadly defining the term "site" in §197.2, describing allowable activities of a teacher center in §197.3(b), and clarifying the teacher center's obligation to serve nonpublic school teachers in §§197.3(a) and 197.9(a)(4). Section 197.3(d) of the regulation lists eligible categories of participants in teacher center activities. The teacher center policy board (described below) for a particular center decides which of the indicated categories of eligible participants in addition to regular, full-time elementary and secondary school teachers may participate in that center's activities.

A key innovative feature of the statute is its provision that each teacher center shall be operated under the supervision of a teacher center policy board, the majority of which is representative of elementary and secondary classroom teachers to be served by the center fairly reflecting the make-up of all schoolteachers, including special education and vocational education teachers. The statute also provides that the teacher center policy board shall include individuals representative of, or designated by, the school board of the local educational agency served by the center, and at least one representative designated by the institutions of higher education (with departments or schools of education) located in the area.

The regulation implements these statutory provisions in a number of sections. The board's authority for the center is broadly stated in a definition of the term, "supervision" in §197.2 and by provisions in §197.4(c) requiring the board to participate fully in the preparation of, and to approve, the application. With respect to the selection of teacher representatives constituting the majority of the board, §197.2 defines "teacher" narrowly to include only regular, full-time classroom teachers engaged in teaching elementary or secondary school students, and §197.4(b)(1)(i) indicates that the teacher representatives must fairly reflect the make-up of all teachers in the area to be served. Options for selecting teacher representatives are listed in §197.4(b)(1)(ii). All of the op-

tions require that teachers generally, either directly or through their teachers' organization, nominate or select teacher representatives to the board.

Section 197.6 of the regulation sets aside ten percent of funds appropriated for the teacher centers program for grants to institutions of higher education. Section 197.5 indicates the difference between grants to local educational agencies to plan, establish or operate teacher centers and grants to institutions of higher education to operate teacher centers.

Under §197.9 each applicant must submit its application through the State educational agency of the State in which the applicant is located. Only applications recommended by the appropriate State educational agency may be approved by the Commissioner. The statute also provides that the Commissioner shall ensure that there is adequate provision for the furnishing of technical assistance to, and dissemination of information derived from, each funded center. The State educational agency must be adequately compensated for its review and submission of applications, and its technical assistance and dissemination services.

Section 197.13 of the regulation sets aside ten percent of funds appropriated for the teacher centers program to compensate the State educational agencies for these services and indicates how the set aside will be distributed.

Section 197.7 of the regulation provides for the funding of multi-year projects, which generally will not exceed 36 months. A multi-year project receives an initial one-year grant, and continuation grants for the second or third year of the project are funded on a non-competitive basis, subject to a review of the project. One year projects, as well as multi-year projects, are eligible for funding.

Section 197.9 of the regulation sets forth application requirements for the program. The specific requirements call for information which the Commissioner needs to ensure that the applicant and project are eligible for funding and meet requirements in the statute and regulation and to evaluate applications on a competitive basis under the evaluation criteria in §197.11.

Provisions on allowable and unallowable project costs are in §197.8 of the regulation.

## B. SUMMARY OF MAJOR ISSUES

A notice of proposed rulemaking for the teacher centers program, inviting public comment, was published in the FEDERAL REGISTER on June 13, 1977, and public hearings were conducted in Atlanta, June 21; New York City, June 22; San Francisco, June 27; and Chicago, June 29. During the 30-day period

of public comment, over 1,500 written suggestions and recommendations were received from interested persons and organizations. A summary of these comments and responses is included as an appendix to this document. The comments and responses are identified with the section number of the regulation to which they refer. They are presented in the numerical sequence of the regulation. In each case, a brief heading is used to identify the subject of the comment.

The following paragraphs discuss the major issues and how they are resolved.

1. *Payment of released time and substitutes.* Under the proposed regulation the use of grant funds to pay the cost of released time or substitutes to enable teachers to use the centers during working hours was allowable only in extraordinary circumstances and with prior approval of the Commissioner. This limitation on the use of Federal funds was intended to encourage voluntary teacher participation in the centers, to reduce each center's total cost, and thereby to permit funding of more centers. Public comment was overwhelmingly in favor of allowing each teacher center policy board to determine the extent to which Federal funds are used for released time and substitutes. The commenters' principal rationale was that teacher inservice training is too important to be limited to after school hours and that teachers should not be required to give up their free time to participate. The regulation (§197.8) makes the payment of released time or substitutes to permit teacher participation in the center's activities or in the teacher center policy board an allowable cost. To address the concern that these costs will require an excessive proportion of program funds, the criterion in §197.11(g) is changed to consider the proportion of the budget represented by these costs.

2. *Authority and representativeness of the teacher center policy board.* The statute clearly gives the teacher center policy board responsibility for "supervising" the center, and this was reflected in the proposed regulation. However, public comment heavily favored increasing the authority of the teacher center policy board and assuring that the policy boards are closely representative of the teachers in the area to be served. On the other hand, there was significant comment to the effect that if policy boards are allowed to make policy and control the center's budgets, conflicts could arise between the policy boards and the school districts' boards of education. Since the intent of Congress is to give maximum control over the centers to the teachers to be served, the regulation (§197.4(b)) provides several optional methods for selecting the teach-

ers representatives who comprise the majority of the policy boards' members, including permitting the teachers' collective bargaining agent or the local teachers' organization with the largest membership to select teacher representatives. Each of the options requires that teachers generally, either directly or through their teachers' organization, nominate or select the teacher representatives on the board. Many commenters wanted the regulation to mandate that the only option for selection of teacher representatives is for the teachers' collective bargaining agent or teachers' organization to select them. While this is an acceptable option, to mandate this option alone would be over regulation by the Federal government. ( )

3. *Role of State educational agency.* Public commenters were sharply divided over the role of State educational agencies in the teacher centers program and the compensation for the State educational agencies' services. Commenters representing teachers and their organizations wanted the role and compensation sharply reduced; the State educational agencies and chief State school officers wanted the role expanded, on the grounds that the teacher centers program must become an integral part of the States' overall plans for inservice teacher education. The statute requires that State educational agencies review applications, make comments on the applications, and recommend each application that the State agency finds should be approved. In addition, the statute gives the State educational agencies the role of providing technical assistance to and disseminating information from funded centers. In order to insure that the maximum share of program funds goes for direct support of teacher centers, the one-seventh of total program funds, set aside as compensation for the State educational agency services in §197.13(b) of the proposed regulation, is reduced to one-tenth in the final regulation.

4. *Grants to institutions of higher education.* Section 532(f) of the statute provides that up to ten percent of the total program funds may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers. The following issues have developed regarding implementation of section 532(f):

(a) *Setting aside the ten percent maximum for grants to institutions of higher education.* Under section 532(f), the Commissioner is authorized to decide the extent to which program funds will be used, up to the ten percent limit, to make grants to institutions of higher education. Section 197.6(a) of the proposed regulation announced the Commissioner's intention

to set aside the ten percent maximum for grants to institutions of higher education. Public comment on this issue was sharply divided. Some commenters suggested that institutions of higher education be required to compete with local educational agencies, subject to the ten percent ceiling. However, colleges and universities continue to play a vital role in the training of teachers. The Commissioner believes that the degree-granting and educational research roles of institutions of higher education, together with their cooperative relationships with State educational agencies in teacher training and certification, justify using the maximum set-aside authorized by the statute. Under §197.6, the Commissioner sets aside the ten percent maximum for grants to institutions of higher education.

(b) *Submission of applications by institutions of higher education.* The proposed regulation in §197.9 required that applications from institutions of higher education, like applications for local educational agencies, be submitted through the appropriate State educational agency. Most commenters representing institutions of higher education asserted that applications from such agencies should be submitted directly to the Commissioner. These commenters cited the following statutory language in section 532(f): " \* \* \* may be expended directly by the Commissioner to make grants to institutions of higher education \* \* \* ". Other commenters particularly those representing State educational agencies, supported the requirement that all applications, including those from institutions of higher education, be submitted to the appropriate State educational agency for review and screening before being submitted to the Commissioner.

While the statute is somewhat ambiguous on this point, the Commissioner interprets it to require that applications from institutions of higher education be submitted through the State educational agency. Section 532(f) of the Act provides that the Commissioner may make grant awards directly to institutions of higher education, in contrast to section 532(e), which authorizes institutions of higher education to participate only by contracting with a local educational agency which receives a grant from the Commissioner. Section 532(f) does not expressly address whether an application from an institution of higher education must be submitted through a State educational agency. It provides that the authority to make grants to institutions of higher education is "subject to the other provisions of this Section," which would include provisions for applications to be submitted through the State educational agency.

In requiring submission of applications by institutions of higher educa-

tion through the State educational agencies, the regulation reinforces the important role of the State educational agencies for providing technical assistance to, and disseminating information from, funded centers.

(c) *Definition of the term "operate."* Section 532(f) of the statute authorizes grants to institutions of higher education "to operate" teacher centers. This contrasts with the language in section 532(a)(1) which authorizes grants to local educational agencies "to assist such agencies in planning, establishing, and operating teacher centers." Section 197.5(b) of the proposed regulation gave effect to this difference in authorizing language by making institutions of higher education eligible for grants only if the teacher center would be in operation at the end of the grant period. Some commenters supported the proposed language in § 197.5(b). However, most commenters objected to the proposed language and argued that it would give no effect to the difference in authorizing language and would permit institutions of higher education to plan, establish, and operate new teacher centers. Most of the commenters wanted institutions of higher education eligible only for grants to operate centers which had already been planned and established using other resources. In response to the public comment and so as to follow more closely the statutory language, § 197.5(b) is changed to make institutions of higher education eligible only for grants "to operate" teacher centers. However, there is no evidence of congressional intent to limit eligibility to only those institutions of higher education which are already operating a teacher center. Under § 197.5(b), an institution of higher education is eligible for a grant "to operate" a new or proposed teacher center but, unlike a local educational agency, is not eligible for a grant to assist in planning or establishing the new center. Therefore, an institution of higher education must pay the cost of planning and establishing a new teacher center out of funds from sources other than the teacher centers program.

5. *Evaluation criteria.* Section 197.11 of the proposed regulation contained the criteria which the Commissioner proposed to use in evaluating applications for grants (except applications for continuation grants under § 197.7). Many commenters suggested additional criteria or recommended changing or deleting the proposed criteria. Several commenters asked for changes in the number of points assigned to each criterion. In general, the commenters recommended that more emphasis be given to the qualifications of the proposed teacher center staff, to measures for increasing the effectiveness of the teachers served, the effective

use of a "needs assessment" in planning the center's activities, and to the objectives of the proposed center. Most commenters felt that too much emphasis was placed on the degree of teacher participation and representation and not enough on the quality of the proposal and its potential to increase the effectiveness of the teachers served.

In response to the public comment, § 197.11 is changed to: (1) Increase the points assigned to the potential of the center to increase the effectiveness of the teachers served, in terms of the learning needs of their students; (2) increase (from 5 to 10) the points assigned to the extent to which the project objectives are sharply defined, clearly stated, and capable of being attained by the proposed procedures; (3) add a criterion on the extent to which Federal funds will support new or expanded activities rather than supporting activities which are already being paid for from other resources.

6. *Participation by teachers from non-public schools.* Section 532(a)(2) of the statute states that a teacher center "serves teachers, from public and non-public schools," and section 532(b) states that the majority of the members on the teacher center policy board shall be "representative of elementary and secondary classroom teachers to be served by such center." Section 197.3(a) of the proposed regulation implemented the statute by providing that a teacher center "serve teachers employed in both public and non-public schools (if non-public schools are located in the area to be served and choose to participate in the teacher center)."

Most commenters agreed with the regulatory requirement that non-public school teachers be served by a teacher center, but objected to representation of non-public school teachers as part of the classroom teacher majority on the teacher center policy board. One rationale was that teachers in many non-public schools are not required to meet the minimum standards for licensure and certification. These commenters also argued that section 532(b) of the statute does not specifically require that the teacher majority of the board include representation of non-public school teachers. Other commenters opposed the inclusion of teachers from segregated schools and academies among the majority members of the policy board or as beneficiaries of the center's services. One commenter recommended that the regulation be changed to allow only non-public schools accredited by the State educational agency to participate.

Reading section 532(a)(2) and section 532(b) of the statute together, the Commissioner in § 197.4 of the regulation interprets the statute to require

representation of non-public school teachers as part of the teacher majority on the policy board. Section 197.3(a) of the regulation recognizes that there may be no non-public schools in the areas to be served, or that the non-public schools in a service area may choose not to participate in a teacher center. Section 197.2 of the regulation is changed to add a definition of non-public school in response to the comments concerning participation by non-accredited or substandard private schools. Under Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000d-2000d-4), teachers from institutions which discriminate on the basis of race, color, or national origin may not participate in or benefit from programs supported by Federal funds.

7. *Definitions of "teacher;" designation of eligible participants.* In response to a large number of comments which recommended that the teacher center policy board be authorized to designate the categories of persons, in addition to elementary and secondary school classroom teachers, who may participate in the activities of a teacher center, the regulation distinguishes clearly between "teachers" who are eligible for membership in the teacher majority of the teacher center policy board, and all other eligible participants. In keeping with the statutory requirement, "teacher" is defined (§ 197.2) as only a regular, full-time classroom teacher engaged in teaching elementary or secondary school students, including a special education or vocational education teacher. On the other hand, to give each teacher center policy board (after it has been constituted) broad latitude for determining who, in addition to teachers, may participate in the center's activities, § 197.3(d) gives an inclusive list of eighteen categories of persons, any or all of whom may be designated by the policy board as additional categories of eligible participants. There was considerable comment urging that teachers on leave of absence be eligible for membership as part of the teacher majority of the policy board. This advice was not accepted, and the regulation reflects the congressional intent to vest "supervision," i.e., control and management of the centers, in those who are engaged full-time as teachers. The preponderance of public comment supported this position.

#### C. CITATIONS OF LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of the section. References to "sec." in the citations of authority following provisions of the regulation refer to sections of the Higher Educa-

tion Act of 1965, as amended by section 153 of the Education Amendments of 1976, Pub. L. 94-482. If the citation uses the word "interprets," the regulation provisions included an interpretation of the cited statutory provision. If the citation uses the word "implements," the regulation provisions include rules deemed necessary to implement the statute.

**Authority.** This regulation is issued under Title V-B, section 532 of the Higher Education Act of 1965 as enacted by section 153 of the Education Amendments of 1976, Pub. L. 94-482, 20 U.S.C. 1119a.

**NOTE.**—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalogue of Federal Domestic Assistance Number: 13.416 Teacher Centers Program.)

Dated: October 13, 1977.

ERNEST L. BOYER,  
*Commissioner of Education.*

Approved: January 3, 1978.

JOSEPH A. CALIFANO, JR.,  
*Secretary of Health,  
Education, and Welfare.*

Title 45 of the Code of Federal Regulations is amended as follows:

§100a.16 [Amended]

1. In Part 100a, §100a.16(a) is amended by adding a new subparagraph (40), which reads as follows:

(a) \* \* \*

(40) Teacher Centers grants under section 532, Title V-B of the Higher Education Act of 1965, as amended (20 U.S.C. 1119a).

\* \* \* \* \*

2. A new Part 197 is added to read as follows:

- Sec.
- 197.1 Scope and purpose.
- 197.2 Definitions.
- 197.3 Elements of a teacher center.
- 197.4 Teacher center policy board.
- 197.5 Categories of financial assistance.
- 197.6 Distribution of funds.
- 197.7 Project duration.
- 197.8 Allowable and unallowable costs.
- 197.9 Application requirements.
- 197.10 Review of applications by State educational agencies.
- 197.11 Evaluation criteria.
- 197.12 Right of appeal.
- 197.13 Compensation to State educational agencies.

**Authority:** Sec. 532, Title V-B, Higher Education Act of 1965, as amended (20 U.S.C. 1119a).

§197.1 Scope and purpose.

(a) **Scope.** (1) This part applies to the teacher centers program authorized under section 532 of Title V-B of the Higher Education Act of 1965, as amended by Pub. L. 94-482.

(20 U.S.C. 1119a.)

(2) Each grant under this part is subject to applicable provisions contained in the general provisions regulations of the Office of Education (Parts 100 and 100a of this chapter), except that the criteria in §100a.26(b) do not apply to applications under this part.

(b) **Purpose.** The purpose of the teacher centers program is to meet the professional needs of teachers as defined by teacher center policy boards, thus enabling teachers to meet better the educational needs of their students, by—

- (1) Providing financial assistance to local educational agencies for planning, establishing, and operating teaching centers; and
- (2) Providing financial assistance to institutions of higher education for operating teacher centers.

(Implements Sec. 532, 20 U.S.C. 1119a; Sen. Rep. 94-882, p. 37 (1976).)

§197.2 Definitions.

As used in this part:  
"Act" means section 532 of the Higher Education Act of 1965, as enacted by Pub. L. 94-482.

(Sec. 532, 20 U.S.C. 1119a.)

"Institution of higher education" means an educational institution as defined in section 1201(a) of the Higher Education Act of 1965 as amended.

(Sec. 1201(a), 20 U.S.C. 1141(a).)

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(Sec. 1201(g), 20 U.S.C. 1141(g).)

"Non-public school" means a non-profit elementary or secondary school operated or controlled by other than a public authority, and which is licensed or approved by the State in which it is located or attendance at which satisfies applicable State compulsory school attendance laws.

(Interprets Sec. 532(a)(2), 20 U.S.C. 1119a(a)(2).)

"Site" means the location or locations where the curriculum development and training activities of the teacher center take place.

(Interprets Sec. 532(a)(2), 20 U.S.C. 1119a(a)(2).)

"State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Sec. 1201(h), 20 U.S.C. 1141(h).)

"Supervision" means the setting of policy and any appropriate managerial or supervisory activities not prohibited by State or local law (e.g., the employment of operating staff, consultants or experts, budgeting and expenditure of funds, and the formulation of recommendations for subcontracting to secure technical and other kinds of assistance).

(Interprets Sec. 532(b), 20 U.S.C. 1119a(b).)

"Teacher" means only a regular, full-time classroom teacher engaged in teaching elementary or secondary school students, including a special education or vocational education teacher.

(Interprets Sec. 532(b), 20 U.S.C. 1119a(b).)

§197.3 Elements of a teacher center.

A teacher center must have all of the following elements:

(a) **Area served.** It serves teachers employed in both public and non-public schools (if non-public schools are located in the area to be served and choose to participate in the teacher center) of—

- (1) A portion of single school district;
- (2) An entire school district;
- (3) Any number of school districts in a State short of the total number of districts; or
- (4) An entire State.

(b) **Activities.** The teachers it serves are afforded the opportunity to—

- (1) Develop and produce curricula (including the modification or adaptation of existing curricula) designed to meet the educational needs of the students served by the teachers;
- (2) Use educational research findings or new or improved methods, practices, and techniques in the development of the curricula;
- (3) Provide training designed to—

(i) Enable the teachers to better meet the special educational needs of the students they serve (including training to enable teachers to implement effectively specific curricula); and

(ii) Familiarize the teachers with developments in curriculum and educational research, including the use of research to improve teaching skills.

(Sec. 532(a)(2), 20 U.S.C. 1119a(a)(2).)

(c) **Grantee.** The teacher center is operated by a local educational agency, an institution of higher educa-

tion, or a combination of these agencies and/or institutions.

(Sec. 532(a)(2), 20 U.S.C. 1119a(a)(2))

(d) *Eligible participants.* In addition to teachers, as defined in § 197.2, the persons to be served by the teacher center may be determined by the teacher center policy board to include paraprofessionals, teacher aides, preschool teachers, teachers of adults below the college level, counselors, principals, other administrators, supervisors, curriculum specialists, librarians, media specialists, elementary and secondary school students, the parents of elementary and secondary school students, substitute teachers, part-time teachers, teachers who are unemployed or former teachers employed in other capacities who intend to return to teaching, and intern teachers assigned to teach in a school where the teachers are being served by a teacher center assisted under the Act.

(Interprets Sec. 532(a), 20 U.S.C. 1119a(a))

#### § 197.4 Teacher center policy board.

(a) *Composition.* Each teacher center must be operated under the supervision of a teacher center policy board composed as follows:

(1) The majority of the members of the policy board shall be representative of all the teachers in the area to be served by the center, including teachers who provide special education for handicapped and exceptional children, and teachers of vocational education.

(2) The policy board must include two or more persons representative of, or designated by, the school board(s) of the local educational agency (or agencies) served by the center.

(3) The policy board must also include at least one representative designated by the institution (or institutions) of higher education (with departments or schools of education) in the area to be served by the center.

(4) If the area to be served includes more than one local educational agency or more than one institution of higher education with a department or school of education, each such agency or institution must be represented on the teacher center policy board under subparagraphs (2) or (3). A person designated to the teacher center policy board under subparagraph (2) may represent more than one school board, and a person designated to the teacher center policy board under subparagraph (3) may represent more than one institution of higher education.

(b) *Representativeness.* (1) Each grantee must assure that the majority of the board is representative of teachers by—

(i) Making the categories of teachers (e.g., vocational education teachers, special education teachers, and other

teachers at both elementary and secondary levels) fairly reflect the categories of teachers in the area to be served, including equitable representation of non-public school teachers (if there are non-public schools in the area to be served which choose to participate in the teacher center); and

(ii) Selecting the teacher members composing the majority of the board by one of the following options:

(A) Agreement between the local educational agency and the teachers' collective bargaining agent as to the specific teacher representatives or as to the procedures for selecting the teacher representatives;

(B) Appointment of the teacher representatives by the teachers' collective bargaining agent;

(C) Appointment of the teacher representatives by the teachers' organization with the largest number of members;

(D) Voting in which all teachers in the area to be served by the center have an opportunity to participate, either through a general or school-by-school election;

(E) Another method which permits teachers generally, either directly or through their teachers' organization, to nominate or select the teacher representatives on the board; or

(F) A combination of two or more of the options in clauses (A) through (E) of this subdivision.

(2) The options described in subparagraph (1)(ii) of this paragraph apply both to teacher centers serving teachers within a single local educational agency and to centers serving teachers in more than one local educational agency.

(3) In the case of a teacher center serving an entire State, in addition to the options under subparagraph (1)(ii) of this paragraph, the teacher members composing the majority of the board can be appointed by one or more State-level teachers' organizations.

#### § 197.5 Categories of financial assistance.

The Commissioner makes grants of financial assistance—

(a) To local educational agencies to plan, establish, or operate teacher centers.

(b) To institutions of higher education to operate teacher centers. Grant funds may not be used by an institution of higher education to plan or establish a teacher center, but may be used to operate a center planned and established with other funds before or after the grant is made.

(Interprets Sec. 532(f), 20 U.S.C. 1119a(f).)

#### § 197.6 Distribution of funds.

(a) The Commissioner sets aside ten percent of the amount appropriated under the teacher centers program to

fund applications from institutions of higher education to operate teacher centers: *Provided*, That there are sufficient applications from institutions of higher education which receive the 50 point minimum to be considered for funding under the evaluation criteria in § 197.11

(Interprets Sec. 532(f), 20 U.S.C. 1119a(f).)

(b) After setting aside funds for grants to institutions of higher education under paragraph (a) of this section and funds for compensating State educational agencies for their functions under § 197.13, the Commissioner uses the remaining funds for grants to local educational agencies under § 197.5(a).

(c) In the case of a joint grant to a combination of one or more institutions of higher education and one or more local educational agencies, the amount of the grant charged to the 10 percent setaside for institutions of higher education is determined—

(1) According to the amount budgeted in the approved application for institutions of higher education; or

(2) If separate amounts for applicants are not budgeted in the application, according to the ratio of institutions of higher education to all recipients of the grant.

(Implements Sec. 532(a)(1), 20 U.S.C. 1119a(a)(1).)

#### § 197.7 Project duration.

(a) The Commissioner approves projects under this part for a specified project period which generally will not exceed 36 months, subject to the availability of funds.

(b) An applicant for assistance may project its goals and activities over a period of up to three years. Approval of a multi-year project is intended to offer the project a reasonable degree of stability over time and to facilitate additional long range planning.

(c) An application proposing a multi-year project must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(d)(1) Subject to the availability of funds, an application for assistance to continue a project during the project period will be reviewed on a non-competitive basis to determine—

(i) If the grantee has complied with the award terms and conditions, the Act, and applicable regulations, and

(ii) The effectiveness of the project to date in terms of progress toward its goals, or the constructive changes proposed as a result of the ongoing evaluation of the project.

(2) In the case of an application to establish or operate a teacher center which would continue a prior planning

grant, the Commissioner, in reviewing the application on a non-competitive basis, also considers the evaluation criteria under § 197.11.

(Implements Sec. 532; 20 U.S.C. 1119a.)

#### § 197.8 Allowable and unallowable costs.

(a) Allowable costs under grants to local educational agencies or institutions of higher education under the teacher centers program include—

(1) Personnel costs related to the management of the centers;

(2) Services of consultants and experts;

(3) Service contracts, including service contracts with institutions of higher education;

(4) Released time or payment for substitutes to enable teachers to participate in activities of the teacher center;

(5) Expenses of the teacher center policy board, including payment of released time or substitutes to enable its teacher members to participate in activities of the board, but not including the expenses of preparing an application for a grant under the teacher centers program; and

(6) Other direct and indirect costs incurred by the grantee in carrying out its approved plan of operation, subject to the applicable cost principles set forth in the appendices to subchapter A of this chapter.

(Sec. 532(a) (2) and (e), 20 U.S.C. 1119a(a) (2) and (e).)

(b) The following are not allowable costs:

- (1) Construction of facilities; and
- (2) Remodeling of facilities.

(Implements Sec. 532 (a)(2) and (e), 20 U.S.C. 1119a (a)(2) and (e), 20 U.S.C. 1221c(a).)

#### § 197.9 Application requirements.

The Commissioner awards a grant to an eligible local educational agency or institution of higher education only if the applicant submits an application to the Commissioner through the State educational agency of the State in which the applicant is located.

(a) Each application must include:

(1) Designation of the specific area, school district(s), and schools, both public and non-public, to be served by the center;

(2) Documentation that a teacher center policy board—

(i) Has been established, including information on the membership of the board and the method of its selection, and

(ii) Has participated fully in the preparation of the application and has approved it as submitted;

(3) A statement of the means for assuring equitable participation by non-public school teachers on the teacher center policy board and in receiving

the center's services, or documentation that there is no non-public school in the area to be served, or that non-public schools in the area to be served have chosen not to participate.

(4) A one-page abstract of the proposed project;

(5) A plan of operation which must include—

(i) A statement of the special educational needs of the students to be served by teachers participating in the center, and an explanation of how those needs were determined;

(ii) Information which provides a basis for evaluating the application under each of the criteria in § 197.11. Failure of an application to contain information responding to a particular criterion in § 197.11 will mean that the applicant will not earn points attached to that criterion.

(b) With respect to applications to operate an existing teacher center, the application, in addition to meeting the requirements in paragraph (a) of this section, must contain the following:

(1) A description of the activities of the center during the preceding year and the cost thereof;

(2) Identification of the sources of funding of the center during the preceding year; and

(3) A statement of the kinds of activities that will be undertaken to improve the existing center by use of the Federal assistance requested.

(Implements Sec. 532, 20 U.S.C. 1119a.)

(c) An institution of higher education shall include in its application, in addition to the other applicable information required by paragraphs (a) and (b) of this section, evidence that arrangements have been made with those local educational agencies with teachers to be served by the project for the participation of the teachers in center activities and in the activities of the teacher center policy board.

(Implements Sec. 532(f), 20 U.S.C. 1119a(f).)

#### § 197.10 Review of applications by State educational agencies.

The Commissioner will not approve an application unless:

(a) The State educational agency of the State in which the applicant is located has reviewed the application, made comments thereon, recommended, that the application be approved, and transmitted the application to the Commissioner for approval; and

(b) The appropriate State educational agency has given an assurance that it will provide technical assistance to each center, and will adequately disseminate information derived from the center, including information on how the State educational agency will carry out the technical assistance and dissemination and a projected budget for those activities.

(Implements Sec. 532(d), 20 U.S.C. 1119a (d).)

#### § 197.11 Evaluation criteria.

Applications for grants (except applications for continuation grants under § 197.7) are evaluated by the Commissioner on the basis of the criteria in this section. Each criterion will be weighted as indicated, with the total for all criteria being 100 points. An application must receive a minimum of 50 points to be considered for funding. In evaluating an application, the Commissioner considers:

(a) The extent of the teacher center policy board's authority and responsibility for supervision of the project (10 points).

(b) The potential of the proposed teacher center for increasing the effectiveness of the teachers served, in terms of the learning needs of their students (20 points).

(c) The soundness of the proposed plan of operation, including consideration of the extent to which—

(1) The objectives of the proposed projects are sharply defined, clearly stated, and capable of being attained by the proposed procedures (10 points); and

(2) The adequacy of provisions for reporting of the effectiveness of the project and dissemination of its results, and for determining the extent to which the objectives are accomplished (10 points).

(d) The appropriateness of size, scope, and duration of the project so as to secure productive results (5 points).

(e) The adequacy of qualifications and experience of personnel designated to carry out the proposed project (5 points).

(f) The adequacy of the facilities and resources (5 points).

(g) The reasonableness of estimated cost in relation to anticipated results, including the proportion of the budget represented by costs for released time or substitutes (5 points).

(h) The potential of the teacher center to impact upon and improve the grantee's overall program of inservice training for teachers (15 points).

(i) The representativeness of the teacher center policy board under § 197.4(b) (10 points).

(j) The extent to which Federal funds will support new or expanded activities rather than supporting activities which are already being paid for from other resources (5 points).

(Implements Sec. 532, 20 U.S.C. 1119a.)

#### § 197.12 Right of appeal.

Any local educational agency or institution of higher education that is dissatisfied with the recommendation of the State educational agency regarding its application under the teacher centers program may petition

## APPENDIX

## SUMMARY OF COMMENTS AND RESPONSES

the Commissioner to request further consideration of the application by the State educational agency.

(Sec. 532 (c)(2) and (f), 20 U.S.C. 1119a (c) (2) and (f).)

§197.13 Compensation to State educational agencies.

(a) The Commissioner compensates State educational agencies for the cost of the following services performed in connection with the teacher centers program:

(1) Reviewing applications and providing comments thereon.

(2) Submitting of recommended applications to the Commissioner.

(3) Providing technical assistance to funded centers. Allowable technical assistance expenses of the State educational agency may include consultative services rendered at the teacher center site, workshops and conferences to provide information to centers (including an exchange of information among teacher centers), and activities of the State educational agency to obtain information incidental and necessary to the provision of technical assistance to funded centers in its State.

(4) Disseminating information resulting from activities of funded centers.

(Sec. 532 (c) and (d), 20 U.S.C. 1119a (c) and (d).)

(b) The Commissioner sets aside one-tenth of the amount appropriated for the teacher centers program for the compensation of State educational agencies, which sum will be disbursed according to the following stipulations:

(1)(b) Compensation for the combined services noted in subparagraphs (1) and (2), of paragraph (a) of this section is at a rate per application set by the Commissioner not to exceed prevailing rates for similar services.

(2) The remainder of the sum reserved for State educational agencies is made available to carry out functions described in subparagraphs (3) and (4) of paragraph (a) of this section.

(3) A State educational agency is compensated for the technical assistance it provides to, and the dissemination of information from, each funded teacher center in an amount for each center no more than that which bears the same ratio to the total funds available for these functions as the amount of the grant award to the teacher center bears to the total funds awarded to teacher centers in the fiscal year.

(Implements Sec. 532(d), 20 U.S.C. 1119a (d).)

The comments which follow came from (1) telephone conversations between interested persons and members of the Office of Education staff, (2) correspondence (nearly 300 separate letters including approximately 1500 specific recommendations), (3) personal visits by interested persons to the Office of Education, and (4) four public hearings (held in Atlanta, New York City, San Francisco, and Chicago) to elicit comments on the proposed regulation for the teacher centers program. Duplication and overlapping of comments made it possible to consolidate many recommendations and responses. The public comment and advice was very rewarding and has resulted in several significant changes in the regulation. The headings used in this summary merely suggest the subject of the comments and do not appear in the regulation. The section numbers are those of the corresponding sections of the regulation.

§197.1 Waiver of the regulation.

*Comments.* A commenter recommended that the regulation include a provision for waiving the regulation (i.e., exempting applicants and grantees from compliance with the regulation) under extraordinary circumstances which might arise. In these cases, the applicant would have to justify the need for the waiver to the Commissioner's satisfaction.

*Response.* No change is made in the regulation. A provision in the General Provisions Regulations of the Office of Education prohibits waivers of Office of Education regulations, including this one (45 CFR 100a.483). The prohibition of waivers is based largely on the Commissioner's concern for ensuring fair and uniform application of rules to all applicants and grantees. The issue of providing for waivers of grant regulations is being considered on a Department-wide basis. A proposed Departmental regulation providing for waiver of non-statutory requirements in limited circumstances was published in the FEDERAL REGISTER December 6, 1976 (41 FR 53411). It is possible that, because of this broader examination of the waiver issue, a final regulation may be issued on waivers applicable to the teacher centers program as well as other Department grant programs. However, pending the outcome of this examination, it is not appropriate that waivers be provided for in a particular program regulation.

§197.1 Need for approval of the application by the applicant.

*Comment.* A commenter asked whether an application prepared by a teacher center policy board can be submitted for review and evaluation even if it is not approved by the local educational agency.

*Response.* An application cannot be reviewed or evaluated if it has not been signed and submitted formally by the proper authority. Under the statute, only local educational agencies and institutions of higher education are eligible to apply.

§197.1 Elimination of participation by institutions of higher education.

*Comment.* A few commenters urged that the participation of institutions of higher education as grantees be minimized. Some wanted the participation of institutions of higher education eliminated entirely. Others suggested that institutions of higher education be required to compete with local

educational agencies, subject to the ten percent ceiling in the statute. A justification given was that the statute gives the Commissioner discretion to use up to ten percent of the total program funds to make grants to institutions of higher education. The commenters reasoned that colleges and universities already have substantial funds for teacher training and have clearly demonstrated their capabilities in this area. Other commenters commended the decision to set aside the full ten percent for these institutions on grounds not only of fairness to institutions that have figured so crucially in the development of education in this country, but also because of the indispensable role they must continue to play in the training of teachers.

*Response.* No change is made in the regulation. The Commissioner is authorized to decide the extent to which program funds will be used, within the ten percent limit, to make grants to institutions of higher education to operate teacher centers. The principle thrust of the statute is to give teachers a larger voice in determining their own professional needs. However, colleges and universities will continue to play a vital role in the training of teachers at all levels. The degree-granting and educational research roles as well as the cooperative relationship they have with State departments of education in teacher training and certification justify using the maximum set-aside authorized by the statute. Since the majority of members of the policy board under a grant to a university or college must be representative of the teachers (as defined in §197.2) in the area to be served, such a center may provide an opportunity for direct communication between teachers and preservice teacher education that has not existed before.

§197.2 Preference for one site over another.

*Comment.* A commenter asked if the regulation gives a preference to "school sites" or to "teacher centers" located away from schools as places where the staff development takes place. Another commenter wanted the regulation to define "site" as the school(s) where the participants work.

*Response.* No change is made in the regulation. The definition of "site" (the location or locations where the curriculum development and training activities of the teacher center take place) does not give a preference and leaves the determination of the location or locations to be used to the teacher center policy board.

§197.2 Curriculum a prerogative of the State and local authorities.

*Comment.* Several commenters saw potential conflict between the curriculum development in teacher centers and the fact that determination of the schools' curriculum is a prerogative of the State and local educational agencies in the context of State and local law. These commenters asked for clarification of this issue.

*Response.* No change is made in the regulation. The regulation is intended to resolve this issue by defining "supervision", in §197.2, as "the setting of policy and any appropriate managerial or supervisory activities not prohibited by State or local law".

The definition thus permits the persons served by the center to "develop and produce curricula" (as mandated in the statute). The activities of the policy board, however, or of the persons served by the center

may, of course, not exceed the limits prescribed by State or local law. This is not considered to be an appropriate issue for further regulation by the Commissioner.

#### §197.2 Meaning of "supervision."

*Comment.* A commenter asked for further clarification of the term "supervision" as it relates to the functions of the teacher center policy board. More specifically, this commenter advised that the policy board (or the school district authorities) select and employ the director of the center and that the director (rather than the policy board as a whole) employ other persons whose services might be needed. Another commenter wanted "supervision" defined to include only matters which are not the responsibility of the local school board.

*Response.* No change is made in the regulation. The regulation does not limit the policy board's authority beyond the restrictions set by local and State law. The definition of "supervision" in §197.2 does not preclude selection and employment of the center's director (if there is to be one) by the policy board and subsequent employment of other persons needed to staff the center by that director.

#### §197.2 Eligibility of community colleges.

*Comment.* One commenter requested that the regulation clarify whether a community college is eligible to apply as a local educational agency or as an institution of higher education. Another commenter wanted the regulation to specify that only accredited institutions of higher education could apply for assistance.

*Response.* A community college would be eligible to apply for assistance as an institution of higher education, provided it meets the definition of "institution of higher education" in section 1201(a) of the Higher Education Act, as amended. The regulation is changed to add the statutory definition. As is noted in another response, a community college would have to be accredited to be an institution of higher education, unless it meets exceptions specified under the definition. Community colleges as such would not be eligible as local educational agencies, but it is possible that a particular community college might establish that it comes within the definition of a local educational agency. For example, it might show that it is a public authority legally constituted within a State to perform a service function for public elementary and secondary schools.

#### §197.2 Definition of "teacher."

*Comment.* A commenter wanted the definition of teacher changed to state, "Teacher means any person who is certified where required and a major part of whose time is spent in direct contact with students, or who performs allied work which results in the placement of the person on the local salary schedule for teachers." Another commenter wanted "teacher" defined to include paraprofessionals, guidance counselors, and others doing supportive work, as well as teachers on leave of absence from teaching jobs who may be serving as officials in teacher organizations. Both of these commenters wanted their respective, recommended definitions to apply both to members of the classroom teacher majority of the policy board and to the eligibility of persons participating in the center's activities. Another commenter wanted kindergarten teachers to be included specifically in the definition; still another wanted "specialist"

teachers and "teaching staff" added to the definition.

*Response.* "Teacher" is narrowly defined in §197.2 to include only regular full-time classroom teachers engaged in teaching elementary or secondary school students. This definition applies primarily for purposes of determining who may be considered a teacher under the statutory requirement that the majority of the teacher center policy board must be "representative of elementary and secondary classroom teachers to be served by such center fairly reflecting the make-up of all schoolteachers, including special education and vocational education teachers." However, language limiting the applicability of the definition is deleted from §197.2, with the effect that the definition applies to the word "teacher" throughout the regulation. This change should clarify the regulation. The narrow definition of teacher derives directly from the statutory reference to "elementary and secondary classroom teachers." The definition does not include paraprofessionals, counselors, or other support staff, nor does it include teachers on leave of absence, unemployed teachers, or substitute teachers. These categories of persons could serve on the teacher center policy board, but they could not be counted as part of the majority of "classroom teachers." To count them as part of the majority would dilute the legislated majority of "classroom teachers." The definition would include regular kindergarten teachers, if kindergarten is considered as part of elementary school education under State law. Section 197.3(d) of the regulation is changed to broaden the categories of persons eligible to participate in teacher center activities. This is more fully discussed below under the heading §197.3 Persons to be served by a center.

#### §197.2 Eligibility of institution of higher education laboratory schools to apply for assistance.

*Comment.* A commenter asked whether "laboratory schools," attached to colleges or universities, are eligible to apply as local educational agencies for assistance to operate teacher centers. Another commenter requested that laboratory schools not be considered local educational agencies.

*Response.* A "laboratory school," attached to a college or university, is not eligible to apply for assistance as a local educational agency unless it establishes that it meets the definition of a local educational agency, for example, that it is a public institution having administrative control and direction of a public elementary or secondary school. Laboratory schools attached to colleges and universities do not generally operate as public elementary or secondary schools; and therefore, they would not generally be eligible as local educational agencies. A laboratory school could participate as part of an institution of higher education in developing an application submitted by the institution of higher education. Teachers from both public and non-public laboratory schools in the area to be served would have the opportunity to be served by the center.

#### §197.2 Eligibility of regional educational service agencies as local educational agencies.

*Comment.* A commenter requested that the regulation be changed to allow regional educational service agencies or intermediate units to apply as local educational agencies.

*Response.* No change is made in the regulation. The definition of local educational

agency in §197.2 is taken directly from the Higher Education Act. It would include particular regional educational service agencies and intermediate units if they are a public authority legally constituted to perform a service function for public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are regional in a State as an administrative agency for its public elementary or secondary schools.

#### §197.2 Eligibility of State agencies other than State educational agencies to apply for assistance.

*Comment.* A commenter requested that the definition of local educational agency in §197.2 include those State agencies which are not part of or controlled by the State educational agency, but which nevertheless provide elementary and secondary education to special classes of students.

*Response.* No change is made in the regulation. State agencies other than State educational agencies may apply for assistance if they can establish that they have, under State law, "administrative control and direction of a public elementary or secondary school."

#### §197.2 Eligibility of Indian tribal organizations.

*Comment.* A commenter requested that the regulation be clarified to define Indian tribal organization as eligible applicants.

*Response.* The statute limits eligibility to "local educational agencies" and "institutions of higher education." Both entities are defined for purposes of the teacher centers program in section 1201 of the Higher Education Act. Indian tribal organizations, as such, do not come within these definitions. On the contrary, when Congress has intended to make Indian tribal organizations eligible under education assistance statutes, it has done so expressly. For example, in Title VII of the Elementary and Secondary Education Act (the Bilingual Education Act) and in the Indian Elementary and Secondary School Assistance Act, Title III of Pub. L. 81-874, local educational agencies are made eligible and additional language is used to make Indian tribal organizations eligible as well. These statutes and their legislative histories indicate the understanding of the Congress that the term "local educational agency" does not, without more specific language, include Indian tribal organizations. While Indian tribal organizations therefore are not generally eligible, particular tribal organizations may qualify as local educational agencies if they are constituted under a particular State's law to administer or control or to perform a service function for a public elementary or secondary school.

#### §197.2 Definition of technical assistance.

*Comment.* Several commenters asked that the term "technical assistance" be defined in the regulation.

*Response.* A definition of "technical assistance" is not added to §197.2. However, §197.13(a)(3) is changed to indicate the scope of technical assistance activities by the State educational agency.

#### §197.3 Persons to be served by a center.

*Comment.* Many commenters objected to the limitations in §197.3(d) regarding categories of persons to be served by a teacher center. Some recommended the specific inclusion of certain additional categories, such

as counselors, paraprofessionals, principals, administrators, supervisors, public school teachers assigned to teach adults only, teachers on leave of absence who may be officials of teachers' organizations, parents who assist with the program of instruction, librarians, and college faculty. Other commenters strongly supported the inclusion of teachers from non-public schools among those to be served by the centers. Other commenters wanted the teacher center policy board to have full authority to determine what categories of persons are eligible to be served by a center. Their rationale was that any person who is a teacher or who is cooperating with a teacher to improve a school's effectiveness should be eligible to participate in a teacher center's activities, and that the policy board is in the best position to make decisions in this matter. One commenter was concerned that inclusion of "non-professional people— aides and paraprofessionals—as teachers, diluted the voice of the real teachers." Another commenter felt that administrators and supervisors should be excluded. One large group of commenters wanted school administrators included specifically as eligible to participate in the center's activities, and recommended that their participation not be an option of the teacher center policy board.

*Response.* Section 197.3(d) of the regulation is changed to broaden the categories of eligible participants in center activities. A teacher center may serve paraprofessionals, teacher aides, pre-school teachers, teachers of adults below the college level, counselors, principals, other administrators, supervisors, curriculum specialists, librarians, media specialists, elementary and secondary school students, the parents of elementary and secondary school students, substitute teachers, part-time teachers, teachers who are unemployed or former teachers employed in other capacities who intend to return to teaching, and intern teachers assigned to teach in a school where the teachers are being served by a teacher center assisted under the Act. While the statute describes a teacher center only as a site which serves "teachers," it does not expressly preclude the participation of others. Some of the categories of persons added (such as substitute and part-time teachers, teacher aides, and counselors) may come within a broad definition of the term "teacher." The other categories of persons (such as principals and parents) are made eligible because their participation may be instrumental to the success of the teacher center program and to the subsequent implementation of the curriculum developed. The teacher center policy board has the flexibility to include these persons as participants, and § 197.3(d) provides that the teacher center policy board decides which, if any, of these categories beyond regular elementary and secondary classroom teachers may participate in a particular center's activities. These changes in the regulation do not "dilute the voice of regular classroom teachers," because only regular, full-time classroom teachers may compose a majority of the teacher center policy board, which determines the categories of eligible participants. On the other hand, the statute does not provide a basis for requiring that each center serve these categories of persons beyond regular elementary and secondary classroom teachers. Also, while postsecondary faculty members may be used as consultants or experts to assist the center's activities, they are not eligible to receive the

center's services. The teacher centers program's purpose is to serve teachers at the elementary and secondary levels, not postsecondary teachers.

#### § 197.3 Access to teacher centers.

*Comment.* Several commenters felt that the size of a teacher center should be limited by regulation to ensure that all centers supported by Federal funds would provide easy access to the local teachers to be served.

*Response.* Section 532(a)(2) of the statute specifically provides that a center may serve teachers from an entire State. The Commissioner may not by regulation forbid this option.

#### § 197.3 Clarification of the term "area."

*Comment.* A commenter was confused by definition of "area" in § 197.2 and the use of the same word in § 197.3(a). Another commenter asked who determines the area to be served by a center.

*Response.* The definitions of "area" and "community" in § 197.2 are deleted, and § 197.3(a) is changed to clarify this matter. Under § 197.3(a), the applicant and the teacher center policy board decide the extent of the area to be served by the center. It may be (1) a portion of a single school district, (2) an entire school district, (3) any number of school districts in a State short of the total number of districts, or (4) the entire State.

#### § 197.3 Courses for graduate school credit.

*Comment.* Several commenters urged that the regulation specifically permit teacher centers to organize inservice training courses for which graduate school credit may be granted.

*Response.* No change is made in the regulation. Nothing in the regulation prevents the teacher center policy board from cooperating with credit-granting institutions and organizing courses or any other kind of appropriate training with or without credit.

#### § 197.3 Retraining of teachers to meet changing personnel needs.

*Comment.* A commenter wanted the regulation to make it clear that a federally-supported teacher center could be used to provide retraining for teachers who teach subjects for which there are declining enrollments, to enable them to teach in other fields where the demand for teachers is greater.

*Response.* No change is made in the regulation because, under § 197.3(b), the kind of retraining described by the commenter is clearly allowed.

#### § 197.3 Teacher center staff.

*Comment.* Numerous comments were received regarding the teacher center staff. One commenter urged that the regulation require that the center's director be a full-time teacher. Another felt that the staff ought to be made up wholly of teachers. One commenter felt that the local administrators who are "held accountable for the quality of instructional programs," should work on a "fifty-fifty basis" with local teachers. One writer recommended that the use of college professors as staff be minimized; another encouraged heavy use of college faculty, especially in the subject matter areas. Many commenters recommended maintaining considerable flexibility in staff composition with a constantly changing mix of school and college personnel, depending on the changing needs of the centers.

*Response.* To avoid over-regulation and not limit the flexibility of teacher centers policy boards in serving the diverse needs of teachers, decisions regarding composition of the teacher center staff are left to the discretion of the applicant agency and the teacher center policy board.

#### § 197.3 Program of activities of the teacher center.

*Comment.* Although not relating to a specific section in the regulation, there were numerous recommendations regarding the substantive programs of teacher centers. Many commenters urged that training programs be based upon needs assessments. Others called for programs to be determined totally by teachers. One commenter called for focusing on "teacher's needs as perceived by teachers." Still another commenter felt that programs should not be limited to inservice education. Another felt that teachers should share the responsibility for determining training needs with the administrators and supervisors "who are responsible for the quality of local programs." Still another called for giving emphasis to "exchanging educational strategies and/or curriculums with colleagues with similar classroom needs and programs." Other commenters stated that to preclude State participation in determining training priorities would ignore the State's responsibility, and in some cases violate State law. One commenter urged that teacher centers meet local needs that "might not necessarily be related to the social aims of the Office of Education priorities which are based upon public opinion of needs."

*Response.* No change is made in the regulation. The substance of teacher center programs and center activities should be determined by the applicant and the teacher center policy board, within the limits of State and local law, and within the scope of the activities described in § 197.3(b).

#### § 197.3 Objection to emphasis on research.

*Comment.* Several commenters objected to what they perceived as over-emphasis on research in § 197.3(b)(2) and (3)(ii). One commenter felt that the language "seems to emphasize training of a university classroom style rather than revitalization through experiences, sharing and personal decision on formulation, selection, and utilization of experiences offered."

*Response.* No change is made in the regulation. In § 197.3(b)(2) and (3)(ii), the references to the use of research findings and to familiarizing teachers with developments in educational research come directly from the statute. There is no evidence of any congressional intent to emphasize traditional classroom training, and no such emphasis is intended in the regulation. The authorized activities described in § 197.3(b) are very broad, and particular emphases or approaches are for the teacher center policy board to determine.

#### § 197.3 Preference for consortia or combinations of applicants.

*Comment.* A commenter wanted to know whether the regulation gives a preference to applications from combinations of eligible applicants, such as a local educational agency in combination with one or more institutions of higher education.

*Response.* The regulation does not give a preference in this matter. Each project application will be reviewed and evaluated on its own merits.

### § 197.3 Required or voluntary participation.

*Comment.* A commenter urged that participation by teachers or other eligible persons in a teacher center's program be entirely voluntary.

*Response.* No change is made in the regulation. The decision as to whether participation is voluntary or required is left to the applicant and the teacher center policy board.

### § 197.3 Clarification of the term "grantee."

*Comment.* A commenter wanted clarification of the term "grantee" in the case of an application by a combination of institutions of higher education and/or local educational agencies.

*Response.* In the case of a joint application from a combination of eligible applicants, a joint award usually would be made to all applicants, who would be joint grantees and jointly responsible for carrying out the grant. If the application "breaks out" separate budgets for each applicant, the Commissioner has the option of awarding separate grants to each applicant or one joint award with separate budgets for each, as provided in 45 CFR 100a.19.

### § 197.3 Teacher centers to serve teacher centers.

*Comment.* A few commenters requested that the regulation be changed to allow funding of teacher centers whose primary function would be to train the staff and directors of other teacher centers, to provide for dissemination services and communication among them, and to operate "model or demonstration" centers.

*Response.* No change is made in the regulation. The activities of a teacher center in § 197.3(b) are taken directly from Section 532(a)(2) of the statute. The statute does not authorize the funding of centers whose primary function would be to train the staff and directors of other teacher centers. As defined in the statute, the purpose of a teacher center is to serve teachers within a given service area. It should be noted that most of the services called for in the comment can be provided by the appropriate State educational agency.

### § 197.4 Membership on teacher center policy board.

*Comment.* Several commenters asked that the regulation clarify that various categories of persons, other than those specifically prescribed by the statute, may be selected to serve on the teacher center policy board. Some wanted the regulation changed to require this representation. Several commenters thought it would be wise to have representation of the school's community of parents, principals, librarians, and other adults on the teacher center policy board. Other commenters wanted at least one counselor on the board. One person wanted student representation. One commenter wanted to assure the predominance of classroom teachers in the "supervision" of a teacher center, and requested that the regulation require that 75 percent of the membership of the board be classroom teachers. Another felt that teacher representation should be limited to 40 percent. Another asked that only full-time kindergarten-12th grade classroom teachers be allowed to serve. One commenter asked that the constituencies of existing teacher centers be represented on the policy board. One commenter felt that the institution of higher

education representation "should be proportional to the size of the board and fairly reflect the institution of higher education involved." Other commenters wanted persons serving full-time on the staff of the teachers' organization to be on the board.

*Response.* Section 197.4(a) is changed to clarify the statutory provisions regarding representation of school boards and institutions of higher education. No other change is made in the regulation. With respect to the make-up of the board, the statute provides merely that the majority of the board must be representative of elementary and secondary classroom teachers to be served (fairly reflecting the make-up of all school teachers) and that the board shall also include individuals representative of or designated by the school board of the local educational agency served by the center and at least one representative designated by institutions of higher education (with departments or schools of education) located in the area. The composition of the teacher majority of the board is discussed above under the heading "§ 197.2 Definition of 'teacher.'" Nothing in the statute or regulation prohibits representation of other groups, such as parents, administrators or teachers' bargaining agents, on the board, but it is inappropriate to require this representation when the statute does not do so. It also is improper to require that teacher representation be at least 40 percent or 75 percent of the board when the statute provides for a "majority." With respect to representation by institutions of higher education, the statute requires "at least one representative designated by the institutions of higher education (with departments of schools of education) located in the area." Given the statutory language, it is not appropriate to mandate proportional representation for institutions of higher education.

### § 197.4 Representation of the local school board.

*Comment.* A commenter noted that Section 532(b) of the statute calls for "individuals representative of, or designated by, the school board of the local educational agency served by such center . . ." on the teacher center policy board. This commenter wanted a clarification of the course to pursue if, for example, a college or university applies for Federal assistance to operate a teacher center for several local educational agencies, each with its own school board.

*Response.* The regulation is clarified regarding representation of school boards on the teacher center policy board for a center serving teachers from more than one local educational agency. The statute provides that the teacher center policy board must include "individuals representative of, or designated by the school board of the local educational agency served by such center . . ." (emphasis supplied). This is interpreted to require that at least two individuals on the board must represent school boards. It is up to the applicant(s) to decide whether to provide for additional representatives of school boards. The school board of each local educational agency must be represented on the teacher center policy board. This does not mean that there must be an individual from each school board, but it does mean that school boards will have to agree upon individuals to represent them on the teacher center policy board. For example, if five local educational agencies are served by a teacher center, and the teacher center policy board must include

two representatives of school boards, the school boards might jointly agree to designate these two individuals to represent all of them.

### § 197.4 Authority of the policy board.

*Comment.* A commenter wanted the regulation to clarify to whom the policy board would be responsible (i.e., to the local school board or to the superintendent), or whether it would be independent. Another commenter asked how expenditures from the teacher center funds would be monitored. A few commenters wanted the name "policy board" changed to "advisory board" because the setting of policy is an official prerogative of the school board and any delegation of that authority could set a "dangerous" precedent. One commenter felt that the policy board as proposed is "unconstitutional." A number of commenters expressed anxiety over the possibility of conflict between the teacher center policy board of a federally-supported center and local school district authorities. These commenters saw possible differences between the center's plans for inservice education and the grantee's on-going or prospective program of staff development, and between the center's staff and "consultants and experts" and the persons already charged by the grantee to conduct staff development. Other possible areas of difficulty were the expenditure of the grantee's funds for released time or substitutes for teachers and the making of decisions about curriculum development.

*Response.* No change is made in the regulation. A central feature of the teacher centers program is the authority given by the statute to a teacher center policy board, the majority of which is representative of teachers, to "supervise" the activities of the center. However, a local educational agency, or an institution of higher education, is the grantee and the only entity eligible to submit a project application. The grantee has ultimate responsibility for the proper use of the grant funds. Thus, there must be an understanding between the parties based on good will and trust. Under § 197.9, both the policy board and the applicant must approve the project application before it can be submitted.

### § 197.3 Participation by non-public school personnel.

*Comment.* A commenter observed that the qualifying clause "if non-public schools are located in the area to be served and choose to participate in the teacher center" in § 197.3(a) does not appear in the references to non-public school teachers in § 197.4(b)(1) and § 197.9(a)(3). The commenter asked, "Is such permissiveness . . . also implicit in the other two places?"

*Response.* The qualifying clause in § 197.3(a) governs in all matters related to the participation of non-public school teachers in a teacher center. Section 197.4(b)(1)(i) and 197.9(a)(3) of the regulation are changed to clarify this.

### § 197.4 Objection to "proportional numerically."

*Comment.* Several commenters pointed out the difficulty in "making the categories of teachers on the teacher center policy board (e.g., vocational education teachers, special education, and other classroom teachers at both elementary and secondary levels) proportional numerically to the categories of teachers to be served, including equitable representation of non-public

school teachers \* \* \*." These commenters requested that the requirement of numerical proportion be eliminated on the basis that it could result in a policy board so large as to be incapable of supervising the teacher center. One commenter wanted to know whether every category of teacher must be represented or only those categories with a significant proportion of the teachers.

**Response.** The recommendation is accepted. Section 532(b) of the statute states that the "teacher center shall be operated under the supervision of a teacher center policy board, the majority of which is representative of elementary and secondary classroom teachers to be served by such center fairly reflecting the make-up of all schoolteachers, including special education and vocational education teachers" [emphasis added]. Section 197.4 of the regulation now follows the statute more closely and instead of " \* \* \* proportional numerically to the categories \* \* \*," reads " \* \* \* reflect fairly the categories \* \* \*." The proposed regulation was not intended to require strict, mathematical proportionality, but the Commissioner agrees with the commenters and believes that the statutory language clearly allows for some flexibility on this point.

**§ 197.4 Selection of the representative of an institution of higher education.**

**Comment.** A commenter recommended that the regulation require that the policy board member who is the "at least one representative designated by the institutions of higher education (with departments or schools of education) located in the area" be from a school or department of education.

**Response.** No change is made in the regulation. The suggested requirement would be over-regulation by the Commissioner. The institutions of higher education make the decision on whom to designate.

**§ 197.4 Selection of teacher members of a policy board for a statewide teacher center.**

**Comment.** A commenter recommended that in the case of a statewide center, the teacher members of the teacher center policy board should be appointed by the teachers' organization in the State having the largest number of members. Another commenter wanted the regulation to be more specific about the selection of policy board members for centers proposed by a combination of institutions or agencies to serve a large area.

**Response.** Section 197.4(b)(1)(ii) of the regulation is changed to provide a number of options for selecting the teacher majority of the teacher center policy board. The option of combining two or more of the other options should facilitate establishment of the board in the case of a center serving teachers from more than one local educational agency. The regulation provides that one option in the case of a statewide center is for the teachers to be appointed to the board by one or more State teachers' organizations.

**§ 197.4 Conflicts between State guidelines and teacher center regulation.**

**Comment.** One commenter requested that the regulation clarify whether State guidelines mandating "equal representation" among those participating in a program would prevail over § 197.4(a)(1) of the regulation, which requires majority representation of teachers.

**Response.** No change is made in the regulation. The State educational agency may

establish criteria for its own guidance in reviewing applications, but the Commissioner will not approve any application which does not conform to the statute and this regulation.

**§ 197.4 Exclusion of non-public school teachers from the board.**

**Comment.** Many commenters agreed with the regulatory requirement that non-public school teachers be served by a teacher center, but objected to the required representation of non-public school teachers among those elementary and secondary classroom teachers who compose the majority of the teacher center policy board. The rationale of the objection was that the teachers in many non-public schools are not required to meet the standard for licensure and certification that public school teachers must meet. The commenters also alleged that section 532(b) of the statute does not specifically require that the majority of the board include representation of non-public school teachers. Other commenters who opposed the inclusion of non-public school teachers among the majority members of the teacher center policy board pointed out that teachers from segregated schools and academies (those set up to avoid racial integration in the schools) could, under the regulation, become members of the policy board and beneficiaries of services. Another commenter asked how non-public school teachers could expect to be represented if a "collective bargaining agent" or other teachers' organization selects the teacher representatives on the board. One commenter recommended that the regulation be changed to allow only non-public schools accredited by the State educational agency to participate. Other commenters strongly supported the regulation as originally proposed.

**Response.** Section 532(a)(2) of the statute states that a teacher center " \* \* \* serves teachers, from public and non-public schools \* \* \*," and section 532(b) states that the majority of the teacher center policy board shall be "representative of elementary and secondary classroom teachers to be served by such center, fairly reflecting the make-up of all school teachers" [emphasis added]. Reading these subsections together, the Commissioner interprets the statute to require representation of non-public schools on the board. Section 197.3(a) of the regulation recognizes that there may be no non-public schools in the area to be served, or that the non-public school teachers in a service area may choose not to participate in a teacher center. Section 197.2 of the regulation is changed to add a definition of non-public school in response to the comments concerning participation by non-accredited or sub-standard private schools. Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000d-2000d-4) prohibits Federal assistance to any school which discriminates on the basis of race, color, or national origin. Therefore, teachers from such a school cannot become members of a teacher center policy board and are not eligible to participate in any of the activities of the teacher center.

**§ 197.4 Building administrators as local educational agency representatives on the policy board.**

**Comment.** One commenter requested that the regulation require that "building administrators" be among the local educational agency representatives to the policy board.

**Response.** No change is made in the regulation. Section 532(b) of the statute requires

that the policy board include "individuals representative of, or designated by, the school board of the local educational agency." A "building administrator" could be selected to serve in this capacity, but the selection is a prerogative of the school board, and the Commissioner has no authority to infringe on that prerogative.

**§ 197.4 Selection of teacher members of the policy board.**

**Comment.** One of the most frequent recommendations was that the "teachers' bargaining agent," if one exists in relation to the applicant agency or agencies (or in relation to the collaborating local educational agency in the case of applications submitted by institutions of higher education), should be allowed to "nominate" or "select" the teacher members of the teacher center policy board, and that this method of selection be made mandatory by regulation. Many commenters urged that all references to "negotiation" be eliminated to avoid possible conflicts. One commenter wanted a definition of the term "negotiation." In most cases, the comments urged that, if there is no bargaining agent, the teacher members of the board should be appointed by the local teacher organization which has the largest number of members. The reasons for their recommendation, briefly stated, are: (1) The proposed option in the notice of proposed rulemaking of selection by "negotiation" would re-open contracts, which in some cases cannot be re-opened in time, and might lead to prolonged discussion and bargaining; (2) selection by means of an election overlooks the fact that teachers' organizations in most school districts have already held elections and chosen their representatives; and (3) the best way to assure true representation of teachers and control by them of the teacher center is by leaving the selection of the classroom teacher members of the board exclusively to the teachers' organization.

The great number and variety of comments showed the importance of the selection of teacher members of the policy board. One commenter wanted the regulation to clarify that only the teacher members of the board would be selected by negotiation. Others wanted to know whether the methods of selection in § 197.4(b)(2) were merely examples or whether their use was mandatory. One commenter requested that the option of selection by voting be eliminated, since a teacher center policy board selected by vote of the teachers might not reflect the school district's needs. This commenter wanted the selection of the board to be left to the discretion of the school board. Several commenters noted that in some cases the teachers' organization does not represent all of the teachers in the area. A commenter urged that the collective bargaining agent be given no voice in the selection of members of the board. A few commenters wanted the policy board to be elected by those teachers who choose to use the teacher center. One commenter recommended that the teachers' organization nominate candidates to the policy board and that the teachers to be served vote for the candidates of their choice. One commenter wanted the regulation to reflect a preference for election by voting rather than selection by "negotiation." One commenter recommended that the teachers' collective bargaining agent conduct an election of its members to select the teacher members of the board and that, where there is no collec-

tive bargaining agent, the State educational agency be authorized to hold an election for that purpose in the area to be served. Another commenter, arguing that the "American concept of one person-one vote" should prevail, proposed that all teachers to be served should have a vote in selecting the teacher representatives. Still another commenter urged that the options for selecting those representatives be left open, even if there is a recognized bargaining agent, in order "to ensure that the board is truly representative \* \* \*."

*Response.* The Commissioner agrees with the general principle that classroom teachers should have maximum feasible control of the teacher centers through the policy boards. The regulation is changed to list the only possible options for selecting teacher representatives on the policy board and to clarify that these provisions refer only to the teacher members composing the majority of the board. The options include a broad "catch-all option" for other methods of selection. However, the common element in all the options, including the "catch-all", is that teachers generally, either directly or through teachers' organizations, must nominate or select the teacher representatives on the policy board. Consistent with the concern implicit in the great majority of comments, if the applicant unilaterally appoints classroom teachers to the board, these teachers could not be counted as part of the majority of the board representative of classroom teachers. It is not sufficient that the teacher representatives be classroom teachers; full-time regular classroom teachers generally must nominate or select them.

Two of the options for selecting the teacher representatives composing the majority of the board are for a teachers' bargaining agent, or the teachers' organization with the greatest number of teacher members to select the teacher representatives. The Commissioner recognizes that in many school districts these options may be the least disruptive and least expensive ways to select teacher representatives of the teacher center policy board, and the regulation expressly authorizes these options. However, to mandate that the only way for the teachers composing the majority of the policy board to be representative is for them to be appointed by a teachers' bargaining agent or organization would be serious over-regulation, particularly given the failure of the statute to call for this option or even to mention teachers' organizations. Therefore, even if there is a teachers' bargaining agent or a teachers' organization within the area to be served by the center, the applicant has all of the options in § 197.4(b).

In the case of a teacher center which will serve teachers from more than one local educational agency, the applicant or applicants must pick one or a combination of the other options to make the majority of the board representative of classroom teachers. In the case of a statewide project, one acceptable option would be for one or more statewide teachers' organizations to select the teacher representatives.

#### § 197.4 Board picks electors, electors pick board.

*Comment.* A commenter pointed out a confusing "circular situation" created by the proposed regulation which required on the one hand that the policy board be representative of the categories of teachers to be served (§ 197.4(b)(1)), and on the other hand stated that the teacher center policy

board may determine which categories of persons may be served by the center (§ 197.3(d)). A related comment wanted clarification as to whether a teacher center which specializes in a particular subject area or kind of teacher must have a policy board which reflects that specialization. Another commenter recommended that an interim planning board be formed to determine "representativeness needed to meet the requirements of the policy board."

*Response.* Section 197.4(b) is changed to clarify this matter. The regulation now interprets the statute to require that the majority of the board represent all regular, full-time elementary and secondary school classroom teachers in the area to be served. The statute expressly states that the majority of teachers on the board must "fairly reflect the make-up of all schoolteachers, including special education and vocational education teachers." Therefore, even if, for example, a center decided to focus on the curriculum and training needs of social studies teachers, a board with a majority composed solely of social studies teachers would not satisfy the regulation. Representativeness of the teacher center policy board must be examined with reference to all teachers. The teacher center policy board can decide to give priority, or even create limits on the availability of its services, to certain types of teachers, but this would not affect the requirements concerning composition of the board.

#### § 197.4 Policy board's right to approve or disapprove the application.

*Comment.* One of the most frequent recommendations was that the regulation be changed to require that each application be approved by the teacher center policy board prior to its submission. The rationale of the recommendation is that this is the only way to assure that the policy board's contribution to the application will be given full consideration. Several commenters cited instances in their experience in which teachers were supposed to participate fully in a process or development, but in which their participation was only superficial or "token."

*Response.* The recommendation is accepted. The regulation is changed to require approval of the application by the policy board. This is what was intended in the proposed regulation, but the Commissioner agrees that the regulation should specifically require approval of the application by the board.

#### § 197.4 Timing of establishment of policy board.

*Comment.* One commenter felt that the requirement that policy boards be established before the development of a proposal would give an advantage to: (1) Centers already in existence, and (2) centers being proposed for urban areas. Another commenter representing a large organization felt that it would not be necessary to establish the policy board prior to proposal development if the appropriate teacher's organization were involved from the beginning. One commenter recommended that "interim" policy boards be formed to prepare the applications. On this issue, most commenters strongly supported a requirement for prior formation of the policy board as a means of assuring full participation by teachers and their representatives in preparation of the application.

*Response.* Although some centers already in existence might have boards which meet

some of the requirements of the program, almost none has the composition required by the statute. Thus, virtually all policy boards will be newly formed. The Senate Committee report related to the statute stated: "The purposes of these centers are to meet the professional needs of local teachers as defined by the teacher center policy boards" (emphasis supplied); S. Rep. No. 882, 94th Cong. 2nd Sess. 37 (1976). The legislative intent to have the policy board determine the needs of teachers to be met would be thwarted if proposals were submitted before the board was established.

#### § 197.4 Operation of the policy board.

*Comment.* One commenter requested that the regulation establish a method of voting by policy boards which would reflect "parity" among the groups represented on the board.

*Response.* No change is made in the regulation. In the absence of any specific statutory authority, it would be over-regulation to include the suggested requirement. The operating procedures of policy boards are best determined by the boards themselves.

#### § 197.4 Selection of policy board members other than the teacher majority.

*Comment.* Numerous commenters asked for the same kind of specific directions for selecting all categories of policy board members as are provided in § 197.4 for selecting the teacher majority. Several commenters asked what should be done in cases where there are no institutions of higher education in the area to be served. Another asked what should be done if there are no teachers of vocational education in the area to be served. Yet another commenter requested that the regulation stipulate that an applicant local educational agency choose the institution of higher education to be represented, and that the local educational agency and the institution of higher education together designate the individual to represent the institution of higher education. Another commenter wanted the regulation to allow the teacher members and school board members of the policy board to select, or at least approve, the representative(s) of institutions of higher education and several comments wanted non-teacher members of the board to be selected only with the approval of the board's teacher majority. Another commenter requested that some method of choosing the institution of higher education representative be outlined, since some areas have many institutions of higher education, and conflicts may ensue.

*Response.* Specific directions are given for the selection of the teacher representatives to the board because they will constitute the majority and because the Commissioner wants to do everything possible to assure that the intent of Congress, i.e., supporting centers that focus primarily on teachers' needs as perceived by teachers, is realized. Rather than attempt to provide by regulation for every different situation, the Commissioner prefers to rely on the good judgment of the applicants. Where there are no institutions of higher education with departments or schools of education in the area to be served, the requirement for representation of institutions of higher education does not apply. The same is true regarding the requirement for representation of vocational education teachers. There is no basis in the statute for a regulatory requirement that non-teacher members of the board be

subject to approval by the teacher majority. As clarified by a change in §197.4(a), the Commissioner interprets the statute to require that all institutions of higher education with schools or departments of education in the area to be served have the opportunity to participate in designating the one or more representatives of institutions of higher education. This would occur after the applicant determines how many representatives from institutions of higher education to have on the board.

**§197.5 Support of independent existing teacher centers.**

*Comment.* Several commenters, primarily representatives of established, on-going, independent teacher centers, expressed concern about the continued existence of those centers, since the teacher centers statute contains specific requirements which would not allow support of those centers in their present independent form. These commenters feared that the new teacher centers program might have a negative effect on many of the successful, on-going, independent centers.

*Response.* No change is made in the regulation. Under the statute, grants may be made only to local educational agencies and institutions of higher education, but applications for grants could be developed by a local educational agency or an institution of higher education for a project to be carried out at an existing independent center. The center would have to be supervised by a teacher center policy board formed according to §197.4 (a) and (b). These applications would be reviewed on the same basis as other applications.

**§197.5 Set-aside for planning grants.**

*Comment.* One commenter wanted a percentage of the total program funds set aside for planning grants.

*Response.* The Commissioner does not feel that predetermined set-asides, either for operating or planning purposes, would be wise at the beginning of a new program. Section 197.6(b) is changed to avoid any implication that any set-aside or priority will be given to planning or other grants.

**§197.5 Definition of the term "operate."**

*Comment.* Many commenters objected to the proposed definition of "operate" in §197.5(b) which they argued would, in effect, permit institutions of higher education to plan and establish new teachers centers and put them into operation under the teacher centers program. The objection was based on the statute, which permits local educational agencies to plan, establish, and operate centers, but limits institutions of higher education to operating teacher centers. Most of these commenters wanted the regulation to limit institutions of higher education to the operation of centers which had already been planned and established using other resources. One commenter asked whether an institution of higher education may apply for support to operate an existing "independent" center. Other commenters strongly supported the definition of "operate" in §197.5(b).

*Response.* Section 532(f) of the statute authorizes grants to institutions of higher education "to operate" teacher centers. (This contrasts with the language in Section 532(a)(1) which authorizes grants to local educational agencies "to assist such agencies in planning, establishing, and operating teacher centers.") Section 197.5(b) of the

proposed regulation gave effect to this difference in authorizing language by making institutions of higher education eligible for grants only if the teacher center would be in operation at the end of the grant period. In order to follow more closely the authorizing language, §197.5(b) is changed to make institutions of higher education eligible only for grants "to operate" teacher centers. However, there is no evidence of congressional intent to limit eligibility to only those institutions of higher education which are already operating an existing teacher center. Under §197.5(b), an institution of higher education is eligible for a grant "to operate" a new or proposed teacher center but, unlike a local educational agency, is not eligible for a grant to assist in planning or establishing the new teacher center. Therefore, an institution of higher education must pay the costs of planning and establishing a new teacher center out of funds from sources other than the teacher centers program.

*Comment.* A commenter wanted the amount allowed to a grantee institution of higher education for "operation" of a center to be limited to 10 percent of the grant, and wanted the balance of 90 percent to be at the disposal of the teacher center policy board in the associated school district(s).

*Response.* No change is made in the regulation. There is no justification for the suggested discriminatory treatment of institutions of higher education that become grantees. It should be noted, however, that in all cases the teacher center policy board "supervises" the center, which may include budgeting and the expenditure of the center's funds, if the board is not prohibited from performing those functions by State or local law.

**§197.5 Features of a planning grant.**

*Comment.* A commenter wanted to know whether a planning grant is limited to one year or less in duration, or whether it may be considered to be the first year of a project whose goals and activities are projected over a period of up to three years, under §197.7 of the regulation.

*Response.* An applicant for a planning grant may submit either a one-year application, or a multi-year application, under §197.7(a), calling for full-scale operation of the project during the subsequent year or years.

**§197.6 Allocation of funds in applications by consortia.**

*Comment.* A commenter requested that the regulation state how program funds will be divided between the 90 percent for local educational agencies and the 10 percent for institutions of higher education in the case of an application made by a combination of entities under §197.3(c).

*Response.* Section 197.6(c) of the regulation has been revised to provide that: If the application presents separate budgets from each applicant of the combined application, the division will be made on that basis. If separate budgets for applicants are not provided, the grant amount will be prorated according to the ratio of the institutions of higher education to all recipients of the grant.

**§197.6 Preference for small or large grants.**

*Comment.* Several commenters wanted the grants to be small. This, they believed, would help to assure the continuation of a center with locally-generated funds after

the period of Federal support has ended. They argued that large Federal grants would make it more difficult and less likely that a center would continue with local funding. Another commenter favoring small grants suggested that it would be better to spread the funds to more places so that many more teachers could be served. Other commenters called for "some guidance" regarding desirable size of grants. Some commenters were decidedly in favor of large grants.

*Response.* No change is made in the regulation. The Commissioner believes that in the first years of the program at least, there should be maximum flexibility with respect to grant size. An applicant is free to request relatively small sums.

**§197.6 Gradual decrease in amount of Federal funding.**

*Comment.* A commenter, interested in trying to increase the likelihood that a teacher center will continue in operation after the period of Federal funding, recommended that the amount of Federal funding be decreased during the second project year and further decreased during the third year (in the case of centers which are supported for 36 months). The commenter's rationale was that this requirement would prepare the grantee and the teacher center policy board for the fourth year, when no Federal funds would be available.

*Response.* No change is made in the regulation. It is very important to leave open as many options as possible to a grantee and the policy board. The Commissioner does not know how many years of Federal financial support, and at what level, a given teacher center would need to demonstrate effectiveness and ensure its continued viability. Applications which propose to follow the strategy of this commenter and request less funding each succeeding year would be welcome, but the regulation does not require that strategy.

**§197.6 Determination of good quality for approval of grants to institutions of higher education.**

*Comment.* One commenter asked how the Commissioner proposes to determine whether there are sufficient applications "of good quality" from institutions of higher education to warrant using the ten percent set-aside. The concern implicit in the question was that "good quality" was a highly subjective variable which could lead to abuse in the evaluation process to the disadvantage of institutions of higher education.

*Response.* Section 197.6(a) no longer includes the term "of good quality." Instead, §197.6(a) states that the maximum ten percent set-aside will be used "provided that there are sufficient applications from institutions of higher education which receive the minimum of 50 points to be eligible for funding under the evaluation criteria in §197.11."

**§197.7 Gradual increase in funding.**

*Comment.* A commenter proposed that the Commissioner follow the model of a proposed State plan for funding inservice education by which modest funds would be provided for the first year of a center's activities, with increased funding in subsequent years as the center demonstrates constituent support and effective services.

*Response.* No change is made in the regulation. A multi-year project may request a small grant for the first project year with

larger grants in subsequent years. However, this is only one possible approach. Furthermore, the difficulty of measuring "constituent support" and "effective services" would make it extremely difficult to evaluate projects using the commenter's criteria.

#### § 197.7 Assurance of three-year funding.

*Comment.* A commenter wanted the regulation to clarify the "stability of funding" of an approved center for the second and third project years. One commenter on this subject wanted clarification of the role of the State educational agency in determining whether a funded center would be continued beyond the first year of Federal support.

*Response.* The language in § 197.7 means that, where a project is initially funded on a multi-year basis, continuation grants for the second or third year of the project are made on a noncompetitive basis, contingent upon the presentation of evidence of satisfactory performance of the work as proposed and the availability of Federal funds. However, no application (including applications for continued funding) will be approved by the Commissioner unless the State educational agency has performed its reviewing functions and recommended the application, under § 197.10(a). This regulation applies equally to original applications and to applications for assistance to continue a project for a second or third year. Therefore, it is possible that a project funded initially with a multi-year project in mind may be vetoed by the State educational agency in a subsequent year.

#### § 197.7 Single-year and multi-year applications.

*Comment.* A commenter wanted to know whether an applicant that requests only one year of support is at a disadvantage with respect to initial funding or continued funding in comparison with applicants that request multi-year support.

*Response.* With respect to new applications for initial support, applications requesting support for one year and applications requesting multi-year support will be reviewed on the same basis. No preference will be given. However, it is possible that the length of a given project in relationship to the budget request of that project and its anticipated results may affect the application's rating under several of the evaluation criteria. A project funded on a one-year basis, which then seeks a follow-up grant, will have its application reviewed on a competitive basis with applications for new grants. On the other hand, an application to continue a project initially awarded on a multi-year basis for the second or third year will be evaluated with other continuation applications on a non-competitive basis.

#### § 197.7 "Best interest of the Government."

*Comment.* A commenter recommended that the expression "best interest of the Government", as it applies to the continuation of funding during a second and third year, either be clarified or eliminated.

*Response.* The recommendation is accepted. The term "best interest of the Government," is not used in the regulation.

#### 197.8 Prohibition of supplantation of regular expenditures.

*Comment.* A commenter requested that the regulation assure that Federal funds used to support a teacher center will not be

used to supplant State or local funds normally used by the grantee for support of inservice training for teachers and curriculum development. Another commenter recommended requiring an assurance "that the proposed teacher center program is one which is not currently being supported by other public sources and is such that its program elements are not, or cannot be performed under existing agency, institutional or administrative unit funding."

*Response.* A criterion addressing the commenters' concern is added in § 197.11(j).

#### § 197.8 Released time to prepare the application.

*Comment.* A commenter requested that the regulation allow payment of released time as needed for those teachers and other employed persons who participate in preparation of the teacher center project application.

*Response.* Section § 197.8 is changed to clarify that the expenses of application development are not allowable costs. To allow these expenses would use up funds which should be used to support teacher center programs, and would reimburse grantees for expenses which unsuccessful applicants must bear from other resources.

#### § 197.8 Determination of direct and indirect costs

*Comment.* One commenter asked who determines which are direct or indirect costs in accounting for grant funds.

*Response.* The initial determination would be made by the grantee in accordance with the grantee's official accounting procedures and the applicable cost principles prescribed in 45 CFR Part 100a and appendices A, B, C, and D to 45 CFR Part 100a.

#### § 197.8 Use of Federal funds for remodeling and maintenance.

*Comment.* A commenter believed that there might be places and conditions where the success of a teacher center would be affected by the availability of funds for minor remodeling of the quarters to be occupied by the center. The commenter wanted the expenditure of Federal funds for such remodeling to be an allowable cost. Another commenter proposed that "regular maintenance of facilities" be an allowable cost.

*Response.* No change is made in the regulation. The applicant is expected to furnish the space and facilities required for effective performance. Given the relatively small amount of program funds available, use of the funds for remodeling would not be in the best interest of either the teachers to be served or their pupils. The maintenance of facilities, i.e., janitorial service, is allowable as a direct or indirect cost in keeping with the grantee's accounting procedures, consistently applied.

#### § 197.8. Payment for graduate credit.

*Comment.* A commenter recommended that the regulation give the grantee (through its teacher center policy board) the option of paying the cost of securing graduate credit for inservice education provided by a teacher center. This was seen by the commenter as "an excellent motivator . . . a far less expensive incentive than teacher stipends."

*Response.* No change is made in the regulation. The cost of securing credit (whether college or university credit or credit equivalent for purposes of professional growth or salary increments) as part of the program of

inservice training of a teacher center is not specifically stated as an allowable cost in § 197.8, but it would be covered under § 197.8(a) (2) and (3), Services of consultants and experts and Service contracts.

#### § 197.8 Payment of released time and substitutes.

*Comment.* A recommendation made by many commenters was that the payment of the cost of released time or of substitutes, which would enable teachers to use the teacher center during their working hours, should be an unrestricted allowable program cost. Most of the commenters wanted the teacher center policy board to be free to decide whether and to what extent Federal funds should be spent for this purpose. The basic rationale was that the teacher center would be less effective if teachers and others could attend only before or after working hours during their free time. In addition, it was pointed out that staff development for other categories of workers is commonly provided during working hours, and that in some cases, notably when widely separated rural districts combine to use a single teacher center, attendance will be impracticable if it cannot take place during the regular school day. Many commenters stated that it would be unfair for teachers to be asked to use their limited free time for this purpose. Still another reason given was that, without a provision for payment of released time and substitute teachers, it would be unfeasible to organize inservice training or other activities for large groups of teachers or at a series of sessions. Some of the commenters urged that, at the very least, the regulation should permit payment of released time or substitutes for teacher members of the teacher center policy board when engaged in the affairs of the board. One commenter supported the use of Federal funds to pay for released time but recommended that a limit be set on the percentage of grant funds that can be used for this purpose. One commenter believed that the payment of released time by a teacher center in an area affected by court-ordered desegregation would have beneficial effects. One commenter noted that taxpayers often oppose the use of substitute teachers. This commenter recommended that if the payment of released time is made an allowable cost, the substitutes should be paid directly so as not to complicate the school district's accounting procedures. A few commenters strongly approved the regulation in its proposed form. Several commenters stated that it would be "a mistake" to pay for any released time.

*Response.* The proposed regulation was not intended to discourage or prohibit the release of teachers and use of substitutes to facilitate attendance at teacher center activities, but rather to limit the use of Federal funds for this purpose to those cases where an applicant "demonstrates a special need." The rationale for this limit was that, notwithstanding the desirability of released time, any large use of Federal program funds to pay for released time would reduce severely the number of teacher centers that could be supported. Nevertheless, the reasoning of the overwhelming majority of commenters is found compelling, particularly in regard to giving more authority to the teacher center policy board. The regulation is changed as follows:

(1) Section 197.8 of the regulation is changed to allow as grant costs payments for released time or for substitutes neces-

sary to allow teachers to participate in center activities. Provision is not made to allow as grant costs released time or substitute payments for persons other than full-time regular classroom teachers served by the teacher center.

(2) The language of § 197.8 is clarified to show that expenses for the operation of the teacher center policy board (including the payment of released time or substitutes to allow teacher members to participate in board activities) are allowable costs.

(3) To address the Commissioner's concern that a substantial proportion of program funds will be consumed for released time or substitute payments, thereby reducing the number of awards which can be made with limited Federal funds, § 197.11 is changed to provide that, in reviewing applications for the reasonableness of costs in relationship to anticipated results, the Commissioner considers the proportion of the budget represented by costs for released time or substitutes. Therefore, an application with substantial budgeted cost for released time or substitutes probably would not be well rated under § 197.11(g) (which counts for 5 points).

The determination of accounting procedures and how to pay substitute teachers is a prerogative of the grantee.

#### § 197.8 Purchase of instructional materials.

*Comment.* One commenter proposed that the purchase of instructional materials be an allowable cost.

*Response.* No change is necessary in the regulation, which already allows these purchases under § 197.8(a) "other direct and indirect costs incurred by the grantee in carrying out its approved plan of operation \* \* \*". These costs must, of course, further the activities of the teacher center and would include instructional materials for teacher center participants. With respect to instructional materials for students taught by teacher center participants, these costs would be allowed only on a limited basis to the extent that limited materials are incidental to the center's activities.

#### § 197.9 Submission of applications by institutions of higher education.

*Comment.* Most commenters representing institutions of higher education recommended that applications from those institutions be submitted directly to the Commissioner rather than through the State educational agencies. These commenters cited the statutory language in Section 532(f) " \* \* \* may be expended directly by the Commissioner to make grants to institutions of higher education \* \* \*". Other commenters particularly those representing State educational agencies, stressed the importance of requiring in the regulation that all applications from institutions of higher education be submitted to the appropriate State educational agency for review and approval before being submitted to the Commissioner. One commenter pointed out that if applications from institutions of higher education are reviewed by State educational agencies, these agencies could fail to find any such applications worthy of transmission to the Commissioner for consideration.

*Response.* No change is made in the regulation. While the statute is somewhat ambiguous on this point, the Commissioner interprets it to require that applications from institutions of higher education be submitted through the State educational agency. Section 532(f) of the Act provides that the

Commissioner may make grant awards directly to institutions of higher education, in contrast to Section 532(e), which authorizes institutions of higher education to participate only by contracting with a local educational agency which receives a grant from the Commissioner.

Section 532(f) does not expressly address whether an application from an institution of higher education must be submitted through a State educational agency. It provides that the authority to make grants to institutions of higher education is "subject to the other provisions of this Section," which would include provisions for applications to be submitted through the State educational agency.

In requiring submission of applications by institutions of higher education through the State educational agencies, the regulation reinforces the important role of the State educational agencies for providing technical assistance to, and disseminating information from, funded centers.

#### § 197.9 Sufficient time to prepare the application.

*Comment.* Several commenters, taking into account the statute's special requirements for formation of the teacher center policy board, requested that the maximum possible amount of time be allowed between the official announcement of the closing date for submission of applications and that closing date. They wanted, if possible, three months. One commenter requested a six month preparation period.

*Response.* No change is made in the regulation. This matter is not one which the Commissioner will resolve by regulation. Instead, the length of time for preparing the application will be determined each Closing Date published in the FEDERAL REGISTER. The Commissioner agrees with the recommendations and will allow the maximum time possible, within the constraints of each funding cycle.

#### § 197.9 Education of the handicapped.

*Comment.* One commenter requested that the regulation clarify the relationship between the teacher centers program and national efforts to improve the education of the handicapped.

*Response.* No change is made in the regulation. The education of the handicapped merits high priority, and teacher centers are a potentially useful means of serving that priority. However, the teacher center statute does not focus on particular substantive areas of education. Rather, the statute is designed to allow the teacher center policy board to determine the training and curriculum development needs of teachers at the local level. The decision to include activities related to the education of the handicapped is one for each teacher center policy board and applicant.

#### § 197.9 Provision of technical assistance.

*Comment.* A commenter recommended that a local educational agency be required to set forth in the application how it will use technical assistance and from which institution(s) of higher education it will secure the assistance.

*Response.* No change is made in the regulation. This information is not needed by the Commissioner to carry out a review of the eligibility and quality of proposed projects.

#### § 197.9 Input to the policy board from teachers.

*Comment.* A commenter, interested in as-

suring maximum involvement of teachers in the preparation of project applications under the teacher centers program, recommended a requirement that teachers in the applicant's district or proposed service area have the opportunity to review the application and to submit written suggestions for change to the policy board before the application is submitted to the state educational agency.

*Response.* No change is made in the regulation. The Commissioner is aware of the value of teacher input in the development of teacher center project applications and has assured this input by requiring that the project application be approved by the policy board.

#### § 197.9 Existing arrangements between institutions of higher education and local educational agencies.

*Comment.* One commenter requested that the regulation recognize that many institutions of higher education have already formed effective informal arrangements with local educational agencies.

*Response.* No change is made in the regulation. The requirement in § 197.9(c) that "an institution of higher education shall include in its application \* \* \* evidence that arrangements have been made with those local educational agencies with teachers to be served by the project for the participation of the teachers in center activities and in the activities of the teacher center policy board" is meant to ensure that any application from an institution of higher education has the necessary input from the local educational agency (or agencies) and its teachers before the application is reviewed. An existing arrangement, as suggested by the commenter, could facilitate the arrangements referred to in § 197.9(c) of the regulation, but the Commissioner does not feel that such an existing arrangement is sufficiently advantageous to merit special credit under the evaluation criteria.

#### § 197.9 Use of one Federal program to complement another.

*Comment.* A commenter asked about the possibility of local educational agencies using other Federal programs of financial assistance to education to complement the teacher centers program. As examples, he cited the Emergency School Aid Act and Title IV-C of the Elementary and Secondary Education Act, of 1965, as amended.

*Response.* As long as expenditures comply with the applicable statutes and regulations for each program and are in accordance with the application for these programs (and the expenditures can be properly accounted for), there is no reason why programs cannot complement each other.

#### § 197.10 Guarantee of approval

*Comment.* A commenter asked whether there is any assurance that if a State agency recommends approval of one or more applications, at least one will be approved by the Commissioner.

*Response.* There is no assurance that at least one application will be approved from each State. All applications transmitted to the Commissioner will compete on equal terms on a nation-wide basis for the available funds, against the published requirements and evaluation criteria. Unlike some other educational assistance statutes, this statute does not provide for grants to each State, nor does it provide for any geographical distribution of the grants.

#### §197.10 Provision of technical assistance.

*Comment.* A commenter wanted the regulation to provide that the State educational agency, if requested by a grantee in its jurisdiction to furnish technical assistance to a teacher center, may choose to do so through one or more of the State's public institutions of higher education. This is to say that instead of using its own staff to provide the assistance, the State educational agency would be free to call upon a publicly-supported college or university to provide it. Another commenter asked what kind of technical assistance will be provided to a teacher center by the State educational agency. The commenter also asked what the regional officials of the Office of Education will do to make the technical assistance more effective.

*Response.* No change is made in the regulation. While technical assistance must be provided by the State educational agency, there is nothing in the statute or regulation which would preclude a State educational agency from arranging for that technical assistance to come from an institution of higher education or any other qualified agency or individual. The specific nature of the technical assistance provided will depend upon the needs of particular teacher centers and upon the specific activities planned by State educational agencies to respond to those needs. Regional officials of the Office of Education have no particular mandated role in the teacher centers program, but could, of course, be asked by the teacher center policy board for assistance.

#### §197.10 Use of teachers to review applications.

*Comment.* Several commenters recommended that the regulation require the State educational agencies to include full-time regular classroom teachers on any boards or panels set up to review applications under the teacher centers program. Some commenters wanted teachers to comprise the majority of any such board or panel of reviewers. Other commenters wanted a requirement that classroom teachers comprise a majority of any panel used by the Commissioner either to select reviewers or to determine the review criteria to be used by the States. Another commenter wanted to know who would review applications at the State and Federal levels. Yet another commenter urged that both State and Federal review panels have the same composition as the policy board.

*Response.* The Commissioner has no authority to determine who will review the project applications for the State educational agencies, and whether those persons are members of the agencies' own staffs, outsiders, or a combination of these. At the Federal level, the Commissioner, in deciding who will review the applications, will be sensitive to the comments and expects to use teachers as well as others for this purpose.

#### §197.10 Dissemination by State educational agencies.

*Comment.* A commenter interpreted §197.10(b) to mean that the State educational agency would have the unreasonable burden of preparing, for submission with each application transmitted to the Commissioner, a separate plan for technical assistance and dissemination specifically related to each application. The commenter thought it should be sufficient for the State educational agency merely "to give assurance that application review, technical assistance and dissemination of information will, within available resources, be carried out and reported."

*Response.* No change is made in the regulation. Section 197.10(b) does not require, from the State educational agency, a separate plan for technical assistance and dissemination for each center. The requirement is met if the State educational agency, concurrently with or in advance of its submission of recommended applications to the Commissioner, submits (1) a single, general written assurance pertinent to all applications which it transmits to the Commissioner to the effect that the agency (a) will make provision for furnishing technical assistance to approved centers within the State, and (b) will disseminate information derived from those centers; and (2) a single, general statement on how the technical assistance and the dissemination will be performed, together with an estimate of their cost.

*Response.* No change is made in the regulation. Section 197.10(b) does not require, from the State educational agency, a separate plan for technical assistance and dissemination for each center. The requirement is met if the State educational agency, concurrently with or in advance of its submission of recommended applications to the Commissioner, submits (1) a single, general written assurance pertinent to all applications which it transmits to the Commissioner to the effect that the agency (a) will make provision for furnishing technical assistance to approved centers within the State, and (b) will disseminate information derived from those centers; and (2) a single, general statement on how the technical assistance and the dissemination will be performed, together with an estimate of their cost.

#### §197.10 Elimination of State educational agencies from the program.

*Comment.* Several commenters recommended that the State educational agencies' role in the teacher centers program be eliminated entirely.

*Response.* No change is made in the regulation. The statute explicitly assigns to State educational agencies the tasks of reviewing, commenting on, recommending, and transmitting applications, as well as providing technical assistance to and disseminating results from funded centers in the State.

#### §197.10 Substitute for the role of the State educational agency.

*Comment.* One commenter suggested that the responsibility of reviewing project applications by the State educational agency be given to a different State agency concerning with education, namely the State agency responsible for accreditation standards and the licensing of teachers. Another commenter on the same subject wanted the regulation to be changed to require coordination between the State educational agency and the State agency responsible for certification, since teacher centers may well become involved in programs to certify or recertify teachers.

*Response.* No change is made in the regulation. The statute provides for review and approval of local educational agency applications by the State educational agency. The term "State educational agency" as used in the statute is defined in Section 1201(h) of the Higher Education Act of 1965, to mean "the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such office or agency, an officer or agency designated by the Governor or by State law." While the State educational agency may well wish to consult or coordinate with the State agency responsible for the certification of teachers, the matter is clearly a prerogative of the State educational agency and not one to be regulated by the Commissioner.

#### §197.10 Combined local educational agency—State educational agency.

*Comment.* A commenter asked that attention be given in the regulation to special problems that might arise in those cases (District of Columbia, Puerto Rico, Hawaii) where the State educational agency is also the sole local educational agency.

*Response.* No change is made in the regulation. Section 197.3(a)(1) of the regulation provides that a center may serve an entire State. The appropriate educational agency in these jurisdictions would simply discharge the functions of both the State educational agency and the local educational agency under the regulation. Those State educational agencies which also function as the sole local educational agency in the area of their jurisdiction are not required to review and make comments on the applications they transmit to the Commissioner under §197.10(a).

#### §197.10 Cooperation of State and Federal agencies.

*Comment.* Commenters representing State educational agencies urged that the regulation reflect the need for cooperation at the Federal and State levels to coordinate teacher certification programs, graduate programs, and classroom programs. They wanted the teacher centers to fit closely with the individual State's needs and priorities. Some of the commenters recommended that the Office of Education "authorize State agencies to develop State plans for professional development which specify the criteria to be used in reviewing and recommending applications" under the teacher centers program.

*Response.* No change is made in the regulation. The Commissioner recognizes that some States have State-wide plans for inservice training of teachers, and that it would be desirable in those cases to integrate the State's teacher centers with those plans. The States already have authority to ensure this integration by means of their role in reviewing and recommending applications. However, the Commissioner lacks authority either to require or to pay for the development of State plans for professional development which include criteria for the review of applications. If State educational agencies do develop their own criteria for reviewing applications under this program, they are urged to make them public as soon as possible.

#### §197.10 Pre-application involvement of State educational agency.

*Comment.* One commenter wanted the regulation to require that the State educational agency work with local educational agencies that wish to apply for assistance, prior to the development of applications by those local educational agencies, in order to avoid rejecting or requesting modifications in their applications as a result of the State agency's review.

*Response.* No change is made in the regulation. In the absence of a statutory provision on this matter, it would be inappropriate to require such an involvement by State educational agencies. However, this involvement would be permissible under the statute and regulation.

#### §197.10 Role of State educational agency in evaluation of applications.

*Comment.* A commenter suggested that it might be more appropriate and efficient, and would avoid duplication, if the criteria in §197.11 were divided for use between the State educational agency and the Office of Education. Thus, certain criteria would be used by the State agency for its review and comments, and the remaining criteria would be used by the Commissioner for review and evaluation of the applications. The commenter thought that criteria in §197.11 (b),

(c)(1), (e), (f), and (i)(2) should be assigned for use by the State educational agency. Another commenter noted that since each State educational agency is free to develop its own criteria for the review and evaluation of applications, there is a possibility of "encroachment," "omission," and wide disparity in the quality of the States' criteria. This commenter recommended that the Commissioner stipulate in advance the criteria to be used by the State educational agencies or that each State submit the criteria it proposes to use to the Commissioner for prior approval. Another commenter recommended that State educational agencies review applications for conformity to technical criteria only (rather than concerning themselves with the substantive merit of applications) and transmit to the Commissioner all applications that are in conformity with those criteria and State law. Many commenters wanted clarification of the role of State educational agencies "as field readers for the purposes of reviewing applications."

*Response.* No change is made in the regulation. In a discretionary grant program such as this one, the Commissioner must review applications on a competitive basis. As a matter of fairness, this is done on the basis of published evaluation criteria. The Commissioner ultimately must decide in terms of these criteria which applications to fund and cannot delegate this responsibility to an outside agency. Under the statute, however, the Commissioner can only review and approve applications recommended for funding by the appropriate State educational agency. No matter what criteria the State educational agency uses, the Commissioner cannot fund an application unless it has been recommended by the State educational agency. While it is hoped that the State educational agencies, in reviewing applications, will carefully consider the criteria published in §197.11, the Commissioner is without authority to prescribe criteria to be used by the State educational agency.

#### §197.11 Importance of cooperative arrangements.

Many commenters recommended that points be given in the evaluation of applications for evidence of arrangements for collaboration between local educational agencies and one or more institutions of higher education in the area to be served by a teacher center. The rationale was that teacher training is the business of the local educational agencies and the colleges and universities working together, and that the strongest applications will be those which display this cooperation. One of the commenters believed that the reference in section 532(a)(2) of the statute that teachers carry out activities of the teacher centers "with assistance of such consultants and experts as may be necessary," must be read in conjunction with section 532(e), which permits local educational agency grantees to contract for assistance from institutions of higher education. This commenter wanted the allowable costs rule to stipulate that "the consultants authorized under Section 532(a)(2) of the Act and the \* \* \* provisions of technical assistance authorized under subsection 532(e) are the same and must be included together \* \* \*"

*Response.* Section 197.8 is changed to provide expressly that service contracts with institutions of higher education are allowable project costs. The other recommendations are not accepted. Section 532(e) of the stat-

ute authorizes local educational agencies with approved centers to contract for assistance from institutions of higher education but does not require them to do so. The strength of cooperative arrangements with institutions of higher education may bear upon the criteria in §197.11 (e) and (f) concerning the adequacy of project personnel, facilities, and resources. However, an applicant can score highly under these criteria through other approaches as well. Center activities can be run by teachers or by other experts or consultants.

#### §197.11 Required system of communication.

*Comment.* A commenter wanted the evaluation criteria to consider evidence of "definite lines of communication" between the policy board and its constituents, the school administrators, and the supervisory personnel in the area to be served.

*Response.* No change is made in the regulation. In order for an applicant to carry out a teacher center program in accordance with this regulation, there would necessarily be lines of communication between the policy board and the other groups noted. Also, it would be difficult in reviewing applications to measure distinctions between applications in terms of this factor. Therefore, it is not appropriate to add a distinct requirement or criterion on this point.

#### §197.11 Financial support from grantee.

*Comment.* Several commenters, including representatives of a State educational agency, urged that there be a criterion evaluating the extent of the applicant's "commitment to participate in and support a teacher center," either through "in-kind" or financial contributions. Some wanted the criterion to focus on support from the applicant for the payment of released time to permit teachers to participate more easily in the teacher center's activities.

*Response.* A specific criterion on financial contributions by the applicant is not added, on the grounds that it would tend to favor wealthy school districts and place poor ones at a disadvantage. However, the cost of a project in relationship to its anticipated results (§197.11(g)) remains as a criterion for evaluating applications.

#### §197.11 Development of "model" centers.

*Comment.* A commenter recommended that points be given to the "potential of the proposed program as a model for implementation elsewhere." Other comments opposed this emphasis.

*Response.* No change is made in the regulation. There is not an adequate basis for judging the potential replicability of a center before it has been put into operation. The uniqueness of each center to its own local situation makes it inadvisable to give emphasis to the potential for replicability.

#### §197.11 Evaluation of teacher centers' effectiveness.

*Comment.* Several commenters were concerned about evaluation of the effectiveness of teacher centers and recommended that they be judged not on the basis of the achievement test scores of students but on the amount of "teacher input," the extent to which individual teachers' needs are being met, the relationship of the center's program to classroom problems, the extent of "student involvement in learning activities," the degree to which teachers put into practice what they learn in the center, the

extent of individual "professional development," and the amount of curriculum developed by participating teachers. In the commenters' judgment, evaluation should take into account "the teachers' self-assessment" and the teachers' assessment of the center's program. These commenters wanted any evaluation of teacher centers to be based on teachers' needs and the center's effect on teachers, rather than on the needs of students and the effect of the centers on students. One commenter recommended that centers be "continually evaluated by teachers to determine whether or not they are speaking to teachers' needs." A commenter felt that (1) detailed criteria should be included in the regulation governing the plan for project evaluation, and that (2) such a plan should specify how it would treat certain factors, including "teacher satisfaction," "administrator satisfaction," "pupil satisfaction" and progress, the need assessment, and the statistical techniques for interpreting data. Still another commenter felt that teacher centers should be evaluated only on the basis of their objectives as proposed in the application.

One commenter wanted the regulation to clarify whether §197.11(b) means that, after a year of operation, the approved center's potential for increasing the effectiveness of teachers will be evaluated, or whether the centers "would have to prove whether the teacher center has (in fact) increased the effectiveness of teachers." In the commenter's view, "we don't know how to evaluate teachers' effectiveness or whether a teacher center has had impact on that \* \* \* we could waste a lot of money pretending to do that without knowing how." Another commenter on the same topic wanted to know how the individual teacher centers and the overall teacher center program will be evaluated.

*Response.* The comments appear to address evaluations on several levels: (1) Evaluation of new applications by the Commissioner; (2) Provisions for the applicant itself to evaluate how well its objectives are being accomplished; (3) Evaluation by the Commissioner of noncompeting continuation applications; and (4) Evaluation by the Commissioner of the overall teacher centers program.

(1) With respect to the evaluation of new applications, the criterion in §197.11(b) concerning the potential of the center to increase the effectiveness of teachers served in terms of the learning needs of their students does not require any proof that the center will increase the effectiveness of teachers; rather, it concerns the potential of the center to help teachers in meeting the learning needs of their students. Evidence pertaining to this criterion could concern the relationship of the proposed teacher center activities to student needs. This criterion derives directly from statutory provisions which describe the purposes of teacher center activities as enabling teachers to meet better the educational needs of the persons they serve (Sec. 532(a)(2) (A) and (B)).

(2) The criteria for evaluating applications also include a criterion on the extent to which the application provides for determining the extent to which the project objectives are accomplished. Except as noted above with respect to the criterion concerning the effectiveness of teachers related to educational needs of the persons they serve, it is not appropriate to add regulatory requirements on the objectives of each project

and how the applicant must measure them. Needs and conditions will vary from place to place, and the regulation leaves flexibility to applicants on these matters.

(3) Section 197.7(d)(2) is related to review of a previously funded project and is concerned with the effectiveness of the project to date (i.e., at the time its on-going activities are being evaluated) to determine whether it should be continued for a second or third year.

(4) The Commissioner is aware of the need for careful evaluation of the overall teacher centers program and of the difficulties in performing evaluations that are objective, withstand rigorous statistical analysis, and produce data that can be aggregated and thus provide a picture of the teacher centers program nation-wide. While the Commissioner accepts in principle many of the comments on evaluation and will consider them in formulating any Office of Education or independent evaluations of the overall program, further regulation on this is not needed. The introductory paragraph of § 197.11 is changed so that it no longer provides that the criteria for evaluating applications will also govern evaluations of the operation of funded teacher centers.

§ 197.11 *Impact on institutions or agencies.*

*Comment.* A commenter recommended that the effectiveness of a teacher center be measured primarily in terms of its effect on the grantee institution or agency and other institutions which it attempts to influence.

*Response.* The Commissioner agrees that the effect of the teacher centers program on the institutions and agencies with which it interacts is important. An applicant may choose to emphasize this as one of its objectives. However, it would be inappropriate for the regulation to impose this as a specific objective for each project. The Commissioner will consider this comment in designing any evaluations of the overall impact of the program.

§ 197.11 *Duplicative requirements for dissemination.*

*Comment.* Because the State educational agencies are given primary responsibility for dissemination, a commenter recommended that the evaluation criterion in § 197.11(c)(2) be changed to eliminate any mention of dissemination or reporting and focus entirely on evaluating the effectiveness of the project.

*Response.* The recommendation is not accepted. Aside from the major role of the State educational agency in dissemination, the potential impact of the project is enhanced if the grantee undertakes effective dissemination of project's results within, and outside, the grantee agency.

§ 197.11 *Over-emphasis on formation of policy boards.*

*Comment.* Many commenters felt that the assignment of points to criteria which deal with the authority and representativeness of the teacher center policy board was excessive, and that these points should be redistributed. A wide variety of recommendations concerning the redistribution of points were also received. (See § 197.11 *Weighting of the evaluation criterion*, below.)

*Response.* The recommendation is accepted. Section 197.4 has been changed to require approval of the application by the teacher center policy board. Therefore, it is not necessary to have a criterion measuring the quality of participation by the board in

preparing the application. The criterion in § 197.11(i)(1) has been deleted, reducing the points for § 197.11(i) from 20 to 10.

§ 197.11 *Sufficiency or appropriateness of size.*

*Comment.* A commenter noted in § 197.11(d) the possible implication, based on the word "sufficiency," that centers should be large. The commenter thought that there are advantages to having large centers and other advantages to having small centers, and recommended that the word "sufficiency" be changed to "appropriateness."

*Response.* The recommendation is accepted and the regulation is changed to read "Appropriateness of size, scope, and duration of the project so as to secure productive results."

§ 197.11 *Impact upon the grantee's inservice program.*

*Comment.* A commenter objected to the evaluation criterion, in § 197.11(h), which gives points for "the potential of the teacher center to impact upon and improve the grantee's overall program of inservice training." The rationale of the objection was that the criterion might be seen as "an effort to impose a new structure on an already existing structure." The commenter wanted the teacher center to be independent, not in competition with existing programs. On the other hand, another commenter wanted a criterion included which favors applications which have arranged for close integration of the proposed teacher center with the inservice training programs of the applicant agency. The commenter stressed the importance of allowing flexibility so that the policy board can take into consideration both the needs of individual teachers and the needs of the school district.

*Response.* No change is made in the regulation. The potential of the teacher center to improve the grantee's overall program of inservice training is an appropriate criterion to weigh in judging competing applications. To the extent that a teacher center has this kind of effect, the positive impact of limited Federal dollars is increased, and the project better carries out the statutory purposes. However, the criterion is not an effort to impose a new structure on all existing training. An applicant could demonstrate potential impact under this criterion, not merely with reference to the structure of the center, but with reference to particular training and curriculum development activities. However, the regulation does not weigh integration of the proposed center with other inservice training programs of the applicant. Flexibility should be left to the applicant and teacher center policy board whether, in particular situations, it makes more sense to operate the center independent of other training or in close integration with it.

§ 197.11 *Authority and responsibility of the policy board.*

*Commenter.* A commenter asked about the meaning and intent of the evaluation criterion in § 197.11(a) which deals with "the extent of the teacher center policy board's authority and responsibility for supervision of the project."

*Response.* The purpose of the criterion is to make it clear that the policy board should have maximum authority and responsibility for supervision of the project,

and that applications will be evaluated on the basis of the extent to which steps have been taken to assure that this will be the case.

§ 197.11 *Weighting of the evaluation criteria.*

*Comment.* Several commenters suggested changes in the number of points assigned to the criteria for evaluation of applications. In general, the commenters recommended that more points go to the qualifications of the proposed teacher center staff, to measures for increasing the effectiveness of the teachers to be served, to the effective use of a "needs assessment" in planning the work of the center, and to the objectives of the proposed center. Another commenter felt that the proposed criteria emphasized measurable outcomes and was concerned that such an approach would encourage narrow prescriptive center training rather than the kind of developmental programs needed to meet the diverse needs of individual teachers. One commenter wanted a criterion giving points for plans and activities which would increase the likelihood that the center would continue in operation after its period of Federal funding is over.

*Response.* Section 197.11 is changed in accordance with the applicable comments to: (1) Increase the points assigned to the potential of the center to increase the effectiveness of the teachers served in terms of the learning needs of their students; (2) Increase the points assigned to the extent to which the project objectives are sharply defined, clearly stated, and capable of being attained by the proposed procedures; (3) Add a criterion on the extent to which Federal funds will support new or expanded activities rather than supporting activities which are already being paid for from other resources. The proposed greater emphasis on the qualifications of the teacher center's staff is not accepted. As is appropriate, many centers may rely heavily upon teachers to staff the centers, and it may be difficult for application reviewers to draw clear distinctions among applications based on this criterion. To weight this heavily might suggest a bias in favor of centers run by outside experts, which is not intended. With respect to the comment that the criteria encourage narrow prescriptive training rather than developmental programs to meet diverse teacher needs, the regulation permits developmental programs which can respond to diverse needs. However, the Commissioner could not responsibly judge the best projects and award grant funds without knowing the objectives of the project and, in accordance with the statute, how the center is expected to increase the effectiveness of teachers in terms of the learning needs of their students. Within these general plans in the application, teacher centers have flexibility to evolve more specific activities and procedures.

§ 197.11 *Recognition of judgments made by State educational agencies.*

*Comment.* A commenter asked that the Commissioner give consideration in evaluating applications to any rating or ranking assigned by the State educational agency to each application which it sends to the Commissioner for review and evaluation.

*Response.* No change is made in the regulation. The comments made by the State educational agencies on application transmitted to the Commissioner will be read by the Commissioner's reviewing panels and

will be taken into account insofar as they bear upon the evaluation criteria in § 197.11. There is no reason to believe that each State will choose to rank or rate each of the applications it transmits to the Commissioner. Some State agencies might well choose to assign the same rating to all applications transmitted. In view of these uncertainties and the resulting difficulty in dealing fairly with each application received by the Commissioner, separate points are not assigned to the State educational agency's rating or comments.

§ 197.11 *Accommodation to existing teacher centers and inservice training plans.*

*Comment.* Comments were received from State educational agencies and local educational agencies pointing out potential conflicts between their on-going or planned inservice training programs for teachers, including on-going or planned teacher center-like organizations, and the programs to be carried out by the federally-supported teacher centers. The tenor of the comments was that these conflicts would not be in the best interest of any of the parties, and that ways should be sought to avoid them.

*Response.* No change is made in the regulation. If an applicant seeks Federal funds under this program to build upon existing training activities, the funded center would have to meet the statutory and regulation requirements. However, these requirements do not apply to other training activities of the applicant. The Commissioner agrees that ways should be sought to avoid any conflicts, but this needs to be done at the local level, not by Federal regulation.

§ 197.11 *Commitment to staff development.*

*Comment.* A commenter felt that it would be desirable to add a criterion for assuring strong commitment to "staff development" on the part of the individuals who are members of the teacher center policy board.

*Response.* No change is made in the regulation. It is not clear how such a criterion would be measured, and the criterion would involve an overly detailed review by the Commissioner. Moreover, such a criterion would imply a lack of confidence in the teachers and their organizations to select persons of competence as member of the board.

§ 197.12 *The appeals process.*

*Comment.* Several commenters took exception to the provision for appealing an adverse decision made by the State educational agency. One commenter thought that the provision for "recirculating" an appeal back to the State educational agency "seems like a fantastic bureaucratic run-around." This commenter wanted the final decision on appeal to rest with the Commissioner. One commenter felt the need for appeals from possible "arbitrary decisions" by a local school board or administrator, presumably referring to the decision by a local educational agency whether or not to submit an application. Another commenter asked for greater clarity concerning the procedures for appealing an adverse decision made by the State educational agency.

For example, may an individual petition the Commissioner, or does the teacher center policy board make the petition? What constitutes a petition? Does it include a copy of the rejected application? Must the Commissioner see or examine the rejected application? Are there time limits for petitioning for an appeal? Is the Commissioner

responsible for assuring that further consideration is given by the State agency to the rejected application? Is there a time limit for the reply by the State agency giving its final decision? Other commenters wanted the teacher center policy board or the teacher organization in the school district to be permitted to appeal directly to the State educational agency for reconsideration of the application if it is not recommended for funding by that agency. Another commenter wanted the same right of appeal to be extended to the local educational agency.

*Response.* No change is made in the regulation. The statute provides only that any applicant that is dissatisfied with the recommendation of the State educational agency regarding its application under the teacher centers program may petition the Commissioner to request further consideration of the application by the State educational agency. It does not provide for appeals by other organizations. Subject only to necessary time constraints which will be published for each fiscal year, the Commissioner would have no objection if a State educational agency provided opportunity for reconsideration of its action on applications at the request of applicants or other organizations or individuals. This would be up to the particular State educational agency.

It is anticipated that the petition and appeals process will be kept as informal as possible and that further guidance will be provided to applicants, particularly on time limitations, in the notice of closing date published in the FEDERAL REGISTER inviting applications for each fiscal year.

The petition itself may be simply a letter, signed by an authorized person, identifying the rejected application by title or other means and asking the Commissioner to request the State educational agency to reconsider the designated application. The Commissioner need not see the application itself. If the State agency reverses its rejection of the application, the application must be transmitted to the Commissioner for evaluation.

§ 197.13 *Professional practice boards.*

*Comment.* Several commenters urged that professional practice boards, where they exist, should be eligible to receive a part of the funds designated for State educational agencies.

*Response.* No change is made in the regulation. The statute clearly assigns State participation in this program to the State educational agency, which may assign the actual task to any appropriate unit, division, or other entity of the agency, including a professional practice board.

§ 197.13 *Adequate compensation to State educational agencies.*

*Comment.* Many commenters addressed themselves to the matter of the State educational agencies' participation in the teacher centers program and "adequate" compensation for services performed by those agencies. Commenters representing those agencies were of the opinion that the compensation offered is not or may not be adequate, because the three kinds of services to be provided would be in addition to present work-loads of State employees, and there is no guarantee of sufficient funds to employ additional persons. In the view of these commenters, any diminishment of the State's role or compensation would jeopardize the necessary collaboration and rela-

tionship of the State agency to the applicants with which it must, by law, interact. A commenter stated that the funds proposed for compensation of State educational agencies for their services in the teacher centers program would be inadequate. The commenter based that judgment on an estimate of the amount of staff time needed to perform those services: 15 days for the meetings, phone calls, correspondence, etc., needed to deal fairly with all the school districts in the State; 10 days for the development of review criteria and preparation for the review; 250 days for review of applications and preparation of comments on each one; and about 40 days for reconsideration of applications as the result of appeals. In addition to all of the above, the State educational agency must provide for dissemination and technical assistance to funded projects. The commenter recommended that, in view of the above, each State be required to submit to the Commissioner a plan for carrying out its responsibilities under the Act and, if the plan is approved, that a corresponding grant of funds be made to the State agency to assure the adequate compensation mandated in the statute. One commenter from a State agency felt that 5 percent would suffice for technical assistance and dissemination, but that the sum allocated for the review of applications should be increased. Many other commenters, representing other constituencies, believed that one-seventh of the total appropriation is an excessive amount for those purposes. In their view, the congressional intent in the teacher centers program is to give teachers the means and authority to deal effectively with their need for inservice training and curriculum development, and that any diversion of funds for other purposes could only lessen the effectiveness of their efforts. These commenters wanted the proposed one-seventh set-aside reduced to 10 percent, 5 percent, and even less. Another argument in support of decreasing the one-seventh set-aside was that if funds are available to State educational agencies to provide technical assistance concerning the training of teachers, the result would be to duplicate unnecessarily and in a costly way the functions of the State's teacher training institutions, which are publicly supported for that purpose. Other variations proposed by the commenters were that the State agencies be compensated only for reviewing proposals, and that a specific allotment of funds be set aside to compensate the State for each of its three functions. Another issue to be resolved emerged with the revelation that the proposed method of compensation, i.e., reimbursement, is not feasible in several States where State law provides that any reimbursement would go to the State treasury rather than to the State agency which provided the services.

*Response.* The statute mandates that the State educational agency: (1) Review and recommend applications, (2) provide technical assistance to funded centers, and (3) disseminate information derived from funded centers. Under the statute, the State educational agency must be adequately compensated for these services. Given the scope of these activities, the potential number of applications for the program, and the potential importance of the State educational agencies' role in the program, the set-aside for the State educational agencies is not reduced to the extent recommended by many commenters. However, the set aside is reduced from one-seventh to one-tenth of the

funds appropriated for the teacher centers program. This amount will be adequate to compensate the State educational agencies for their functions, and the remainder of the funds should go for the direct support of teacher centers. Section 197.13 is also changed (1) to delete any reference to "reimbursement" on the methods of paying State educational agencies for these services, thereby permitting other payment methods including advance payments and (2) to clarify the scope of technical assistance activities, indicating that the State educational agencies can take some initiative in organizing workshops and conferences to provide information needed by funded centers in their States.

§ 197.13 *Reallocation of unused funds.*

*Comment.* A commenter suggested that, of the funds withheld by the Commissioner for technical assistance by State educational agencies, any portion not requested for this purpose by the teacher center policy board would revert to the national treasury. The commenter recommended that grantees be required to inform the Office of Education if they do not intend to use all funds made available to them for this purpose so that the funds can be reallocated to other grantees that would use them.

*Response.* Section 197.10(b) is changed so as not to provide that technical assistance must be specifically requested by each teacher center through the policy board. The State educational agency can only be compensated for technical assistance services to funded centers, and it is possible that these activities would be very limited if centers within a State neither need nor want them. However, the deleted provision in § 197.10(b) suggests a very passive State educational agency role in which the State agency could only act by responding to a request from a particular funded center in its State. There is nothing improper about this role, but it is also possible that particular State educational agencies may plan and carry out workshops and conferences to provide technical assistance information to a number of funded centers in their State. These activities would have to be designed solely to provide technical assistance to funded centers, and it would still be true that, if the funded centers neither needed nor elected to participate in them, they would not be eligible for compensation under the program. Nevertheless, this change and the reduction in the set-aside reduces the risk that technical assistance funds will go unused. This is a problem that will be closely watched by the Commissioner, but no further regulation is warranted at this time.

[FR Doc. 78-658 Filed 1-10-78; 8:45 am]

[4110-02]

Office of Education

**TEACHER CENTERS PROGRAM**

Closing Date for Receipt of Applications for  
Fiscal Year 1978

Notice is hereby given that, under the authority contained in section 532, title V-B, of the Higher Education Act of 1965, as amended (20 U.S.C. 1119a), applications for financial assistance under the teacher centers program are being accepted from local educational

agencies and institutions of higher education. This program authorizes grants to local educational agencies to plan, establish, and operate teacher centers and to institutions of higher education to operate teacher centers. All applications must be submitted to the State educational agency of the State in which the applicant is located, for review by that agency. The State educational agency must then transmit to the U.S. Office of Education those applications which it recommends for consideration and approval by the Commissioner of Education.

Closing dates: March 30, 1978—Submission of applications to State educational agencies, May 1, 1978—Transmittal of recommended applications to the Office of Education.

(a) *Application forms and information.* Application forms may be obtained from the U.S. Office of Education at the address given in paragraph (f) below, after January 30, 1978. Applications must be prepared and submitted according to the teacher centers program regulation published in this issue of the FEDERAL REGISTER, and the instructions and forms included in the information package. The program information package may be obtained from the Division of Educational Systems Development at the address given in paragraph (f) below.

All applications requirements and the Commissioner's evaluation criteria are found in the regulation. All but a small portion of the application may be completed using the regulation alone.

(b) *Submission to State educational agencies.* State educational agencies may set their own criteria for the review of applications. Applicants may therefore wish to take into consideration those criteria, in addition to responding to the application requirements and evaluation criteria contained in the teacher centers program regulation. The State criteria (if any) can be obtained by writing to the appropriate State educational agency. See list of addresses of chief State school officers in paragraph (g) below.

Applications should be addressed or delivered in five copies (3 for the U.S. Office of Education) to the chief State school officer of the appropriate State educational agency at the address in paragraph (g) below. Applications must be received by the State educational agency on or before March 30, 1978. The package in which the application is mailed should be clearly marked:

Attention: CFDA-13.416—Teacher Centers Program Application. State review required.

In an effort to prevent the late arrival of applications due to unforeseen circumstances, the Office of Education suggests that applicants consider the

use of registered or certified mail as explained below. An application sent by registered or certified mail will be considered to be received on time by the State educational agency if the envelope or wrapper or original receipt bears the U.S. Postal Service postmark date of March 27, 1978, or earlier.

Hand-delivered applications will not be accepted after the State educational agency's official closing hour on March 30, 1978.

(c) *Transmittal to U.S. Office of Education.* Applications which a State educational agency recommends for consideration and approval by the Commissioner of Education, together with the assurances required in 45 CFR 197.10, may be sent by mail or delivered by hand. Three copies of each recommended application are required. Those sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.416, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date of May 1, 1978.

In an effort to prevent the late arrival of applications due to unforeseen circumstances, the Office of Education suggests that State educational agencies consider the use of registered or certified mail, as explained below. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application is sent by registered or certified mail not later than April 26, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

Hand-delivered applications must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C., between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted by the Application Control Center after 4 p.m. on the closing date.

(d) *Appeals to the Commissioner.* Applicants whose applications are not transmitted to the U.S. Office of Education by the appropriate State educational agency may appeal to the U.S. Commissioner of Education to request further consideration by the State

educational agency. Such an appeal, signed by an authorized official for the applicant, must be received at the address given in paragraph (f) below by 4 p.m., May 8, 1978. Applications which the State educational agency wishes to transmit to the U.S. Office of Education as the result of reconsideration following an appeal must be received by the U.S. Office of Education Application Control Center no later than 4 p.m. on May 15, 1978. These applications will be considered to be received on time by the Application Control Center if sent by registered or certified mail not later than May 10, 1978, as evidenced by the U.S. Postal Service postmark.

(e) *Program information.* In making applications, potential applicants should be aware of the limited amount of funds available for the program for fiscal year 1978. Of the \$8,250,000 anticipated for the program in fiscal year 1978, \$825,000 is reserved to compensate State educational agencies for their services, \$825,000 is reserved for grants to institutions of higher education, and the remaining \$6,600,000 is available for grants to local educational agencies. It is estimated that planning grants (local educational agencies only) will range from \$10,000 to \$25,000 and operational grants from \$50,000 to \$250,000. The average grant is expected to be about \$150,000. The statute makes no provision to assure equitable geographic distribution of the grants, and consequently there is no assurance that there will be a teacher center in each State.

(f) *Contact for further information:* Dr. Allen Schmieder, Teacher Centers Program, Division of Educational Systems Development, U.S. Office of Education, 400 Maryland Avenue SW., Room 5652, ROB No.3, Washington, D.C. 20202, telephone 202-245-2235.

(g) *Addresses of chief State school officers:*

- Hon. Wayne Teague, Superintendent of Education, State Department of Education, Montgomery, Ala. 36130.
- Hon. Marshall L. Lind, Commissioner of Education, State Department of Education, Juneau, Alaska 99801.
- Hon. Carolyn Warner, Superintendent of Public Instruction, State Department of Education, Phoenix, Ariz. 85007.
- Hon. A. W. Ford, Director of Education, Department of Education, Little Rock, Ark. 72201.
- Hon. Wilson Riles, Superintendent of Public Instruction and Director of Education, State Department of Education, Sacramento, Calif. 95814.
- Hon. Calvin M. Frazier, Commissioner of Education, State Department of Education, Denver, Colo. 80203.
- Hon. Mark R. Shedd, Commissioner of Education, State Department of Education, P.O. Box 2219, Hartford, Conn. 06115.
- Hon. Kenneth C. Madden, Superintendent of Public Instruction, State Department of Public Instruction, Dover, Del. 19901.

- Hon. Vincent E. Reed, Superintendent of Schools, Public Schools of the District of Columbia, 415 12th Street NW., Washington, D.C. 20004.
- Hon. Ralph D. Turlington, Commissioner of Education, State Department of Education, Tallahassee, Fla. 32304.
- Hon. Charles McDaniel, Superintendent of Schools, State Department of Education, Atlanta, Ga. 30334.
- Hon. Charles G. Clark, Superintendent of Education, State Department of Education, P.O. Box 2360, Honolulu, Hawaii 96804.
- Hon. Roy Truby, Superintendent of Public Instruction, State Department of Education, Boise, Idaho 83720.
- Hon. Joseph M. Cronin, Superintendent of Education, Illinois Office of Education, Springfield, Ill. 62777.
- Hon. Harold H. Negley, Superintendent of Public Instruction, State Department of Public Instruction, Indianapolis, Ind. 46204.
- Hon. Robert D. Benton, Superintendent of Public Instruction, State Department of Public Instruction, Des Moines, Iowa 50319.
- Hon. Merle R. Bolton, Commissioner of Education, State Department of Education, Topeka, Kans. 66612.
- Hon. James B. Graham, Superintendent of Public Instruction, State Department of Education, Frankfort, Ky. 40601.
- Hon. J. Kelly Nix, Superintendent of Public Instruction, State Department of Education, Baton Rouge, La. 70804.
- Hon. H. Sawin Millett, Jr., Commissioner of Educational and Cultural Services, State Department of Educational and Cultural Services, Augusta, Maine 04333.
- Hon. David W. Hornbeck, Superintendent of Schools, State Department of Education, Baltimore-Washington International Airport, P.O. Box 8717, Baltimore, Md. 21240.
- Hon. Gregory R. Anrig, Commissioner of Education, State Department of Education, 31 St. James Avenue, Boston, Mass. 02116.
- Hon. John W. Porter, Superintendent of Public Instruction, State Department of Education, Lansing, Mich. 48902.
- Hon. Howard B. Casney, Commissioner of Education, State Department of Education, St. Paul, Minn. 55101.
- Hon. Charles E. Holladay, State Superintendent of Education, State Department of Education, Jackson, Miss. 39205.
- Hon. Arthur L. Mallory, Commissioner of Education, State Department of Elementary and Secondary Education, Jefferson City, Mo. 65101.
- Hon. Georgia R. Rice, Superintendent of Public Instruction, Office of the State Superintendent, State Capitol, Helena, Mont. 59601.
- Hon. M. Anne Campbell, Commissioner of Education, State Department of Education, Lincoln, Nebr. 68509.
- Hon. John R. Gamble, Superintendent of Public Instruction, State Department of Education, 400 West King Street, Carson City, Nev. 89701.
- Hon. Robert L. Brunelle, Commissioner of Education, State Department of Education, Concord, N.H. 03301.

- Hon. Fred G. Burke, Commissioner of Education, State Department of Education, Trenton, N.J. 08625.
- Hon. Leonard J. DeLayo, Superintendent of Public Instruction, State Department of Education, Santa Fe, N. Mex. 87501.
- Hon. Gordon M. Ambach, Commissioner of Education, State Department of Education, Albany, N.Y. 12234.
- Hon. A. Craig Phillips, Superintendent of Public Instruction, State Department of Public Instruction, Raleigh, N.C. 27611.
- Hon. Howard J. Snortland, Superintendent of Public Instruction, State Department of Public Instruction, Bismarck, N. Dak. 58501.
- Hon. Franklin B. Walter, Superintendent of Public Instruction, State Department of Education, Columbus, Ohio 43215.
- Hon. Leslie R. Fisher, Superintendent of Public Instruction, State Department of Education, Oklahoma City, Okla. 73105.
- Hon. Verne A. Duncan, Superintendent of Public Instruction, State Department of Education, Salem, Oreg. 97310.
- Hon. Caryl M. Kline, Secretary of Education, State Department of Education, Harrisburg, Pa. 17126.
- Hon. Thomas C. Schmidt, Commissioner of Education, State Department of Education, Providence, R.I. 02908.
- Hon. Cyril B. Busbee, Superintendent of Education, State Department of Education, Columbia, S.C. 29201.
- Hon. Thomas C. Todd, State Superintendent, Division of Elementary and Secondary Education, State Capitol Building, Pierre, S. Dak. 57501.
- Hon. Samuel H. Ingram, Commissioner of Education, State Department of Education, Nashville, Tenn. 37219.
- Hon. Marlin L. Brockette, Commissioner of Education, Texas Education Agency, Austin, Tex. 78701.
- Hon. Walter D. Talbot, Superintendent of Public Instruction, State Board of Education, Salt Lake City, Utah 84111.
- Hon. Robert A. Withey, Commissioner of Education, Montpelier, Vt. 05602.
- Hon. W. E. Campbell, Superintendent of Public Instruction, State Department of Education, Richmond, Va. 23216.
- Hon. Frank B. Brouillet, Superintendent of Public Instruction, Office of the Superintendent of Public Instruction, Olympia, Wash. 98501.
- Hon. Daniel B. Taylor, Superintendent of Schools, State Department of Education, Charleston, W. Va. 25305.
- Hon. Barbara S. Thompson, Superintendent of Public Instruction, State Department of Public Instruction, Wisconsin Hall, 126 Langdon Street, Madison, Wis. 53702.
- Hon. Robert G. Schrader, Superintendent of Public Instruction, State Department of Education, Hathaway Building, Cheyenne, Wyo. 82002.

Chief State school officers of outlying areas:

- Hon. Mere T. Betham, Director of Education, Department of Education, Pago Pago, Tutuila, American Samoa 96799.
- Hon. Elaine Cadigan, Director of Education, Department of Education, Agaña, Guam 96910.

Hon. Carlos E. Chardon, Jr., Secretary of Education, Department of Education, Hato Rey, P.R. 00919.

Hon. Gwendolyn E. Kean, Commissioner of Education, Department of Education, Box 630, Charlotte Amalie, St. Thomas, V.I. 00801.

(h) *Applicable regulations.* The regulations applicable to this program are the Office of Education general provisions regulations (45 CFR Parts 100, 100a) and the teacher centers program regulation (45 CFR Part 197) published in this issue of the FEDERAL REGISTER.

(20 U.S.C. 1119a, 45 CFR Part 197.)

(Catalog of Federal Domestic Assistance No. 13.416, Teacher Centers Program.)

Dated: December 21, 1977.

ERNEST L. BOYER,  
U.S. Commissioner  
of Education.

[FR Doc. 78-659 Filed 1-10-78; 8:45 am]

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\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, ZIP)