AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

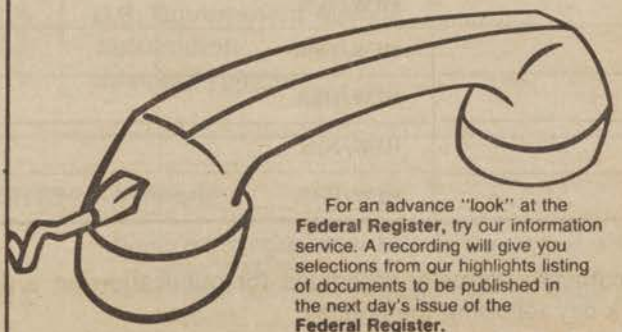
Vol. 43—No. 66
4-5-78
PAGES
14303-14430

federal register

WEDNESDAY, APRIL 5, 1978

highlights

dial·a·reg
Coming to Chicago...April 10th



For an advance "look" at the **Federal Register,** try our information service. A recording will give you selections from our highlights listing of documents to be published in the next day's issue of the **Federal Register.**

312-663-0884

SUNSHINE ACT MEETINGS 14371

GUARANTEED STUDENT LOAN PROGRAM
HEW/OE issues proposal to implement changes in operation of the GSLP; comments by 5-22-78 (Part II of this issue) 14376

SUMMER YOUTH PROGRAM
Labor/Secy proposes to revise regulations for the Summer Program for Economically Disadvantaged Youth; comments by 5-5-78 (Part III of this issue) 14424

EMERGENCY ENERGY ASSISTANCE PROGRAM
CSA issues list of eligible grantees under the Program 14347
CSA amends funding requirements under the Program; effective 4-5-78 14317

ENERGY CONSERVATION
GSA issues regulations with regard to using efficiency standards when making Government purchases; effective 5-15-78 14315

CONTINUED INSIDE

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
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	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.

federal register

Area Code 202 Phone 523-5240

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

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington. D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202-523-5240.**

FEDERAL REGISTER, Daily Issue:

Subscription orders (GPO)	202-783-3238
Subscription problems (GPO)	202-275-3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202-523-5022
Scheduling of documents for publication.	523-3187
Copies of documents appearing in the Federal Register.	523-5240
Corrections	523-5237
Public Inspection Desk	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235

PUBLIC LAWS:

Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

INCOME POVERTY GUIDELINES

CSA issues annual amendments as provided under Economic Opportunity Act; effective and comments by 5-5-78 ..... **14316**

CHILD SUPPORT

HEW/OCSE proposes to add requirements for the bonding of employees and handling of cash receipts; comments by 5-22-78 ..... **14323**

COAL AND COKE OF COAL

Commerce/ITA issues export monitoring report for week ending 3-10-78 ..... **14337**

RURAL HOUSING LOAN AND GRANTS

USDA/FmHA proposes to more clearly define eligibility standards for section 502 Rural Housing Loans; comments by 5-5-78 ..... **14322**

BLACK LUNG BENEFITS REVENUE ACT

Treasury/IRS issues temporary regulations relating to excise tax on coal; effective after 3-31-78 ..... **14305**

MAIL SECURITY

PS establishes procedures for handling requests from government agencies to delay, detain, or open mail; effective 5-5-78 ..... **14308**

MEETINGS—

Commerce/ITA: Computer Systems Technical Advisory Committee, 4-25-78 ..... **14346**
Secy: National Standards Policy Advisory Committee, 4-26-78 ..... **14347**
DOD/AF: National Defense Transportation Association, Military Airlift Committee, 5-3-78 ..... **14350**
Interior/NPS: Appalachian National Scenic Trail Advisory Council, 4-13-78 ..... **14363**
NFAH/NEH: Advisory Committee Planning Office Panel, 4-19-78 ..... **14365**
Advisory Committee Research Grants Panel, 4-25-78 ..... **14365**
State: U.S. Organization for the International Radio Consultative Committee, Study Groups 10 and 11, 4-21-78 . **14369**
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, 4-24-78 ..... **14369**
VA: Station Committee on Educational Allowances, 5-1-78 ..... **14369**

AMENDED MEETINGS—

NSF: College Programs Subcommittee of the Advisory Committee for Science Education, 4-23-78 ..... **14366**

CANCELLED MEETINGS—

DOD/AF: USAF Scientific Advisory Board Group, 3-30 and 3-31-78 ..... **14350**
HEW/OE: National Advisory Council on Ethnic Heritage Studies, 4-20 and 4-21-78 ..... **14361**

HEARINGS—

EEOC: Discrimination Because of Religion: Work Scheduling and Employee Religious Needs, 4-6 and 4-18-78 ..... **14360**

POSTPONED HEARINGS—

EEOC: Discrimination Because of Religion: Work Scheduling and Employee Religious Needs, 5-8-78 ..... **14360**

SEPARATE PARTS OF THIS ISSUE—

Part II, HEW/OE **14376**
Part III, Labor/Secy **14424**

contents

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Calif. and Ariz 14303

Proposed Rules

Grapefruit grown in Fla 14319

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Farmers Home Administration; Forest Service; Soil Conservation Service.

AIR FORCE DEPARTMENT

Notices

Meetings:
- Military Airlift Committee 14350
- Scientific Advisory Board; cancellation 14350

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Committees, establishment, renewals, terminations, etc.:
- Humanities National Council Advisory Committee 14366

Meetings:
- Planning Office Panel 14365
- Research Grants Panel 14365

CENSUS BUREAU

Notices

Population censuses, special; results 14336

CHILD SUPPORT ENFORCEMENT OFFICE

Proposed Rules

State plan requirements:
- Bonding of employees and handling of cash receipts 14323

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- Braniff Airways, Inc 14331
- Northwest Airlines, Inc 14331
- Pan American World Airways, Inc 14333
- Western Air Lines, Inc. (2 documents) 14334, 14336

COMMERCE DEPARTMENT

See also Census Bureau; Industry and Trade Administration.

Notices

Meetings:
- Standards Policy Interagency Committee 14347

COMMUNITY SERVICES ADMINISTRATION

Rules

Community action programs:
- Income poverty guidelines 14316

Emergency energy conservation program:
- Funding requirements, energy assistance; income level eligibility for elderly 14317

Notices

Emergency energy assistance program:
- Funding declarations 14347

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Rules

Christmas tree lights, miniature; safety standards; extension of time 14322

Notices

Electric water heaters, portable immersion; complaint filed 14349

DEFENSE DEPARTMENT

See Air Force Department.

EDUCATION OFFICE

Proposed Rules

Guaranteed student loan program 14376

Notices

Meetings:
- Ethnic Heritage Studies National Advisory Council; cancellation 14361

ENERGY DEPARTMENT

See also Federal Energy Regulatory Commission.

Notices

Power rate adjustments:
- Public participation; Western Area Power Administration, interim rates and supplemental proceedings; effective date 14359

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Notices

Discrimination because of religion; work scheduling and employee religious needs; hearing 14360

Information reports; extension of filing deadlines:
- Apprenticeship 14359
- Employer 14360
- Local union 14360

FARMERS HOME ADMINISTRATION

Proposed Rules

Rural housing loans and grants:
- Eligibility standards; repayment ability determination; inquiry 14322

Notices

Disaster and emergency areas:
- North Dakota 14326
- Pennsylvania 14326

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Land withdrawals:
- Colorado; vacated 14354
- Wyoming; vacated 14354

Hearings, etc.:
- Area Rate Proceeding, et al 14350
- Bright & Co 14350
- Columbia Gas Transmission Corp 14350
- El Paso Electric Co 14351
- El Paso Natural Gas Co. (2 documents) 14351
- Illinois Power Co 14352
- Indiana & Michigan Electric Co 14353
- Interstate Energy Co 14353
- Kansas-Nebraska Natural Gas Co., Inc 14353
- Kauffman, John T 14353
- Kennebec River Pulp & Paper Co., Inc 14353
- Michigan Power Co 14355
- Mississippi Power & Light Co 14355
- Northern Natural Gas Co 14355
- Pacific Power & Light Co 14356
- Public Service Co. of Oklahoma (2 documents) 14357
- Public Service Co. of Oklahoma, et al 14357
- Southern Natural Gas Co. (2 documents) 14357, 14358
- Texas Gas Transmission Corp 14358
- Transwestern Pipeline Co 14359
- U-T Offshore System 14359
- Wisconsin Power & Light Co .. 14359

FEDERAL HOME LOAN BANK BOARD

Notices

Advisory committee review, inquiry:
- Federal Savings and Loan Advisory Council 14360

FEDERAL RESERVE SYSTEM

Rules

Securities credit, credit by brokers and dealers, credit by banks, etc.:
- OTC margin stock list 14304

Notices

Applications, etc.:
- First Bank Holding Co 14361
- Holladay Bancorporation 14361
- North Dakota Bancshares, Inc 14361

FISH AND WILDLIFE SERVICE

Notices

Endangered and threatened species permits; applications (9 documents) 14362, 14363

CONTENTS

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
- Modoc National Forest et al., Medicine Lake Planning Unit, Calif 14326
- St. Joe Wild and Scenic River 14326

GENERAL ACCOUNTING OFFICE

Proposed Rules

Federal; labor-management relations program; appropriated fund expenditures, decision procedures 14318

Notices

Regulatory reports review; proposals, approvals, etc 14361

GENERAL SERVICES ADMINISTRATION

See also National Archives and Records Service; Public Buildings Service.

Rules

Procurement, Federal:
- Energy conservation in Government purchasing 14315

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Child Support Enforcement Office; Education Office.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Notices

Consumer forum on condominiums 14361

IMMIGRATION AND NATURALIZATION SERVICE

Rules

Immigration regulations:
- Service forms; distribution 14303

INDUSTRY AND TRADE ADMINISTRATION

Notices

Coal and coke export monitoring reports:
- March, 1978 14337

Meetings:
- Computer Systems Technical Advisory Committee 14346

Scientific articles; duty free entry:
- Albert Einstein College of Medicine of Yeshiva University/Kennedy Center et al 14343
- Michigan Cancer Foundation 14344
- University of Virginia Hospital et al 14345

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; National Park Service.

Notices

Environmental statements; availability, etc.:
- Josephine Sustained Yield Unit, Ore.; correction 14364

INTERNAL REVENUE SERVICE

Rules

Excise taxes:
- Coal; black lung benefits revenue temporary guidelines .. 14305

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
- Luggage products; conference 14364
- Skateboards and platforms; conference 14365
- Windows, monumental wood; conference 14365

INTERSTATE COMMERCE COMMISSION

Rules

Practice rules:
- Application procedures; motor and water carrier, broker, and freight forwarder authority; forms, grace period 14317

Proposed Rules

Practices of motor common carriers of household goods; reweighing of shipments 14324

Notices

Rail carriers; purchase, control, consolidation, lease or merger procedure applications under section 5 (2) and (3):
- Newrail Co., Inc 14369

JUSTICE DEPARTMENT

See Immigration and Naturalization Service.

LABOR DEPARTMENT

Proposed Rules

Summer Program for Economically Disadvantaged Youth 14424

NATIONAL ARCHIVES AND RECORDS SERVICE

Rules

Property management:
- National Historical Publications and Records Commission; grant procedures 14315

NATIONAL PARK SERVICE

Rules

Fishing:
- Rocky Mountain National Park, Colo 14307

Notices

Concession permits, etc.:
- Petrified Forest National Monument 14364

Management and development plans:
- Channel Islands National Monument, Calif.; workshops 14364

Meetings:
- Appalachian National Scenic Trail Advisory Council 14363

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
- Science Education Advisory Committee 14366

POSTAL SERVICE

Rules

Postal Service Manual:
- Security of mail; delay, detention, or opening mail, etc 14308

PUBLIC BUILDINGS SERVICE

Proposed Rules

Procurement:
- Solicitation of bids; listing of subcontractors requirement; withdrawn 14323

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
- Ruetgers-Nease Chemical Co., Inc 14367
- Terminal Railroad Association of St. Louis 14368

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
- Beauhan Minority Investment Corp 14368
- Canaveral Capital Corp 14368
- CVC Capital Corp 14369

Disaster areas:
- Nebraska 14368

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
- Alpena County Roads, King's Landing RC&D Measure, Mich 14327
- Buffalo ISD Erosion Control RC&D Measure, Tex 14328
- Carrabelle Recreation RC&D Measure, Fla 14327
- Coosa Valley Critical Area Treatment RC&D Measures, Ala 14328
- Hayden Flood Prevention RC&D Measure, Colo 14328
- Lower James Critical Area Treatment RC&D Measures, S. Dak 14329
- Madison County High School Critical Area Treatment RC&D Measure, N.C 14329
- Marlow Miller Park Critical Area Treatment RC&D Measure, Okla 14329
- Noble Ghost Critical Area Treatment RC&D Measure, Supplement No. 1, Tex 14330
- Quapaw Pow-Pow Grounds Critical Area Treatment RC&D Measure, Okla 14330
- Randall Critical Area Treatment RC&D Measures, S. Dak 14330

Rensselaer Land Drainage RC&D Measure, Ind 14331
Village of Frederic Flood Prevention RC&D Measure, Mich 14331

STATE DEPARTMENT

Notices

Meetings:
International Radio Consultative Committee, Study Groups 10 and 11 14369
Shipping Coordinating Committee 14369

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton textiles:
Brazil 14348

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

Import quotas; steel:
Speciality steel quotas; shortfall reallocation 14366
Stainless steel bar from Spain 14366

Marketing agreements; U.S. and listed countries:
Footwear, non-rubber; Republic of China 14367
Footwear, non-rubber; Republic of Korea 14367

TREASURY DEPARTMENT

See Internal Revenue Service.

VETERANS ADMINISTRATION

Notices

Meetings:
Educational Allowances Station Committee 14369

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

4 CFR

PROPOSED RULES:

21 14318

7 CFR

910 14303

PROPOSED RULES:

913 14319
1822 14322

8 CFR

299 14303

12 CFR

207 14304
220 14304
221 14304
224 14304

16 CFR

PROPOSED RULES:

Ch. II 14322

26 CFR

139 14305

29 CFR

PROPOSED RULES:

97 14424

36 CFR

7 14307

39 CFR

111 14308

41 CFR

1-1 14315
105-65 14315

41 CFR

PROPOSED RULES:

5B-2 14323

45 CFR

1060 14316
1061 14317

PROPOSED RULES:

177 14376
302 14323

49 CFR

1003 14317
1100 14317

PROPOSED RULES:

1056 14324

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING APRIL

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.

1 CFR

Ch. I 13865

3 CFR

MEMORANDUMS:

March 21, 1978 13999

4 CFR

PROPOSED RULES:

21 14318

5 CFR

213 14001
315 14001

7 CFR

1 14002
2 14004
102 14005
910 14303
1948 14282

PROPOSED RULES:

729 14025
913 14319
989 14024
1068 14025
1446 14035
1822 14322

8 CFR

299 14303

9 CFR

75 14022

PROPOSED RULES:

92 14042
113 14042
381 14043

10 CFR

Ch. I 14007
430 13865

PROPOSED RULES:

430 13888

12 CFR

207 14304
220 14304
221 14304
224 14304

PROPOSED RULES:

9 13889

13 CFR

108 14007

14 CFR

39 ..... 13866, 13868
71 13869
1204 14008

14 CFR—Continued

PROPOSED RULES:

39 13890
71 13891
121 13891
129 13891
207 13892
208 13892
212 13892
214 13892
298 13892
304 14044
371 13892
372a 13892
373 13892
378 13892
378a 13892

16 CFR

PROPOSED RULES:

Ch. II 14322
13 14053

19 CFR

PROPOSED RULES:

4 14060

21 CFR

182 14008
184 14008
540 14008
561 14008

PROPOSED RULES:

182 14064
184 14064
186 14064

22 CFR

Ch. V 14298

24 CFR

203 13870
207 13870
220 13870
841 13871

26 CFR

1 13875
139 14305

PROPOSED RULES:

1 13893
601 ..... 13896, 13899

28 CFR

0 14009

29 CFR

1902 14009
2520 14009
2605 14010
2608 14010

29 CFR—Continued

PROPOSED RULES:

97 14424
575 14068
1910 14071

32 CFR

706 13878
707 13878

33 CFR

222 14013
279 14014
305 13990

36 CFR

7 14307

38 CFR

3 14016

39 CFR

111 ..... 14018, 14308

40 CFR

52 13879
180 ..... 14019, 14020

PROPOSED RULES:

52 13899-13902
56 14072

41 CFR

Ch. I 14021
1-1 14315
105-65 14315

PROPOSED RULES:

5B-2 14323

42 CFR

54a 14276
462 13970

45 CFR

116c 14292
1060 14316
1061 14317

PROPOSED RULES:

1201 14072
177 14376
302 14323
1231 14077

47 CFR

95 ..... 13976, 13976

PROPOSED RULES:

63 14080
64 ..... 14080, 14088
67 13902
73 14088

49 CFR

1 14021
192 13880
1003 14317
1033 14021

49 CFR—Continued

1100 14317

PROPOSED RULES:

Ch. V 13905
1056 14324

50 CFR

33 14022
230 13883

PROPOSED RULES:

227 13906

FEDERAL REGISTER PAGES AND DATES—APRIL

Pages	*Date*
13865–13998	Apr. 3
13999–14301	4
14303–14430	5

reminders

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

Rules Going Into Effect Today

FCC—FM broadcast stations; table of assignments:
Denair and Los Banos, Calif., 8805; 3-3-78
FRS—Bank holding companies; filing of information about municipal securities dealers 10331; 3-13-78

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Stabilization and Conservation Service—
Indemnity payment programs; beekeeper indemnity payment program (1978-1981); comments by 4-13-78 ..... 10568; 3-14-78
Animal and Plant Health Inspection Service—
Imports and exports; overtime services; comments by 4-13-78 10571; 3-14-78
Food Safety and Quality Service—
Ice cream; U.S. Standards for grades; comments by 4-15-78 .. 7232; 2-21-78
Rural Electrification Administration—
Nondiscrimination among beneficiaries of REA programs; revision of REA bulletin; comments by 4-13-78 10571; 3-14-78

CIVIL AERONAUTICS BOARD

Board proceedings; participation of air carrier associations; comments by 4-10-78. 7445; 2-23-78
Charter flight delays and substitute air transportation; comments by 4-14-78 .... 5383; 2-8-78; 8266; 3-1-78
[Originally published at 42 FR 64905, 12-29-77]
Definitions of "handicapped" and "retired" persons for fare purposes; comments by 4-10-78 ..... 8266; 3-1-78

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—
Atlantic tuna fisheries; bluefin tuna; comments by 4-14-78 ..... 10592; 3-14-78

CONSUMER PRODUCT SAFETY COMMISSION

Safety standard for architectural glazing materials; comments by 4-14-78 ..... 10700; 3-15-78

ENERGY DEPARTMENT

Economic Regulatory Administration—
Petroleum price regulations for resellers and retailers of blends of covered and synthetic products; comments by 4-11-78 ..... 10935; 3-16-78

ENVIRONMENTAL PROTECTION AGENCY

Air pollution implementation plans:
Connecticut; comments by 4-14-78 ..... 10708; 3-15-78
District of Columbia; comments by 4-14-78 ..... 10709; 3-15-78

FEDERAL COMMUNICATIONS COMMISSION

Cable TV relay service; continuous operation; reply comments by 4-10-78.. 7334; 2-22-78
FM Broadcast stations; table of assignments:
Leonardtown, and Lexington Park, Md. and Falmouth, Va.; reply comments by 4-10-78..... 3403; 1-25-78
Mayfield, Ky., Blytheville, Ark., and Wickliffe, Ky.; reply comments by 4-10-78 ..... 11724; 3-21-78
[First published at 43 FR 1515, 1-10-78]
Rexburg, Idaho; comments by 4-11-78..... 7329; 2-22-78
"Saturated" cable television systems; reply comments extended to 4-10-78. 8275; 3-1-78
[Originally published at 43 FR 3598, 1-26-78]
Subscription television service; reply comments by 4-12-78 ..... 1516; 1-10-78—2413;1-17-78

FEDERAL DEPOSIT INSURANCE CORPORATION

Securities of insured nonmember State banks; amendment of disclosure regulations; comments by 4-12-78 ..... 10401; 3-13-78

FEDERAL RESERVE SYSTEM

Nonbanking activities; comments by 4-13-78 ..... 11584; 3-20-78
OTC list requirements; comments by 4-14-78 ..... 11214; 3-17-78
Reserve bank directors; amendments to regulations on actions and responsibilities; comments by 4-14-78 ..... 7611; 2-24-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
Gelatin; affirmation as GRAS status as a direct and indirect human food ingredient; comments by 4-9-78 ..... 2890; 1-20-78
Requirements for inhalation anesthetic drug products; studies for carcinogenic and teratogenic potential; comments by 4-13-78 ..... 10553; 3-14-78
Supplement standards of conduct; comments by 4-10-78 ..... 7618; 2-24-78

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of Assistant Secretary—
Fair market rents for new construction and substantial rehabilitation; comments by 4-12-78 ..... 12878; 3-28-78
Fair market rents for new construction and substantial rehabilitation; comments by 4-14-78 ..... 13758; 3-31-78

INTERIOR DEPARTMENT

Fish and Wildlife Service—
Appendix III to the Endangered Species Convention; addition of Aardwolf, African Civet and Honey Badger; comments by 4-10-78..... 9628; 3-9-78
Indian Affairs Bureau—
Indian reservations; law and order; comments by 4-10-78..... 5528; 2-9-78
Office of the Secretary—
Payment of expenses of certain participants in Departmental proceedings; comments by 4-15-78 12339; 3-24-78
Modification of uniform relocation assistance and real property acquisition policies; comments by 4-10-78 ..... 8272; 3-1-78

POSTAL SERVICE

Required marking of single-piece third-class mail; comments by 4-10-78..... 9831; 3-10-78

SECURITIES AND EXCHANGE COMMISSION

Management remuneration disclosure; comments by 4-15-78 ..... 6060; 2-13-78

TRANSPORTATION DEPARTMENT

Coast Guard—
Malden River Dorchester Bay Basin and Broad Canal, Mass.; drawbridge operation regulations; comments by 4-10-78..... 9625; 3-9-78
New York vessel traffic service; comments by 4-17-78 ..... 6906; 2-16-78
National Highway Traffic Safety Administration—
Lamps, reflective devices; headlamp photometrics increase; comments by 4-10-78..... 7451; 2-23-78

TREASURY DEPARTMENT

Bureau of Alcohol, Tobacco, and Firearms—
Unlawful Trade practices under the Federal Alcohol Administration Act; comments extended to 4-15-78 ..... 8270; 3-1-78
[Originally published at 42 FR 65204, 12-30-77]

VETERANS ADMINISTRATION

Veterans' education—
Unsatisfactory progress; comments by 4-14-78 ..... 10706; 3-15-78

Next Week's Meetings

ADMINISTRATION CONFERENCE OF THE UNITED STATES

Committee on Agency Decisional Processes, Washington, D.C. (open), 4-12-78 . 9176; 3-6-78
Committee on Grants, Benefits, and Contracts, Washington, D.C. (open), 4-10-78 ..... 10948; 3-16-78

Committee on Licenses and Authorizations, Washington, D.C. (open), 4-11-78 11244; 3-17-78

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee, Washington, D.C. (closed), 4-13 and 4-14-78 .. 11838; 3-22-78

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Artists-in-Schools Advisory Panel, Washington, D.C. (partially open), 4-10 and 4-11-78 ..... 12769; 3-27-78

Public Programs Panel Advisory Committee, Miami, Fla. (closed), 4-11 and 4-12-78 ..... 10983; 3-16-78

CIVIL RIGHTS COMMISSION

District of Columbia Advisory Committee (open) Washington, D.C. 4-12 through 4-14-78 ..... 13086; 3-29-78

CIVIL SERVICE COMMISSION

Proposed uniform guidelines on employee selection procedures, Washington, D.C.; (open); 4-10-78 ..... 9131; 3-3-78

COMMERCE DEPARTMENT

Census Bureau—

Census Advisory Committee of the American Economic Association, Suitland, Md. (open), 4-14-78 ..... 11840; 3-22-78

Industry and Trade Administration—

Exporters' Textile Advisory Committee, Washington, D.C. (open) changed to 4-11-78 ..... 13600; 3-31-78

[Originally published at 43 FR 9514; 3-8-78]

National Oceanic and Atmospheric Administration—

Gulf of Mexico Fishery Management Council, Panama City Beach, Fla. (open), 4-11 through 4-13-78 .. 9841; 3-10-78

New England fishery Management council's Scientific and Statistical Committee, Kingston, R.I. 4-12-78 ..... 112476; 3-17-78

Pacific Fishery Management Council, Portland, Oreg. (open), 4-13 and 4-14-78 ..... 9193; 3-6-78

Scientific and Statistical Committee, Portland, Oreg. (open), 4-12 and 4-13-78 ..... 9193; 3-6-78

Western Pacific Fishery Management Council's Scientific and Statistical committee, Honolulu, Hawaii (open), 4-10 and 4-11-78 ..... 11845; 3-22-78

CONSUMER PRODUCT SAFETY COMMISSION

Flammable Fabrics Act National Advisory Committee, Washinton, D.C. (open), 4-10 and 4-11-78 ..... 11730; 3-21-78

DEFENSE DEPARTMENT

Air Force Department—

USAF Scientific Advisory Board Electronics Panel on Software Acquisition Management in the Air Force, Pentagon, Arlington, Va. (closed), 4-12 and 4-13-78 ..... 12059; 3-23-78

Office of the Secretary—

Armed Forces Epidemiological Board, Washington, D.C. (open), 4-13 and 4-14-78 ..... 12360; 3-24-78

Armed Forces Epidemiological Board, Ad Hoc Subcommittee on Leishmaniasis of the AFEB Subcommittee on Disease Control, Washington, D.C. (open), 4-11-78 ..... 12360; 3-24-78

Wage Committee, Washington, D.C. (closed), 4-11-78..... 4913; 2-6-78

ENERGY DEPARTMENT

Office of Intergovernmental and Institutional Relations—

Nuclear Waste Management Task Force Draft Report and Waste Isolation Pilot Plant (WIPP) Project, Carlsbad, N.M. (open), 4-11-78 ..... 13620; 3-31-78

Nuclear Waste Management Task Force Draft Report and Waste Isolation Pilot Plant (WIPP) Project, Albuquerque, N.M. (open), 4-12-78 ..... 13620; 3-31-78

Nuclear Waste Management Task Force Draft Report and Waste Isolation Pilot Plant (WIPP) Project, Sante Fe, N.M. (open) 4-14-78 ..... 13620; 3-31-78

ENVIRONMENTAL PROTECTION AGENCY

Clean Air, regional consistency, Dallas, Tex. (open), 4-14-78 ..... 4872; 2-6-78

Proposed criteria for classification of solid waste disposal facilities, Atlanta, Ga. (open), 4-13-78 ..... 7990; 2-27-78

Resource Conservation Committee, Washington, D.C. (open), 4-11-78 ..... 12377; 3-24-78

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Proposed uniform guidelines on employee selection procedures, Washington, D.C.; (open), 4-10-78 ..... 9131; 3-3-78

GOVERNMENT PRINTING OFFICE

Micropublishing Advisory Council to the Public Printer, Washington, D.C. (open), 4-14-78 ..... 10617; 3-14-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse and Mental Health Administration—

Psychological Sciences Fellowship Review Committee, Arlington, Va. (partially closed) 4-13 through 4-15-78 .... 9860; 3-10-78

Disease Control Center—

Programs and Policies Advisory Committee, Atlanta, Ga. (open), 4-11-78 through 4-13-78 ..... 11265; 3-17-78

Education Office—

Black Higher Education and Black Colleges and Universities National Advisory Committee, Washington, D.C. (open), 4-10 and 4-11-78 ..... 11761; 3-21-78

Education of Disadvantaged Children National Advisory Council, Washington, D.C. (open), 4-14 and 4-15-78 11761; 3-21-78

Food and Drug Administration—

Antimicrobial Panel, Rockville and Bethesda, Md. (open), 4-14 and 4-15-78 ..... 10625; 3-14-78

Neurological Device Classification Panel, Washington, D.C. (open), 4-12-78 ..... 10625; 3-14-78

Health Resources Administration—

Health Planning and Development National Council, Washington, D.C. (open), 4-14-78..... 9867; 3-10-78

National Council on Health Planning and Development, Washington, D.C. (open), 4-14-78..... 9534; 3-8-78

[First published at 43 FR 7715, Feb. 24, 1978]

National Insitutes of Health—

Designs for Clinical Cancer Research, New Orleans, La. (open), 4-13-78 through 4-15-78 ..... 5075; 2-7-78

National Diabetes Advisory Board (open), Bethesda, Md. 4-11-78..... 11271; 3-17-78

President's Cancer Panel, Bethesda, Md. (open), 4-11-78 ..... 9358; 3-7-78

Sickle Cell Disease Advisory Committee, Bethesda, Md. (open), 4-13 and 4-14-78..... 9360; 3-7-78

Office of the Secretary—

Secretary's Advisory Committee, Washington, D.C., 4-14-78..... 10636; 3-14-78

INTERIOR DEPARTMENT

Land Management Bureau—

Draft Wilderness Policy and Review Procedure, Grand Junction, Colo.; Boise, Idaho; Billings, Mont.; Portland, Oreg.; Salt Lake, City, Utah (open), 4-11 through 4-14-78 ..... 12762; 3-27-78

National Park Service—

Indiana Dunes National Lakeshore Advisory Commission (open), Chesterton, Indiana 4-14-78 ..... 13103; 3-29-78

National Park System Advisory Board (open), Washington, D.C. 4-14 through 4-19-78 ..... 13104; 2-29-78

JUSTICE DEPARTMENT

Proposed uniform guidelines on employee selection procedures, Washington, D.C. (open), 4-10-78 ..... 9131; 3-3-78

Federal Bureau of Investigation—

National Crime Information Center Advisory Board, Alexandria, Va. (open), 4-12-78 ..... 12131; 3-23-78

LABOR DEPARTMENT

Proposed uniform guidelines on employee selection procedures, Washington, D.C. (open); 4-10-78 ..... 9131; 3-3-78

Labor Statistics Bureau—

Business Research Advisory Council's Committee on Manpower and Employment, Washington, D.C. (open), 4-13-78 ..... 12391; 3-24-78

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Physics, Subcommittee on Job-Related Issues, Pasadena, Calif. (open), 4-14 and 4-15-78 ..... 12769; 3-27-78

Advisory Council, Washington, D.C. (open), 4-13 and 4-14-78 ..... 12970; 3-28-78

OCEANS AND ATMOSPHERE, NATIONAL ADVISORY COMMITTEE

Washington, D.C. (open), 4-10 and 4-11-78 ..... 1874; 3-22-78

STATE DEPARTMENT

International Intellectual Property Advisory Committee, Washington, D.C. (open), 4-11-78 ..... 11777; 3-21-78

Shipping Coordinating Committee, Washington, D.C. (open), 4-12-78 10998; 3-16-78

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 4-11-78 ..... 10999; 3-16-78

U.S. Organization for the International Radio Consultative Committee, Study Group 1, Washington, D.C. (open), 4-14-78 11778; 3-21-78

U.S. Organization for the International Telegraph and Telephone Consultative Committee, Study Group 1, Washington, D.C. (open), 4-12-78 ..... 11778; 3-21-78

U.S. Organization for the International Radio Consultative Committee, Study Group 4, Washington, D.C. (open), 4-11-78 11778; 3-21-78

Agency for International Development—

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development, Arlington, Va. (open), 4-10 and 4-11-78 .. 12774; 3-27-78

Joint Research Committee of the Board for International Food and Agricultural Development, Arlington, Va. (open), 4-11 and 4-12-78 ..... 12774; 3-27-78

TELECOMMUNICATIONS POLICY OFFICE

U.S. INMARSAT Preparatory Committee Working Group, Washington, D.C. (open), 4-11-78 ..... 8048; 2-27-78

TRANSPORTATION DEPARTMENT

Coast Guard—

Coast Guard Academy Advisory Committee, New London, Conn. (open),4-10 through 4-12-78 .... 12775; 3-27-78

National Boating Safety Advisory Council, Hull Identification Number Subcommittee, Washington, D.C. (open), 4-12-78 ..... 9676; 3-9-78

National Boating Safety Advisory Council, Washington, D.C. (open), 4-13-78 ..... 9676; 3-9-78

Federal Railroad Administration—

Minority Business Resource Center Advisory Committee, Washington, D.C. (open), 4-11-78 ..... 11778; 3-21-78

TREASURY DEPARTMENT

Office of the Secretary—

Advisory Committee on Reform of the International Monetary System, (closed) Washington, D.C. 4-13-78 ..... 11295; 3-17-78

Next Week's Public Hearings

CIVIL AERONAUTICS BOARD

Nashville-Cleveland Subpart M proceeding, Washington, D.C., 4-11-78 ..... 12052; 3-23-78

CIVIL SERVICE COMMISSION

Proposed uniform guidelines on employee selection procedures, Washington, D.C., 4-10-78 ..... 9131; 3-3-78 11812; 3-21-78

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Proposed uniform guidelines on employee selection procedures, Washington, D.C., 4-10-78 ..... 9131; 3-3-78 11812; 3-21-78

FEDERAL HOME LOAN BANK BOARD

Community Reinvestment of 1977, San Francisco, Calif., 4-12 and 1-13-78 ..... 7244; 2-21-78

JUSTICE DEPARTMENT

Proposed Uniform guidelines on employee selection procedures, Washington, D.C., 4-10-78 ..... 9131; 3-3-78 11812; 3-21-78

LABOR DEPARTMENT

Proposed uniform guidelines on employee selection procedures, Washington, D.C., 4-10-78 ..... 9131; 3-3-78 11812; 3-21-78

Occupational Safety and Health Administration—

Toxic substances posing potential occupational carcinogenic risk, identification, classification and regulation; Washington, D.C., 4-14-78 ..... 54148; 10-4-77 60753; 11-29-77

SECURITIES AND EXCHANGE COMMISSION

Examination of the effects of rules and regulations on the ability of small businesses to raise capital and the impact on small businesses of disclosure requirements under the securities acts; Washington, D.C., 4-11-78 ..... 10876; 3-15-78

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.

[3410-02]

Title 7—Agriculture

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

[Lemon Reg. 138, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market during the period March 26-April 1, 1978. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The amendment is effective for the period March 26-April 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on March 30, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports order business for lemons is heavier than anticipated for the current week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. This amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

Paragraph (a) of § 910.438 Lemon Regulation 138 (43 FR 12307) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period March 26, through April 1, 1978, is established at 255,000 cartons."

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

Dated: March 31, 1978.

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

[FR Doc. 78-8970 Filed 4-4-78; 8:45 am]

[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 299—IMMIGRATION FORMS

Service Policy for Distribution of Forms to the Public

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service to set forth Service policy concerning distribution of Service application and petition forms to the public. This rule is necessary to inform the public of this policy, which is intended to facilitate distribution of Service forms to individuals, groups or practitioners who require them.

EFFECTIVE DATE: April 5, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. Telephone: 202-376-8373.

SUPPLEMENTARY INFORMATION: This final rule amends 8 CFR 299 by adding a new § 299.2; by redesignating existing § 299.2 as § 299.3, and existing § 299.3 as § 299.4; and by amending redesignated § 299.4.

New § 299.2 provides instructions for the distribution of Service forms to the public. It provides that any officer or employee may issue official application or petition and related forms to the person for whom they are to be used or to a representative of such person. The new regulation also provides that quantity distribution (20-25) copies may be made to organizations and practitioners upon request made to the appropriate regional office unless the form is available for purchase from the Government Printing Office (GPO).

8 CFR 299.4 (formerly § 299.3) will be amended to provide that all forms which have been made available for purchase from GPO may be printed or reproduced by private parties at their own expense. They must however, conform to those printed by the GPO.

The purpose of this regulation is to facilitate individual and quantity distribution of Service forms to the public. The regulation accomplishes this objective in 3 ways:

(1) The alien or his representative may obtain the copies needed for the benefits sought by visiting or writing the appropriate Service District Office.

(2) Small quantities of forms (20-25 copies) which are not available from the GPO may be ordered by mail from Service Regional Offices, thus reducing waiting lines in Service District Offices.

(3) The application and petition forms most widely used have been made available for purchase from the GPO and may be reproduced privately, provided they meet the qualitative standards of the forms published by

GPO. The Service is constantly reviewing its forms to determine additional forms to be made available for purchase from the Government Printing Office.

In the light of the foregoing, the following amemdments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

1. Part 299 is amended by adding a new § 299.2 to read as follows:

§ 299.2 Distribution of Service forms.

The distribution of official Immigration and Naturalization applications, petitions, and related forms is as follows: (a) Any officer or employee of the Service may issue official application or petition and related forms to the person for whose use the form is intended or to a person identified as a representative of the intended user in the quantity required for filing the application or petition and related forms.

(b) A small quantity, twenty-five (25) copies, may be issued to organizations an practitioners who make written request to the Regional Commissioner for the geographic location of the requester if such forms have not been made available for purchase from the Superintendent of Documents, Washington, D.C. 20402.

2. Existing 8 CFR 299.2 is redesignated § 299.3.

§ 299.2 [Redesignated]

3. Existing 8 CFR 299.3 is redesignated § 299.4 and revised by amending the first sentence. As revised, § 299.4 reads as follows:

§ 299.4 Reproduction of forms by private parties.

All forms required for compliance with the provisions of subchapter B of this chapter which have been made available for purchase from the Superintendent of Documents may be printed or otherwise reproduced by an appropriate duplicating process by private parties at their own expense. Forms printed or reproduced by private parties shall conform to the officially printed forms currently in use with respect to size, wording and language, arrangement, style and size of type, and paper specifications. Such forms shall be printed or otherwise duplicated in black ink or dye that will not fade or "feather" within 20 years. Printed or reproduced Forms I-94 must each bear a seven-digit sequential number which shall appear on both the original and the carbon copy of the form. Beginning with the number 000 00 00 and continuing through 999 99 00, printed or reproduced Forms I-94 shall repeat this series of numbers each time all the numbers have been used.

* * * * *

(Sec. 103; 8 U.S.C. 1103.)

These amendments are published in accordance with section 552 of title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments contained in this order deal with agency management in the printing and distribution of Service forms.

Effective date: The amendments prescribed in this order become effective on April 5, 1978.

Dated: March 31, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-8999 Filed 4-4-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. G, T, U, and X]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of OTC Margin Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published list and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of stocks traded over-the-counter as published in the FEDERAL REGISTER on August 18, 1977 (42 FR 41604). The List, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U, and X. Copies of the current List may be obtained from any Federal Reserve Bank. A copy is also on file at the Office of the Federal Register.[1]

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the List specified in 12 CFR §§ 207.5 (d) and (e), 220.8 (h) and (i), and 221.4 (d) and (e). No additional useful information would be gained by public participation. The requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78 g and w) and in accordance with § 207.2(f)(2) of Regulation G, § 220.2(e)(2) of Regulation T, and § 221.3(d)(2) of Regulation U, there is set forth below additions to and deletions from the Board's List:

ADDITIONS TO LIST

AEL Industries, Inc., Class A, $1 par common.
American Biomedical Corp., no par common.
American Indemnity Financial Corp., $3.33⅓ par common.
American Savings & Loan Association of Florida, $1 par common.

[1] Copy of current list filed as part of original document.

Analogic Corp., $.05 par common.
Applebaums' Food Markets, Inc., $1 par common.
Argonaut energy corp., no par common.
Athlone Industries, Inc., 5.714 pct convertible subordinated debentures.
Atlantic American Corp., $1 par common.
Baker Bros., Inc., $.10 par common.
Bank of Delaware, $10 par common.
Basic Earth Science Systems, Inc., $.10 par common.
Bear Creek Corp., $.10 par common.
Big Drum, Inc., no par common.
Biscayne Federal Savings & Loan Association, $.01 par common.
Bruno's, Inc., $.25 par common.
Callon Petroleum Co., $.33⅓ par common.
Concept, Inc., $.50 par common.
Connecticut Water Service, Inc. No par common.
Continuous Curve Contact Lenses, Inc., no par common.
Cronus Industries, Inc., $.10 par common.
Daylin, Inc., $.35 par common.
Dynatech Corp., $.20 par common.
ERC Corp., 5.75 pct. convertible subodinated debentures.
Early California Industries Inc., $1 par common.
Eberline Instrument Corp., $.66⅔ par common.
Employers Casualty Co., $2.50 par common.
Engraph, Inc., $1 par common.
First Artists Production Co., Ltd., The $.10 par capital.
First Executive Corp., $1 par convertible preferred.
First National Bank of Toledo, $6.25 par common.
Flynn Energy Corp., $.10 par common.
Fremont General Corp., $1 par common.
General DataComm Industries, Inc., $10 par common.
General Telephone Co., of California, 5 pct cumulative preferred.
Great American Corp., Class A, $2.50 par common.
Heilig-Meyers Co., $2 par common.
Helix Technology Corp., $1 par common.
Houston First Financial Group Inc., $1 par common.
Idaho First National Bank, The, $5 par common.
Industrial Fuels Corp., $1 par common.
International King's Table, Inc., no par common.
International Research & Development Corp., $1 par common.
Jenn-Air Corp., $1 par common.
Kenai Drilling Ltd., $.01 par common.
Kinder-Care Learning Centers, Inc., $.50 par common.
Lincoln Income Life Insurance Co., $1 par common.
Management Assistance, Inc., Series C, $.20 par, cumulative preferred.
Merchants, Inc., $1 par common.
Metropolitan Development Corp., $1 par common.
Mid Continent Systems, Inc., $.16 par common.
Miller, Herman Inc., $.20 par common.
Moran Bros., Inc., $.25 par common.
Moxie Industries, Inc., $1 par common.
NUS Corp., class a, $1 par common.
National Bank of Commerce of Dallas, $1 par common.
Northwestern Financial Investors, no par shares of beneficial interest.
Olsten Corp., The, $.10 par common.
Omega Optical Co., Inc., $.05 par common.
PCA Internatinal, Inc., $.20 par common.
Pacific Scientific Co., $1 par common.
Peninsula Resources Corp., $1 par common.
Plenum Publishing Corp., $.10 par common.
Quotron Systems, Inc., $.10 par common.
Ragen Precision Industries Inc., $.25 par common.
Refac Technology Development Corp., $.10 par common.
Rocky Mountain Natural Gas Co., $3 par common.
SRI Corp., $4 par capital.
Smithfield Foods, Inc., $1 par common.
Stewart Information Services Corp., $1 par common.
T.I.M.E.—DC Inc., $2 par common, series A, $10. par cumulative convertible preferred.
Tab Products Co., no par common.
Telerent Leasing Corp., $.50 par common.
Tesdata Systems Corp., $.01 par common.
Texas International Airlines, Inc., $.01 par common.
Textiles-Inc., $1 par common.
Topps & Trowsers, $.10 par common.
Trus Joist Corp., $1 par common.
Twin City Barge & Towing Co., $1 par common.
U.S. Energy Corp., $.01 par common.
Utah Bancorp., no par common.
Van Dusen Air Inc., $1 par common.
Varlen Corp., $.10 par common.
Vitramon, Inc., $.10 par common.
Walbro Corp., $1 par common.
Western Marine Electronics Co., no par common.
Wilmington Trust Co., $6.25 par capital.

STOCKS REMOVED FOR FAILING CONTINUED LISTING REQUIREMENTS

Acmat Corp., no par common.
American Savings & Loan Association (Utah), $.33⅓ par permanent reserve guarantee stock.
Daniel International Corp., $2 par common.
Decorator Industries, Inc., no par common.
Eli Securities Co., (formerly Havatampa Corp., $7.50 par common.
Government Employees Insurance Co., warrants (expire 08/01/78).
Keith Clark, Inc., $.50 par common.
Ormont Drug & Chemical Co., Inc., $.10 par common.
Pathcom Inc., $.10 par common.
Peerless Insurance Co., $2.50 par common.
Stratford of Texas, Inc., $.10 par common.
Unicoa Corp., $2.50 par common.
Velo-Bind, Inc., $1 par common.
Westport Co., The (formerly HNC Mortgage & Realty Investors), no par shares of beneficial interest.

STOCKS REMOVED FOR LISTING ON NATIONAL SECURITIES EXCHANGES OR BEING INVOLVED IN AN ACQUISITION

Acme United Corp., $2.50 par common.
Amdahl Corp., $.05 par common.
American Founders Life Insurance Co., $1 par common.
Applied Digital Data Systems Inc., $.01 par common.
Azcon Corp., $1 par common.
Beneficial Standard Corp., class a, $1 par common, class b, $1 par common.
Bi-Lo, Inc., $.33⅓ par common.
Burns, R. L. Corp., $.10 par common.
Calbiochem, $.50 par common.
California Life Corp., series a, $10 par, convertible preferred.
Christiana Securities Co., $1.25 par common.
Computer Election Systems, Inc., $.10 par common.
Continental Western Industries, Inc., $1 par common.
Connecticut Natural Gas Corp., $12.50 par common.
Data Terminal Systems, Inc., $.20 par common.
El Chico Corp., no par common.
Farmers New World Life Insurance Co., $1 par common.
First Kansas Financial, Inc., $3.01 par common.
Fotomat Corp., $.10 par common.
Gelco Corp., $.50 par common.
Graham Magnetics, Inc., $.10 par common.
Ivac Corp., $.10 par common.
Keystone OTC Fund, Inc., $1 par common.
Kuhlman Corp., $1 par common.
Manning Gas & Oil Co., no par common.
Marine Colloids, Inc., $.56 par common.
Mariners Financial Corp., $1 par capital.
Measurex Corp., no par common.
Medtronic, Inc., $.10 par common.
Mercantile Texas Corp., $5 par common.
Modern Merchandising, Inc., $.01 par common.
Norin Corp., $1 par common.
Northern California Savings & Loan Association, no par guarantee capital stock.
Philadelphia Life Insurance Co., $1 par common.
Pott Industries, Inc., $1 par common.
Powers Regulator Co., $5 par common.
Rochester Instrument Systems, Inc., $.05 par common.
Rucker Pharmacal Co., Inc., no par common, $1 stated value.
Sea World, Inc., $.50 par common.
Seafirst Corp., $5 par common.
Shaklee Corp., no par common.
Snap-On Tools Corp., $1 par common.
Southland Paper Mills, Inc., no par common.
Spectral Dynamics Corp., of San Diego, no par common.
Technical Publishing Co., $.30 par common.
Telesciences, Inc., $.10 par common.
Time Holdings, Inc., $2 par common.
Triangle Corp., The, $.50 par common.
Virgina International Co., $.50 par common.
Wincorp, no par common.

By order the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), April, 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-9031 Filed 3-31-78; 4:50 pm]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7538; LR-52-78]

PART 139—TEMPORARY REGULATIONS UNDER THE BLACK LUNG BENEFITS REVENUE ACT OF 1977

Questions and Answers About the Excise Tax on Coal

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations, in the form of questions and answers, relating to the excise tax on coal. Changes in the applicable tax law were made by the Black Lung Benefits Revenue Act of 1977. These temporary regulations are intended to provide coal producers with the guidance needed to comply with the Act, and affect all producers who mine coal in the United States.

DATE: The temporary regulations are effective with respect to coal sold by the producer, or used by the producer in other than a mining process, after March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard L. Johnson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T:LR-52-78), 202-566-3603 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary regulations relating to the excise tax on coal under section 4121 of the Internal Revenue Code of 1954, as added by section 2 of the Black Lung Benefits Revenue Act of 1977 (Pub. L. 95-227; 92 Stat. 11). Further, a new Part 139, Temporary Regulations under the Black Lung Benefits Revenue Act of 1977, is added by this document to Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

FORMAT

These temporary regulations are presented in the form of questions and answers. The questions and answers are intended to provide guidelines which may be relied upon by coal producers in order to resolve questions specifically considered. However, no inferences should be drawn regarding issues not raised which may be suggested by a particular question and answer or as to why certain questions, and not others, are included. Furthermore, in applying the questions and answers, the effect of subsequent legislation, regulations, court decisions, and interpretative bulletins must be considered.

DRAFTING INFORMATION

The principal author of this regulation was Richard L. Johnson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, a new part 139, Temporary Regulations under the Black Lung Benefits Revenue Act of 1977, is added to Title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

Sec.
139.4121-1 Questions and answers relating to the excise tax on coal.

AUTHORITY: Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

§ 139.4121-1 Questions and answers relating to the excise tax on coal.

The following questions and answers relate to the excise tax on coal under section 4121 of the Internal Revenue Code of 1954, as added by section 2 of the Black Lung Benefits Revenue Act of 1977 (92 Stat. 11):

Q-1. What is subject to the excise tax on coal?

A-1. The tax is imposed on coal sold or used by the producer after March 31, 1978. The producer is liable for the tax.

Q-2. Does the tax apply to coal mined before the tax went into effect?

A-2. If the coal was sold or used by the producer after March 31, 1978, yes.

Q-3. What sort of "use" by the producer is taxable?

A-3. For this purpose, "use" generally means use by the producer in other than a mining process. What is a mining process is determined for purposes of the coal excise tax the same way it is determined for percentage depletion purposes. For example, a producer who mines coal does not "use" the coal and thereby become liable for the tax merely because, before selling the coal, the producer breaks it, cleans it, sizes it, or applies one of the other processes listed in section 613(c)(4)(A) of the Code. In such a case, the producer will be liable for the tax only when he sells the coal. On the other hand, a producer who mines coal does become liable for the tax when he uses the coal as fuel, as an ingredient in making coke, or in another process not treated as "mining" under section 613(c).

Q-4. What coal is exempt from tax?

A-4. The coal excise tax does not apply to imported coal or lignite.

Q-5. Do the general exemptions from manufacturers excise taxes apply to the coal excise tax?

A-5. No. In the case of the coal excise tax, there is no exemption for sales for further manufacture, for export, for use as supplies for vessels or aircraft, for the use of a State or local government, or for the use of a nonprofit educational organization. Furthermore, the Secretary of the Treasury does not have discretion to exempt sales of coal for use of the United States from the tax. There is also no exemption from the coal excise tax when the coal is used in further manufacture of another article that is subject to manufacturers excise tax. For example, if a producer of coal converts coal into gasoline which he then sells, the producer is liable for the coal excise tax when the coal is converted into gasoline and also liable for the manufacturers excise tax on gasoline when the gasoline is sold.

Q-6. What is the rate of tax?

A-6. For coal mined from an underground mine, the rate of tax on a sale or use is either 50 cents per ton (2,000 pounds) or 2 percent of the sale price, whichever produces a lower tax. For coal mined from a surface mine, the rate is 25 cents per ton or 2 percent of the sale price, whichever is lower. Thus, coal from underground mines that sells for less than $25 per ton and coal from surface mines that sells for less than $12.50 per ton is taxed at a rate of 2 percent of the sale price rather than at a flat rate per ton.

Q-7. How are sales or uses of less than a ton taxed?

A-7. If a sale or use includes a portion of a ton, the tax is applied proportionately. For example, if 1,200 pounds of coal from an underground mine are sold for $35, the tax is 30 cents.

Q-8. When is coal produced from a surface mine or an underground mine?

A-8. Coal is treated as produced from a surface mine if all of the geological matter (e.g., trees, earth, rock) above the coal is removed before the coal is mined. In addition, coal mined by auger is treated as produced from a surface mine. Coal is treated as produced from an underground mine if it is not produced from a surface mine. Since in some cases a single mine may be yielding coal at the same time from surface mining operations and from underground mining operations, the determination of whether the underground mining rate (50 cents per ton) or the surface mining rate (25 cents per ton) applies must be made for each ton of coal and not on a mine by mine basis. Furthermore, since operations on a coal deposit may change from surface to underground (for example, when the overburden becomes too difficult to remove as the mining progresses), the rate of tax may vary with respect to a single deposit of coal.

Q-9. What is the point of sale for purposes of determining the tax?

A-9. For purposes of determining both the amount of coal sold by a producer and the sales price of the coal, the point of sale is f.o.b. mine, or f.o.b. cleaning plant if the producer cleans the coal before selling it. This is true even if the producer sells the coal on the basis of a delivered price. Accordingly, f.o.b. mine or cleaning plant is the point at which the number of tons sold is to be determined for purposes of applying the applicable tonnage rate, and the point at which the sales price is to be determined for purposed of the 2 percent of sales price limitation. The provisions of section 4216 are applicable for purposes of determining the sales price.

Q-10. What is the price to be used in determining the tax base for coal a producer uses rather than sells?

A-10. Where a producer uses coal mined by him in other than a mining process, a constructive sale price must be used in determining the tax under the 2 percent rate. This constructive price is determined under section 4218(e) of the Code, and is based on sales of like coal by the producer or other producers made f.o.b. mine (if the coal is used without first being cleaned) or f.o.b. cleaning plant (if the coal is cleaned before it is used). Normally, this constructive sale price will be the same as the constructive

price used in determining the producer's percentage depletion deduction.

Q-11. When are tax returns due?

A-11. Normally, manufacturers excise tax returns are due quarterly. In general, the quarterly return is due by the last day of the first month following the end of a calender quarter (e.g., on July 31 for the quarter ending June 30). However, if timely deposits have been made in full payment of tax due for the quarter, the return is not due until the 10th day of the second month after the end of the calendar quarter (e.g., August 10 for the quarter ended June 30). For further information, see § 48.6011(a)-1 and § 48.6071(a)-1 of the Manufacturers and Retailers Excise Tax Regulations. The return form is Form 720, Quarterly Federal Excise Tax Return.

Q-12. When are tax deposits due?

A-12. If for any calendar month in the preceding calendar quarter, a taxpayer's total liability for Federal excise taxes listed on Form 720 (manufacturers, retailers and facilities and services) exceeded $2,000, the taxpayer must make semimonthly deposits of excise taxes during the current calendar quarter. Semimonthly deposits for manufacturers and retailers excise taxes (including the coal excise tax) must be made by the ninth day after the end of each semimonthly period. For example, excise taxes for which the taxpayer becomes liable during the first 15 days of the month must be deposited by the 24th of the month. Thus, a coal producer must make semimonthly deposits beginning April 24, 1978, if his liability for all other excise taxes listed on Form 720 exceeded $2,000 during any month of the first quarter of 1978.

If semimonthly deposits are not required, a monthly deposit is generally required for any month for which the taxpayer has a total excise tax liability reportable on Form 720 of more than $100. In such a case, the taxes must be deposited by the last day of the following month.

If neither semimonthly nor monthly deposits are required, the taxpayer must either pay the taxes with a quarterly return filed by the last day of the month following the calendar quarter or deposit the taxes on or before that date.

For further information, see § 48.6302(c)-1 of the Manufacturers and Retailers Excise Tax Regulations and Form 720 (Quarterly Federal Excise Tax Return) and the accompanying instructions.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: March 31, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-8997 Filed 3-31-78; 2:54 pm]

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Rocky Mountain National Park, Colo.; Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This amendment will permit the use of fish bait by children 12 years of age or under in all park waters open to fishing. Studies have indicated that visitors in this age group do not have the skill necessary to successfully fish in park streams with artificial lures. Additionally, the possession limit is being increased to 8 fish of any species, plus up to 10 additional brook trout. This change conforms to a similar change adopted by the State of Colorado for waters outside park boundaries. The list of waters closed to fishing is being expanded to include outlet waters flowing from Lake Nanita, from the lakeshore to a point 100 yards downstream, to protect spawning cutthroat trout.

DATE: This amendment shall become effective on May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

David J. Essex, Chief Park Ranger, Rocky Mountain National Park, Estes Park, Colo. 80517, 303-586-2371, extension 218.

SUPPLEMENTARY INFORMATION: Currently, children 12 years of age or under are permitted to use fish bait in Boulder Brook above the confluence with Glacier Creek, including Sprague Lake; Mill Creek above the confluence with Glacier Creek; and East Inlet Creek below East Inlet Falls.

Management studies have indicated that children fishing in park streams do not have sufficient skill to successfully fish with artificial lures, particularly where additional complications occur, such as wind and dense growth of vegetation along stream banks. Since there is a good population of nonnative brook trout (char) in park streams, the population would be affected only slightly by the regulation change. No adverse environmental effects are anticipated. Experience gained during the past 2 years, where children have been permitted to fish with bait in certain park streams, has demonstrated that neither the fishery resource nor stream banks were adversely affected. This amendment will not permit children to dig for bait within the park or to fish with live or dead minnows. Both of these activities are prohibited by general regulations.

At present, the possession limit is 16 fish, provided that at least 10 of these fish are brook trout not more than 8 inches in length. In effect, this establishes a limit of not more than 6 fish of species other than brook trout. The State of Colorado, however, has recently adopted a regulation which establishes a daily possession limit of 8 fish of any species and applies to areas outside the park. In order to avoid confusing park visitors, the same possession limit will be adopted within park boundaries. Management studies and research programs indicate no adverse effects on the fishery resources or stream banks as a result of this change.

Management studies indicate that the Lake Nanita outlet, which is presently open to fishing, should be closed from the lakeshore to a point 100 yards downstream in order to protect cutthroat trout which migrate out of the lake, primarily in June and July, and concentrate in these outlet waters to spawn. During this period the fish are very vulnerable to snagging.

PUBLIC COMMENT

The amendments dealing with natural bait and possession limits are minor relaxations of existing regulations. Fishermen wishing to take advantage of the less restricted fishing opportunities are unlikely to suggest that the amendments be altered or not implemented. No significant opposition to the amendments is expected, since their implementation is not expected to interfere with any public or private interest. Therefore, public comment on a proposed rulemaking would be expected to be quite light and not of a nature to require revision of the amendments.

The closure of the Lake Nanita outlet does impose an additional restriction on the public and a period for public comment would normally be provided prior to the implementation of such a restriction. In this instance, though, there is insufficient time before the beginning of the fishing season to allow for a public comment period. It would be both impracticable and contrary to the public interest to permit continued fishing in the outlet during a period of public comment, since studies indicate the need for protection of fish in this location.

Although proposed rulemaking is not being used in this case, persons wishing to comment on these amendments should do so, in writing, to the address listed above. All comments re-

ceived will be reviewed to determine if modification of the regulations is necessary.

AUTHORITY

Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); section 4 of the Act of January 26, 1915, 38 Stat. 798 (16 U.S.C. 195); and 245 DM-1 (42 FR 12931).

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

DANIEL J. TOBIN, Jr.,
Associate Director,
National Park Service.

MARCH 27, 1978.

In consideration of the foregoing, section 7.7 of title 36, Code of Federal Regulations, is hereby amended as follows:

§ 7.7 Rocky Mountain National Park.

(a) *Fishing.*—(1) *Possession limit.*

* * *

(i) The total possession limit shall be 8 fish of any species, except that 10 brook trout (char) 8 inches or less in length may be possessed in addition to the 8 fish limit.

* * * * *

(iii) The possession or use for fishing purposes of natural bait, including worms, insects, fish eggs, or any parts thereof, is prohibited, except as follows:

(A) Natural bait may be possessed or used by persons 12 years of age or under.

(B) Natural bait may be used, in accordance with State of Colorado laws and regulations, in those portions of Shadow Mountain Lake, the Colorado River, and Lake Granby which adjoin the boundary of Rocky Mountain National Park.

* * * * *

(2) *Waters closed to fishing.* * * *

(v) Outlet waters and pools of the Lake Nanita outlet, from the lakeshore to a point 100 yards downstream.

* * * * *

[FR Doc. 78-8994 Filed 4-4-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART III—GENERAL INFORMATION ON POSTAL SERVICE

Mail Security Regulations

AGENCY: U.S. Postal Service.

ACTION: Final rule.

SUMMARY: These regulations, which are a revision of proposed regulations published in the FEDERAL REGISTER on April 8, 1977, 42 FR 18,754-18,758, prescribe Postal Service policy as to when it is permissible to delay, detain, or open mail, and establish procedures for handling requests from Government agencies to delay, detain, or open mail. Generally, the regulations do not significantly change the provisions of the proposal, except that provisions have been added to protect the privacy of certain correspondence permitted to be sent as unsealed mail (such as the correspondence sent by the blind in braille), and a new provision has been added which would explicitly reflect the authority of prison, jail, and correctional institution personnel to open, examine, and censor mail addressed to inmates who consent to receive their mail at the institution through the institutional authorities.

EFFECTIVE DATE: May 5, 1978.

ADDRESS: Comments on these regulations are welcome and will be considered with a view towards making changes in the regulations in the future. Written comments should be directed to Assistant General Counsel, Special Projects, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260. Copies of all written comments received are available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, outside Room 9000.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun 202-245-4620 or
William T. Alvis 202-245-4630.

SUPPLEMENTARY INFORMATION: On April 8, 1977, the Postal Service published in the FEDERAL REGISTER, 42 FR 18,754-18,758, a notice of proposed rulemaking on mail security. On the basis of the comments it received, its own further mail security experience, and further internal consideration of the proposed regulations, the Postal Service has decided to adopt its proposed regulations with only slight modifications. Because of the importance of adopting regulations of this kind, and the Postal Service's judgment that major changes in its proposal are not warranted, the Postal Service has decided to promulgate the revised regulations as a final rule. A discussion of the general basis and purpose of these regulations accompanied the proposal published last year. 42 FR 18,754-18,756. The Postal Service here explains its reasons for adopting changes in the proposal. The Postal Service also invites further comments on the regulations which anyone wishes to submit. There is no time limit for submitting such comments, and any comments submitted will be considered with a view toward making amendments of these regulations in the future.

The subdivisions of these regulations generally concern the same subject matters as the subdivisions of the proposal. There have been added a new provision (115.24) on the correspondence of handicapped persons and school children permitted in unsealed mail, and a new provision (115.97) on prisoner mail. Changes have been made in proposed 115.91 and 115.92(a), concerning customs clearance and plant quarantine inspections of mail entering the Customs Territory of the United States. Clarifying changes have been added to proposed 115.21, concerning the privacy of the contents of sealed mail; proposed 115.231 and 115.232, defining sealed and unsealed mail; and proposed 115.62 and 115.63, concerning search warrant execution procedures. We anticipate that the proposed changes in 331, 42 FR 18,758, will be adopted without change.[1]

[1]No comments were received on proposed 331. Amendments of Chapter 3 of the Postal Service Manual such as 331, since they generally consist of internal operational instructions to postal employees, are not promulgated in the FEDERAL REGISTER. The text of proposed 331 follows:

"331.11 Requests for Surrender of Mail.

"Any employee served with legal process, other than a search warrant issued under Rule 41 of the Federal Rules of Criminal Procedure (see section 115.6), purporting to require the surrender of mail, shall respectfully refuse to surrender it and shall refer the matter to the Regional Counsel for further information.

"See 115.31 for permissible detention of the mail.

"331.12 Access to Mail and Mail Handling Areas.

"Access to mail and mail handling areas in postal installations is restricted to authorized postal employees and mail contractors on official business, and to other persons specifically permitted access by the installation head or superior authority for the proper conduct of the official business of the Postal Service, the General Accounting Office, or a congressional committee. Such other persons must be accompanied by a postal employee on duty. Federal, State, or local law enforcement or public safety authorities may be given access to mail and to mail handling areas to remove potentially dangerous mail matter in accordance with section 115.4. In appropriate circumstances, the installation head may allow Federal, State, or local law enforcement authorities

There follows a detailed discussion of the changes that have been adopted.

Privacy of Personal Correspondence of Handicapped Persons and School Children Permitted in Unsealed Mail. The proposal did not offer any protection of the privacy of certain personal correspondence which is permitted to be sent as unsealed mail. Although normally personal correspondence is required to be sent as sealed mail, the blind and certain other handicapped persons are permitted to send their personal correspondence and certain other materials in the form of raised or special characters or sound recordings as unsealed mail free of domestic postage and at reduced international rates of postage. 39 U.S.C. 3404 (1970); Universal Postal Convention, arts. 18-19; Detailed Regulations, art. 128; Lausanne, 1974, T.I.A.S. No. 8231. While the law and the postal convention expressly provide that such mail is to be "unsealed", see section 3404 and article 128, a postal inspection may readily be conducted by opening such mail and inspecting the materials inside to make sure that they are eligible for the special or free rate of postage claimed by the sender, without invading the privacy of any personal correspondence found inside by disclosing the contents of personal messages. Similar considerations apply to certain personal correspondence between school children permitted at the international printed matter rate. The regulations therefore contain a new 115.24 explicitly stating that the contents of such personal correspondence permitted to be enclosed in such unsealed mail shall not be divulged except with the consent of the addressee or sender or to a person executing a valid search warrant. A conforming change is made in 115.91, on customs clearance of mail.

Prison openings of mail addressed to inmates. The proposal contained no provision which would expressly permit, and therefore would arguably have prohibited, the opening and inspection of mail addressed to persons confined in prisons, jails, or other correctional institutions. It was therefore suggested that a provision which recognized the long-standing practice of prisons, jails, and other correctional institutions of censoring mail entering prisons and other places of confinement should be included in the regulations. It was also suggested that such a provision would, in addition, clarify the duties and responsibilities of prison officials in handling prisoner mail and the limitations on their authority to detain, open, or return mail addressed to prisoners.

Since prison censorship of inmate mail entering the prison is lawfully conducted with the consent of the inmate-addressee, an explicit exception for such censorship did not appear to be absolutely necessary. However, so as to avoid unnecessary disputes as to whether postal regulations prohibit such censorship, the regulations include a new provision, 115.97, which would explicitly permit jail, prison, or other correctional institution officials, within the limits of the law, to open, inspect, and censor incoming mail addressed to inmates to the extent that the inmates consent to receive their mail at the prison through the prison authorities. The implied exemption for such prison mail censorship from the literal requirements of 18 U.S.C. 1701-1702 is generally well-established, at least where the inmate consents to receive his mail at the prison through the prison authorities, *Procunier* v. *Martinez*, 416 U.S. 396 (1974); 1 Op. Solic. P.O. Dep't No. 289 at 719 (1882); 9 Op. Solic. P.O. Dep't No. 811 at 240 (1949). The permissible scope of such prison censorship, however, has been a matter of controversy. Section 115.97 would prescribe an appropriate exception only for such prison mail censorship as may be authorized and lawful. Section 115.97 would prescribe the minimum safeguards necessary to protect the uncontroverted rights of prisoners regarding correspondence addressed to them through the U.S. mails, and of the persons addressing mail to them through the mails.

The regulations, however, do not attempt to clarify all unresolved and controversial issues in this area. There are many State, Federal, and military places of confinement, operating under different authorities and facing different prison security conditions. It has not been shown that there is a strong need for uniform, nationwide rules on all details of prisoner mail rights that overrides the interests of the various prison authorities in having latitude to provide for the security of prisons. Moreover, the Postal Service's authority is limited by law to matter originating in the U.S. mail system; it does not extend to prisoner-originated "mail" before the prison authorities permit it to be deposited in the U.S. mails. Many of the details of prison mail censorship may best be left to the appropriate prison authorities, Congress and the State legislatures, and the State and Federal courts.

Customs clearance of incoming mail. The proposal would have permitted designated personnel of the U.S. Customs Service, without a search warrant but upon reasonable suspicion, to open and inspect the contents of mail originating outside the Customs Territory of the United States ("CTUS") and addressed for delivery inside the CTUS, except sealed mail addressed for delivery in the District of Columbia. The proposal would have prohibited Customs officials from reading correspondence in sealed mail without a search warrant. Several comments received by the Postal Service objected that the customs opening of mail without a search warrant was an unjustified invasion of privacy, and that a search warrant should be required on grounds of constitutional law and for policy reasons. Other comments expressed approval of such customs mail openings as may appear necessary for the enforcement of import prohibitions, but stressed that the privacy of correspondence should be protected.

After the publication of the proposal, the United States Supreme Court, reversing a decision of the United States Court of Appeals for the District of Columbia Circuit, held that evidence obtained when Customs Service personnel opened and inspected the contents of sealed letter mail from Thailand, without a search warrant, was admissible, when the opening was authorized by joint postal-customs regulations, the customs inspector had reasonable cause to suspect that the mail contained dutiable or prohibited items, and the reading of the correspondence inside without a warrant was prohibited. The Court concluded that such openings and inspections of such sealed letter mail were authorized by law and were not unconstitutional. *United States* v. *Ramsey*, 431 U.S. 606 (1977). The Court emphasized that its opinion did not express an opinion on the constitutionality or legality of reading correspondence without a search warrant.

We believe that so long as the privacy of correspondence is protected, some program of providing for customs clearance of incoming mail should be continued. The incoming letter mails may contain not only correspondence but merchandise as well. In recognition of the varied nature of the contents of letter mail, the Universal Postal Convention, which generally regulates the exchange of international letter post items, specifically authorizes each postal administration acting in accordance with its domestic law to open letter post items for customs clearance. Universal Postal Convention, art. 34; Detailed Regulations, Art. 116; Lausanne, 1974, T.I.A.S. No. 8231. Although the Postal Service in accordance with domestic law does not permit its employees to open sealed letter mail without either consent or a search warrant, *Ex parte Jackson*, 96 U.S. 727, 733 (1877) (dictum), *United States* v. *Van Leeuwen*, 397 U.S. 249 (1970), 18 U.S.C. 1702, 1703(a) (1976), the Postal Service believes that it would be inconsistent with the laws regulating and taxing imports for the Postal Service not to cooperate with the Customs Service in any fashion

access to mail and mail handling areas, to deal with conditions dangerous to life, limb, or property, such as fires or flooding, or to make lawful arrests."

and thus establish the international mails as a secure means of bringing dutiable merchandise and prohibited items into the United States, without observing the customs requirements of U.S. laws. In view of the *Ramsey* case, the constitutionality and legality of the proposed cooperation are not in doubt.

After the *Ramsey* case was decided, a bill was introduced in Congress to require a search warrant for customs openings of sealed letters, and oversight hearings were begun by the Subcommittee on Information and Privacy of the House Government Operations Committee concerning the question of whether to require a search warrant. A preliminary report has been issued by the Committee. "Investigation of Mail Opening by the Customs Service," H.R. Rep. No. 95-794, 95th Cong., 1st Sess. (1977). The Postal and Customs Services, moreover, are now conducting their own review of the customs mail program to determine how the administration of the program may be improved. The search warrant question, since it involves a balancing of the people's right to privacy and their right to effective law enforcement, seems best left to Congress to resolve. In the interim the Postal Service has decided not to adopt substantial changes in the customs clearance provisions of these regulations.

The regulations would therefore permit designated U.S. Customs personnel to continue to open and inspect the contents of mail originating outside the CTUS and addressed for delivery inside the CTUS without a search warrant upon reasonable cause to suspect that the mail contains dutiable or prohibited items. The prohibition against reading correspondence would be continued, supplemented by a prohibition against the disclosure of the contents of the correspondence of school children and of the blind and other handicapped persons which may properly be sent in unsealed mail at reduced rates of postage. The proposed prohibition against the opening of sealed mail addressed for delivery in the District of Columbia, without a search warrant, which had reflected a joint interim decision by the Postal and Customs Services to honor the D.C. appellate court's decision in *Ramsey* as to D.C.-addressed mail while it reflected the law of the D.C. Circuit, is not adopted in view of the Supreme Court's reversal of the D.C. court's decision. The proposal has been revised to substitute the words, "reasonable cause to suspect that the mail contains dutiable or prohibited items," for the words, "reasonable suspicion", so as to conform the language of the regulations to that used by the Supreme Court and the statute upon which the Court relied in the *Ramsey* case.

The Customs Service suggested that there should be a provision in postal regulations which would authorize Customs Service personnel to open mail originating outside the Virgin Islands and addressed for delivery inside the Virgin Islands, on the basis of certain U.S. territorial laws, 48 U.S.C. 1395 and 1406i (1970), under which the Customs Service has been assigned certain responsibility for enforcing the customs laws of the Virgin Islands. These provisions do not, however, mention the mails. Thereafter, the Customs Service proposed to amend its own regulations to authorize the opening and inspection of all mail entering the Customs district of the Virgin Islands. 42 FR 38393-38394. The statutory authorization for the Customs Service to open envelopes without a search warrant (19 U.S.C. 482), however, appears to be limited to searches for articles unlawfully "introduced into the United States * * *", and the other statutory provision relieving the Customs Service of the search warrant requirement applies only to sealed letter mail which is not "of domestic origin * * *." 39 U.S.C. 3623(d) (1970). Neither the Customs Service's letter nor its subsequent regulatory proposal discussed either of these statutory provisions, even though they appear to cast doubt on whether the Customs Service's suggestion can be adopted as to sealed letter mail of domestic origin. The Postal Service therefore adopts only so much of this suggestion as concerns unsealed mail and sealed mail originating outside CTUS and addressed for delivery within the Customs district of the Virgin Islands. The regulations would authorize customs examination of sealed mail of domestic origin entering the Customs district of the Virgin Islands on the condition that such mail will not be opened without a search warrant or the consent of the sender or addressee.

Department of Agriculture mail openings of foreign origin mail. One comment objected to the provision of the proposal which would authorize Department of Agriculture personnel to open, for plant quarantine purposes, sealed mail originating outside the Customs Territory of the United States and addressed for delivery inside the Customs Territory of the United States, without the "reasonable suspicion" requirement applicable to the Customs Service. Such openings by Department of Agriculture personnel, however, are authorized by the sender of the mail who affixes to the article a green and yellow or red and white address label which indicates that the mail contains matter subject to plant and animal quarantine, and which bears the address of a Department of Agriculture inspection station. Section 115.92(a) is therefore amended to reflect the consensual nature of these Department of Agriculture inspections, by inserting the words, "but with the written consent of the sender * * *." This amendment is not intended to prevent the plant or animal quarantine personnel of the Agriculture Department from continuing to cooperate lawfully with customs personnel as to particular plant or animal matter found by customs personnel under section 115.91 and believed to be subject to quarantine or prohibited entry under any laws primarily administered by the Agriculture Department. See 19 CFR 12.10-12.24 (1977).

State search warrants. The proposal prohibited the honoring of State search warrants for mail. Proposed 115.61, 42 FR 18757. Although all State governments were notified of this provision, only eight States commented on the proposal, and five of these States either expressed the belief that the proposal would not have any impact on State investigations or expressed no objection to the proposal insofar as State warrants were concerned. Three State comments objected to the State warrant provision, generally emphasizing the circumstances where there would be no concurrent Federal jurisdiction for obtaining a Federal search warrant to assist a State investigation.

Section 3623(d) of title 39, United States Code, permits sealed mail to be opened pursuant to a "search warrant authorized by law." The preamble of the proposal pointed out that the legislative history of section 3623(d) and its predecessors shows that the search warrants to which the section refers are Federal search warrants only, and that there appears to be no legal basis for the Postal Service to permit the execution of non-Federal search warrants. 42 FR 18755 (1977) (section encaptioned, "(c) *Search warrants.*").

As a practical matter, in most cases of concern to State authorities, the Federal mailability statutes would provide a clear legal basis for concurrent Federal jurisdiction, and a plainly authorized Federal search warrant could be obtained through Federal cooperation with the State investigation. Moreover, in many cases where State courts might issue search warrants, the honoring of such warrants for mail might be improper, if not unlawful: for example, a State warrant for mail which was mailable and required to be transmitted and delivered under Federal law, but deemed obscene under the law of a State.

A compromise suggestion was that State warrants be permitted where they did "not impinge on the necessary functions of the Postal Service."

Our view, however, that the Postal Service has no legal authority to permit the execution of any State search warrants, together with the

large number of States (all but three) which expressed no opposition to the proposal, are persuasive that section 115.61 should be adopted without change.

Military investigations. The proposal would have prohibited military commanders from authorizing the opening of mail, but the supplementary information section noted that, "* * * certain subordinate military components of the Department of Defense have held the view that a search authorization issued by a military commander should be regarded as the military equivalent of a civilian search warrant and should therefore be sufficient to authorize the opening and seizure of mail in military postal custody, at least when the mail comes into the possession of a unit mail clerk." 42 FR at 18755. However, the Department of Defense did not object to the proposal insofar as it prohibited military commanders from authorizing searches of mail.

Records of mail openings. One suggestion was that the Postal Service should maintain a record of all mail that is opened before it is delivered to the addressee and that the records so kept be open to public inspection. The proposal would have required the making and retention of records only for mail suspected of being dangerous to life, limb, or property opened without a search warrant, and mail opened pursuant to a search warrant. Except for the additional search warrant record requirements discussed below, the regulations add no additional record-keeping requirements.

The making and maintaining of records of mail openings would be costly. The vast majority of authorized mail openings are routine openings in well-defined circumstances that do not threaten the legitimate expections of privacy of postal customers, such as an opening of unsealed mail for a postal inspection to determine whether proper postage has been paid, or a dead mail opening solely to determine an address at which the mail can be delivered. In the case of mail openings conducted for the limited purpose of protection postal revenues, such as postal inspections to determine whether proper postage has been paid, costly enforcement procedures could be self-defeating. In the case of openings under which the privacy of correspondence is otherwise protected, such as dead mail openings, record-keeping requirements would unnecessarily drive up the cost of providing postal services.

The question of whether some degree of additional record-keeping may be appropriate in connection with the opening of mail by the Customs Service is now receiving consideration within the Customs Service, and the House Committee on Government Operations has recommended certain temporary record-keeping to provide information relevant to its consideration of whether to recommend legislation requiring a search warrant or consent for Customs openings of mail which is sealed against postal inspection. H.R. Rep. No. 95-794, 95th Cong., 1st Sess. 7-10 (1977). The Postal Service does not now adopt any additional permanent record-keeping requirements for customs clearance of mail.

Definitions of sealed and unsealed mail. Several clarifying changes are adopted in the definitions of sealed and unsealed mail.

A new sentence has been added which prescribes, as to any mail item permitted under postal regulations to consist of both sealed and unsealed mail (such as a letter and parcel of merchandise sent as one item), that the sealed component of the item shall be treated as sealed mail for privacy purposes but as unsealed mail for mail handling purposes (115.231, last sentence). This expresses present policy. The proposal had not been intended to change policy in this regard, but was silent on this question.

Two further changes revise the definitions of sealed and unsealed mail to delete any reference to the priority of the mail's handling, transportation, and delivery, and to distinguish that mail on which appropriate letter class postage is paid and which thus is contained in one of the classes of mail maintained by the Postal Service for letters sealed against inspection, from other mail. The regulatory language is borrowed in part from 39 U.S.C. 3623(d) (1970). It is intended to show that the class of mail for which postage is paid (rather than the fees for special services) determines whether the mail is to be considered to be sealed against postal inspection. Thus, a fourth-class special handling parcel would be considered under part 115 to be unsealed mail for privacy purposes on account of the fourth-class postage, notwithstanding that such a parcel is entitled to preferred mail handling under postal regulations on account of the special service fee for special handling (115.231, 115.232). The revision also anticipates the possibility of the adoption of a "citizen's rate" for first-class mail service. Such service would be sealed against inspection and would receive the most expeditious handling and transportation, but non-citizen's rate first-class mail would receive priority over citizen's rate first-class mail in delivery.

The proposed reference to Electronic Ticket Delivery Mail has been deleted from the list of classes of mail sealed against inspection (115.231). This had been included in the proposal in anticipation of a six-month test of such a service, and is deleted from the final rule in view of the recent completion of the test and consequent termination of the service.

Search warrant execution procedures. Section 115.62, concerning search warrant execution procedures, has been revised to add the requirement that the head of the postal installation at which the warrant is executed, or his designee, shall furnish a report of the seizure to the addressee's post office of any domestic mail seizures, and the appropriate international claims office of any international mail seizures. Proposed 115.62 had only required the installation head or his designee to furnish a copy of the search warrant to the Postal Inspection Service. The purposes of these additional requirements are to make sure that the Postal Service fulfills its postal treaty obligations to notify the foreign postal administration in whose service any seized item originated of the seizure of the item, Universal Postal Convention, Lausanne, 1974, T.I.A.S. No. 8231, art. 33, sec. 5; to make sure that any inquiry by an addressee about an undelivered item is promptly and accurately answered; and to preclude the unnecessary payment of invalid insurance or indemnity claims for failure to deliver insured or registered items seized under a warrant. An addressee might unwittingly present such a claim and the claims office might unwittingly honor it if either lacked knowledge of the seizure pursuant to the warrant.

Section 115.63, concerning notice to the sender of seizure of return receipt requested mail pursuant to a search warrant, reflects two revisions of 115.63 as proposed. First, the procedure of returning endorsed return receipts to inform the sender of the seizure has been confined to domestic mail, to reflect the fact that mail seizure notices for international mail are required to be dispatched to the foreign postal administration in whose service the seized item originated, e.g., Universal Postal Convention, Lausanne, 1974, T.I.A.S. No. 8231, art. 33, sec. 5, and no procedure is authorized for the destination postal administration in whose service the item was seized to notify the foreign sender directly of the seizure. (The origin administration ordinarily advises its customer of the seizure, after it is informed of the seizure by the destination administration, although the origin administration is not required by international law to notify its customer except in response to a formal inquiry by the addressee.) Second, the references to "notice of nondelivery" in the context of "a return receipt or notice of nondelivery" have been deleted as unnecessary, since the function of notifying the sender of domestic return receipt requested mail of its nondelivery is performed by an endorsement on the return receipt or on

the undelivered mail rather than by a special notice of nondelivery.

Other recommendations. Several recommendations were received from certain officials in five federal executive departments which the Postal Service decided not to adopt on legal grounds. Since a statement summarizing these proposals and explaining the reasons for not adopting them would have been lengthy, and the public comments did not put forward similar proposals, the Postal Service has decided to write to each of these officials to explain in detail why his proposal was not adopted, rather than to publish a detailed statement of explanation in the FEDERAL REGISTER. Copies of these letters will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, outside room 9000, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

In view of the considerations discussed above, the Postal Service revises its proposal and adopts the following revision of the Postal Service Manual:

1. Part 115 of the Postal Service Manual is revised to read as follows:

PART 115. MAIL SECURITY

115.1 Importance of mail security.

The Postal Service must preserve and protect the security of all mail in its custody from unauthorized opening, inspection, or reading of contents or covers, tampering, delay, or other unauthorized acts. Any postal employee committing or allowing any of these unauthorized acts is subject to administrative discipline, or criminal prosecution leading to fine, imprisonment, or both. An employee having a question about proper mail security procedures, which is not clearly and specifically answered by postal regulations or by written direction of the Inspection Service or Law Department, shall resolve the question by protecting the mail in all respects and moving it, or letting it move, without interruption to its destination.

115.2 Opening, reading, and searching of sealed mail generally prohibited.

.21 In general, no person may open, read, search, or divulge the contents of mail sealed against inspection, even though such mail may be believed to contain criminal or otherwise nonmailable matter or evidence of the commission of a crime. The only exceptions to this general rule are: (a) a postal employee in a dead mail office acting in accordance with dead mail regulations, part 159; (b) a postal employee acting with the consent of the addressee or sender; (c) a person executing a search warrant in accordance with section 115.4; or (e) an authorized Customs or Agriculture employee, acting in accordance with sections 115.91 or 115.92.

.22 Mail not sealed against inspection.

Mail not sealed against inspection may be opened, surrendered, its contents inspected and read, or information concerning it released, by an authorized postal employee, only: (a) under a search warrant in accordance with section 115.6; (b) without a search warrant in order to determine the mailability of the contents or whether the correct postage has been paid; or (c) as otherwise expressly permitted by postal regulations.

.23 Definitions.

.231 *Mail sealed against inspection.* For purposes of this part, the terms, "mail sealed against inspection", or "sealed mail", mean mail on which appropriate postage is paid, and which under postal laws and regulations is included within a class of mail maintained by the Postal Service for the transmission of letters sealed against inspection. The terms do not include international transit mail (section 115.8). They include first class mail, Express Mail, international letter mail ("LC Postal Union mail" as defined in USPS Publication 42, International Mail), and Mailgram. When sealed mail is properly inserted inside unsealed mail or attached to it in accordance with postal regulations, the sealed mail component of the combination item shall be treated as sealed mail under this part, except 115.3.

.232 *Mail not sealed against inspection.* For purposes of this part, the terms, "mail not sealed against inspection", or "unsealed mail", mean mail on which appropriate postage for sealed mail has not been paid, and which under postal laws or regulations is not included within a class of mail maintained by the Postal Service for the transmission of letters sealed against inspection. The terms do not include international transit mail (section 115.8). They include second, third, and fourth class mail, international parcel post mail, and "AO Postal Union Mail" (as defined in USPS Publication 42, International Mail).

.24 Correspondence permitted to be enclosed in unsealed mail.

The contents of correspondence permitted to be sent by the blind in special or raised characters or in the form of sound recordings and by school children at the international printed matter rate shall not be divulged except to a postal employee acting with the consent of the addressee or sender or person executing a search warrant in accordance with section 115.6.

115.3 Permissible detention of mail.

.31 Sealed mail generally not detained.

No postal employee may detain mail sealed against inspection (other than dead mail) except: (a) a postal inspector acting diligently and without avoidable delay upon reasonable suspicion, for a brief period of time, to assemble evidence sufficient to satisfy the probable cause requirement for a search warrant in accordance with section 115.6, and to apply for, obtain, and execute the warrant; (b) a postal employee acting in strict accordance with postal regulations (for example, sections 115.4 or 154.145); (c) a postal employee acting under postal regulations with the express consent of the addressee or sender (for example, section 153.5 or 154.19); (d) a postal employee acting under an order issued under 39 U.S.C. 3005, relating to false representations, lotteries, and unlawful matter; (e) a postal employee acting under section 115.62; (f) a postal employee conducting a mail count by direction of his postmaster or a postal inspector; (g) a postal employee acting under an order of a Federal court; or, (h) a postal employee during the period required to seek and obtain instructions under section 154.7 concerning mail whose delivery is in dispute, or under section 331.1 concerning legal process other than a search warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure, purporting to require the surrender of mail matter.

.32 Unsealed mail.

Mail not sealed against inspection may be delayed or detained for the reasons stated in section 115.31 and as otherwise expressly permitted by postal regulations.

115.4 Mail reasonably suspected of being dangerous to persons or property.

Mail, sealed or unsealed, reasonably suspected of posing an immediate danger to life or limb, or an immediate and substantial danger to property, may, without a search warrant, be detained, opened, removed from postal custody, and processed or treated, but only to the extent necessary to determine and eliminate the danger, and only if a complete written and sworn statement of the detention, opening, removal, or treatment, and the circumstances that prompted it signed by the person purporting to act under this subsection, is promptly forwarded to the Chief Inspector. Any person purporting to act under this subsection who does not report his action in accordance with the requirements of this subsection to the Chief Inspector, or whose action is determined after investigation not to have been authorized, is subject to disciplinary action or criminal prosecution or both.

115.5 Disclosure of information about mail sent or received by particular senders or addressees.

Except as provided in 115.5 (a)–(f), no employee shall disclose: information on the outside cover of any piece of mail; information obtained from any inspection of the contents of mail; or any other information which concerns any mail sent or received by any particular sender, addressee, or group of senders or addressees, which the employee obtains or controls in the performance of his official duties. An employee may disclose such information:

(a) to the Postal Inspection Service for its official use, including appropriate reference to law enforcement authorities, when there is a reasonable basis to suspect that such information is evidence of the commission of a crime under State or Federal law, except that information obtained by opening sealed mail in a dead letter office may be used only to determine an address at which the mail can be delivered;

(b) under section 233.2, regarding mail covers;

(c) under a search warrant in accordance with section 115.6;

(d) under an order of a Federal court;

(e) at the request of the sender or addressee or the authorized agent of either; or,

(f) otherwise in accordance with postal regulations, *provided that* any such information obtained from an inspection of the contents of mail may only be disclosed if the inspection accords with the regulations contained in this Part.

115.6 Execution of search warrants.

.61 Warrant issued by Federal court or served by Federal officer.

A search warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure shall be executed as provided in section 115.62. Usually, a warrant issued by a Federal court or served by a Federal officer is issued under Rule 41, and is "duly issued" if signed and dated within the past ten days. No employee shall permit the execution of a search warrant issued by a State court and served by a State officer. If in doubt, an employee should temporarily detain the mail in question and promptly call a postal inspector for guidance.

.62 Search warrant execution procedures.

A postal inspector may execute a search warrant. A person other than a postal inspector executing a search warrant must be accompanied by a postal employee authorized by the head of the postal installation at which the warrant is to be executed. Mail may be taken from postal custody under the authority of a search warrant only if the person executing the warrant leaves a copy of the warrant and a receipt or inventory, made out in the presence of the postal employee accompanying him, which particularly describes each piece of mail taken, including all service endorsements on the cover (such as, "Return Receipt Requested") and any official postal identity numbers (such as registry, insurance, or certified mail numbers). The receipt or inventory may be attached to the copy of the warrant, or written on the reverse side of the copy of the warrant. The installation head or his designee shall make a copy of the receipt or inventory and of the copy of the warrant and send it to the Inspector-in-Charge of the Division in which the installation is located. The installation head or his designee shall also furnish a report of the seizure of any domestic mail to the addressee's post office and of any seized international mail to the appropriate international claims office.

.63 Notice to sender or addressee.

If the cover of domestic mail has been endorsed and stamped to show that the sender has requested and paid for a return receipt, the sender shall be notified of the seizure of the mail under the warrant by an endorsement to that effect on the return receipt, or on a duplicate if the original receipt is taken. The receipt shall be dispatched as soon as possible, unless the officer executing the warrant presents a Federal court order to delay the dispatch. In that event the dispatch shall be delayed in accordance with the order.

115.7 Cooperation with Federal and State and local agencies for access to mail.

A postal employee receiving a request from a Federal, State, or local law enforcement, intelligence, or other government agency, for access to, or information about, particular mail matter of any class in the custody of the Postal Service shall refer the request to the Postal Inspection Service, with the explanation that the Inspection Service is responsible for liaison with all government agencies with respect to a request of this kind. No employee of the Inspection Service shall comply with such a request, except as authorized by postal regulations.

115.8 International transit mail.

.81 Definitions

.811 *International transit mail.* As used in this part, the term "international transit mail" applies to mail of foreign origin which is passed by a foreign postal administration to the United States Postal Service for forwarding to a foreign postal administraiton under a postal treaty or convention. It includes closed mails and à découvert letter post items.

.812 *Closed mail.* The term "closed mail" refers to any bag, container, or mail passed to the United States Postal Service by a foreign postal administration, the entire contents of which are required by applicable postal treaties or conventions to be passed to a foreign postal administration

.813 *À découvert letter post item.* The term "à découvert letter post item" refers to any international letter post item ("Postal Union mail" as defined by USPS Publication 42, International Mail) which is addressed for delivery by a foreign postal administration, and is passed to the United States Postal Service by a foreign postal administration in a bag, container, or mail that must be opened by the United State Postal Service is accordance with applicable postal treaties or conventions because it also contains items addressed for delivery by the United States Postal Service.

.82 Special security rules.

International transit mail is entitled to freedom of transit. It shall not be opened, seized, or searched. It is not subject to Customs or Agriculture inspection under section 115.91 or 115.92. In accordance with the Universal Postal Convention, any international transit mail consisting of closed mails, à découvert letter-post items, and air mail correspondence, shall not be detained, but shall instead be forwarded to the next foreign postal administration by the quickest routes which the United States Postal Service uses for mail sealed against inspection.

115.9 Mail security. law enforcement, and other Government agencies.

.91 Customs service.

Without a search warrant but upon reasonable cause to suspect that the mail contains dutiable or prohibited items, designated personnel of the U.S. Customs Service may open or inspect the contents of mail in the customs inspection of mail (including APO-FPO mail) which has originated outside the Customs Territory of the United States ("CTUS") and is addressed for delivery either inside the CTUS or inside the Customs district of the Virgin Islands, on the following terms and conditions.

(a) *Other regulations.* Such inspections may be conducted only in accordance with part 820, USPS Publication 42, International Mail, relating to cooperation with the U.S. Customs Service on inspection of imports.

(b) *Virgin Islands.* Postal employees in the Virgin Islands may permit designated personnel of the U.S. Customs Service, without a search warrant, to examine the exterior (but not open or read the contents) of sealed mail which has originated in the CTUS and is addressed for delivery in the Customs district of the Virgin Islands. Upon the request of such Customs personnel, postal employees in the

Virgin Islands may ask the addressee of such sealed mail which such Customs personnel have reasonable cause to believe contains dutiable or prohibited matter to authorize such Customs personnel to open and inspect the contents of the sealed mail, or to appear at the post office to accept delivery of the sealed mail in the presence of a Customs official.

(c) *Privacy of correspondence.* No Customs personnel may read, allow any other person to read, divulge, or transfer to any other person any correspondence contained in sealed mail; nor may Customs personnel divulge, allow any other person to read or listen to, transfer to any other person, or knowingly listen to any paper or recording which is correspondence for the blind contained in unsealed mail; nor may Customs personnel divulge, allow any other person to read, or transfer to any person correspondence of school children permitted transmission in unsealed mail; unless such action is authorized by a search warrant issued under Rule 41 of the Federal Rules of Criminal Procedure.

(d) *Search warrant required for domestic and certain international mail.* No Customs personnel may, without a search warrant, open, inspect, read, or seize any mail in postal custody (including APO-FPO mail) which has not originated outside the CTUS, or which has diplomatic or consular immunity from customs inspection (USPS Publication 42, International Mail, sections 821.1a and 821.1b.)

.92 Department of Agriculture

(a) *Foreign origin mail.* Without a search warrant, but with the written consent of the sender, designated personnel of the U.S. Department of Agriculture may open and inspect (but not read) the contents of mail (including APO-FPO mail) which has originated outside the Customs Territory of the United States ("CTUS") and is addressed for delivery inside the CTUS. Such inspection may be conducted only in accordance with part 830, USPS Publication 42, International Mail, relating to cooperation with the Department of Agriculture on plant quarantine inspections of imports.

(b) *Domestic mail from Hawaii or Puerto Rico.* Without a search warrant, designated USDA personnel may open and inspect (but not read) the contents of mail reasonably suspected of containing plant matter or plant pests, which has been mailed in Hawaii or Puerto Rico and is addressed to the United States mainland, either with the consent of the sender, or if the mail is unsealed. Such inspections may take place only in designated areas of the Hawaii or Puerto Rico post office, and only so long as the Federal plant quarantine of Hawaii or Puerto Rico remains in effect.

(c) *State terminal inspections.* Postal employees may cooperate with the Department of Agriculture and with State terminal inspection officials in accordance with the Terminal Inspection Act, 7 U.S.C. 166, or implementing regulations in USPS Publication 14, Plant Quarantines.

.93 Military Postal System.

This part applies to the military postal system and to all military personnel performing postal duties, including unit mail clerks. A search authorization issued by or under the authority of a commanding officer or a military judge is not a "search warrant" within the meaning of this part. Offenses committed against the security of mail in the custody of the military postal system, at home or aboard, are punishable under Federal criminal laws relating to postal offenses in Title 18, United States Code, as well as under the Uniform Code of Military Justice. Mail in the custody of the military postal system, if mailed outside the Customs Territory of the United States for delivery to an address within the Customs Territory of the United States, may be opened and searched (but correspondence in sealed mail may not be read) without a search warrant, by authorized personnel of the U.S. Customs Service in accordance with section 115.91, relating to customs inspection, and by authorized personnel of the Department of Agriculture in accordance with section 115.92(a), relating to plant quarantines of imports, even though for other purposes such mail is domestic mail, part 112.

.94 Customs inspection in Guam.

Postal employees in the Agana post office may permit designated customs officials of the Government of Guam, without a search warrant to open, inspect, and read the contents of unsealed mail, and to examine the exterior (but not open or read the contents) of sealed mail which is addressed for delivery within the Territory of Guam. Upon the request of Guam customs officials, postal employees in the Agana post office may ask the addressee of sealed mail which Guam customs reasonably suspects of containing dutiable or prohibited matter to authorize Guam customs to open and inspect the contents of the sealed mail, or to appear at the post office to accept delivery of the sealed mail in the presence of a Guam customs official.

.95 Canal Zone Postal Service.

.951 International transit mail.

The Canal Zone Postal Service shall comply with section 115.8 with regard to any international transit mail passed to it by a foreign postal administration.

.952 Mail Addressed to the United States or any area for which it is responsible.

The Canal Zone Postal Service shall comply with part 115 with regard to any mail passed to it by a foreign postal administration which is addressed for delivery in the United States or any area for which the United States is responsible (other than the Canal Zone).

.953 Mail passed to the Canal Zone Postal Service by the United States Postal Service not addressed for delivery in the Canal Zone.

The Canal Zone Postal Service shall comply with part 115 with regard to any mail passed to it by the United States Postal Service which is not addressed for delivery in the Canal Zone.

.954 Definitions.

For purposes of subsections 115.952 and 115.953, the words "postal employee" or words of like import in part 115 refer to an employee of the Canal Zone Postal Service; and the words "Postal Service" or "United States Postal Service" or words of like import refer to the Canal Zone Postal Service.

.96 Puerto Rico.

Under 48 U.S.C. 741a, postal employees in the San Juan Post Office are authorized to permit excise tax collection officials of the Commonwealth of Puerto Rico to record the names and addresses that appear on the exterior of incoming insured, certified, or C.O.D. mail, so long as no mail is opened or detained.

.97 Mail addressed to prisoners.

Authorized personnel of prisons, jails, or other correctional institutions, in accordance with lawful rules and regulations, may open, examine, and censor mail addressed to an inmate of the institution, if the inmate-addressee consents to receive his mail at the institution through the institutional authorities. If the inmate does not consent, the personnel may either deliver the inmate's mail to the inmate unopened, or return it to the post office unopened marked, "Refused."

An inmate may designate in writing an agent outside the institution to receive his mail, either through an authorized address of the agent if the mail is so addressed, or at the delivery post office serving the institution if the mail is addressed to the inmate at the institution.

PART 112—DOMESTIC MAIL SERVICE

2. Amend part 112 by inserting between the words "Army-Air Force (APO) and Navy (FPO) post offices" and the semicolon immediately following them, the words, "(except as provided in part 115)".

PART 137—OFFICIAL MAIL

3. Amend section 137.81 by inserting, between the word "detained" and the word "even" in the first sentence, the words, ", except in accordance with part 115,".

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 C.F.R. 111.3. (39 U.S.C. 401, 404, 3623(d)).

LOUIS A. COX,
General Counsel.

[FR Doc. 78-9005 Filed 4-4-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 191]

PART 1-1—GENERAL

Energy Conservation

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations requires Government employees to apply energy conservation and efficiency standards when making purchases for the Government. The circumstances which created the need for the action were the Energy Policy and Conservation Act (42 U.S.C. 6361(a)(1)), Executive Order 11912, and the Office of Federal Procurement Policy's Policy Letter No. 76-1. The intended effect is to ensure the application of the principles of energy conservation and efficiency in the procurement of property and services.

EFFECTIVE DATE: This amendment is effective May 15, 1978, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

The table of contents for part 1-1 is amended to add new entries as follows:

Sec.
1-1.328—1-1.338 [Reserved]
1-1.339 Energy conservation.
1-1.339-1 Authority.
1-1.339-2 Procedures.
1-1.339-3 Definitions.

Subpart 1-1.3—General Policies

Sections 1-1.328 through 1-1.338 are reserved, and § 1-1.339 is as added follows:

§ 1-1.328—1-1.338 [Reserved]

§ 1-1.339 Energy conservation.

§ 1-1.339-1 Authority.

(a) The Energy Policy and Conservation Act (42 U.S.C. 6361(a)(1)) provides as follows: "The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented."

(b) The authority of the President under the act was delegated by the President to the Administrator of the Office of Federal Procurement Policy in Executive Order 11912. The Administrator issued Policy Letter No. 76-1, which requested agencies "* * * to ensure that the principles of energy conservation and efficiency are applied in the procurement of property and services whenever the application of such principles would be meaningful and practicable and consistent with agency programs and operational needs." It also provided for implementation of the policy in the Federal Procurement Regulations.

§ 1-1.339-2 Procedures.

(a) Energy conservation and energy efficiency criteria shall be applied in the determination of requirements and source selection decisions whenever the application of such criteria would be meaningful, practical, and consistent with agency programs and operational needs. Under this policy, energy conservation and efficiency criteria shall be considered for application along with price and other relevant factors in the preparation of solicitations, the evaulation of offers, and the selection of bids and proposals for award.

(b) When procuring consumer products, executive agencies shall take into consideration energy use and efficiency labels and prescribed energy efficiency standards as they become available.

§ 1-1.339-3 Definitions.

(a) The term "consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type—

(1) Which in operation consumes, or is designed to consume, energy; and

(2) Which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(b) The term "covered product" means a consumer product of one of the following types:

(1) Refrigerators and refrigerator-freezers.

(2) Freezers.

(3) Dishwashers.

(4) Clothes dryers.

(5) Water heaters.

(6) Room air-conditioners.

(7) Home heating equipment, not including furnaces.

(8) Television sets.

(9) Kitchen ranges and ovens.

(10) Clothes washers.

(11) Humidifiers and dehumidifiers.

(12) Central air-conditioners.

(13) Furnaces.

(14) Any other type of product which the Secretary of Energy classifies as a covered product pursuant to 42 U.S.C. 6292(b).

(c) The term "energy use and efficiency label" means a label required to be provided by manufacturer of a covered product pursuant to 42 U.S.C. 6296.

(d) The term "manufacturer" means any person who manufactures a consumer product.

(e) The term "energy efficiency standard" means a performance standard—

(1) Which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under 42 U.S.C. 6293; and

(2) Which includes any other requirements which the Secretary of Energy may prescribe under 42 U.S.C. 6295(c).

(f) The term "manufacture" means to manufacture, produce, assemble, or import.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under OMB Circular A-107.

Dated: March 27, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-8947 Filed 4-4-78; 8:45 am]

[6820-26]

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

[ADM 7900.7 CHGE 1]

PART 105-65—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Grant Procedures

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This change to the General Services Administration Property Management Regulations deletes the requirement in the National Historical

Publications and Records Commission grant procedures that grantees obtain prior approval from the Commission for deviations in excess of 5 percent of the total amount allocated in the budget summary for salaries. This action is being taken to bring the grant procedures in conformance with OMB Circular A-110, uniform administrative requirements for grants and other agreements with institutions of higher education, hospitals, and other private nonprofit organizations.

EFFECTIVE DATE: April 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank G. Burke, Executive Director, National Historical Publications and Records Commission (NP), Washington, D.C. 20408, 202-724-1083.

Section 105-65.308 is revised to read as follows:

§ 105-65.308 Adherence to original budget estimates.

No expenses shall be charged to grant funds unless provided for in the budget summary or approved in a subsequent letter from the Commission. The Commission shall be informed promptly by the grantee of any significant departure from the budget summary.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under OMB Circular A-107.

Dated: March 27, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-8949 Filed 4-4-78; 8:45 am]

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6004-1k]

PART 1060—GENERAL CHARACTERISTICS OF COMMUNITY ACTION PROGRAMS

CSA Income Poverty Guidelines; Revision

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is revising its income poverty guidelines. The Economic Opportunity Act requires yearly revisions of the poverty guidelines for use by every agency administering programs under the Act in which the poverty line is used to judge eligibility for participating in programs. These annual revisions assure that the income guidelines reflect the changes in the cost of living.

DATES: This rule is effective May 5, 1978. CSA welcomes comments and will consider all comments received prior to May 5, 1978. Please address all comments to: Mr. Frank Morris, Chief, Policy Analysis Division, Community Services Administration, Office of Planning, Policy and Evaluation, 1200-19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Morris, 202-632-6630.

SUPPLEMENTARY INFORMATION: In order that the true level of poverty which is used to determine program eligibility does not change as a result of substantial increases in the cost of living as measured by the Consumer Price Index, CSA by authority of Section 625 of the Economic Opportunity Act of 1964, as amended, revises, from time to time, its poverty income guidelines in order to keep them abreast of changes in the cost of living for the poor. This amendment to § 1060.2 revises the guidelines previously published in §§ 1060.2-1—1060.2-2 (CSA Instruction 6004-1j) to reflect the percentage change in the Consumer Price Index from 1976 to 1977 as set forth in the Economic Report of the President, January 1978. The text defining "Income" and "A Farm Residence" remains unchanged.

GRACIELA (GRACE) OLIVAREZ,
Director.

In 45 CFR Chapter X, §§ 1060.2-1 through 1060.2-2 are revised to read as follows:

Sec.
1060.2-1 Applicability.
1060.2-2 Policy.

AUTHORITY: Sec. 602, 78 Stat. 530; (42 U.S.C. 2942).

§ 1060.2-1 Applicability.

This subpart applies to all grants financially assisted under titles II, III-B and VII of the Economic Opportunity Act of 1964, as amended, if such assistance is administered by the Community Services Administration.

§ 1060.2-2 Policy.

(a) The attached income guidelines are to be used for all those CSA-funded programs, whether administered by a grantee or delegate agency, which use CSA poverty income guidelines as admission standards. These guidelines do not supersede alternative standards of eligibility approved by CSA.

(b) The guidelines are also to be used in certain other instances where required by CSA as a definition of poverty, e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.

(c) The following definitions, from "Current Population Reports", P-60, No. 91, Bureau of the Census, December 1973 have been adopted by CSA for use with the attached poverty guidelines.

(1) *Income.* Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but not including food or rent in lieu of wages. They include receipts from self-employment or from own farm or business after deductions for business or farm expenses. They include regular payments from public assistance, social security, unemployment and workmen's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury; also to be disregarded is non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

(2) *A Farm Residence.* Is defined as any dwelling on a place of 10 acres or more with $50 or more annual sales of farm products raised there; or any place less than 10 acres having product sales of $250 or more.

ATTACHMENT

COMMUNITY SERVICES ADMINISTRATION

POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit:	Nonfarm family	Farm family
1	$3,140	$2,690
2	4,160	3,550
3	5,180	4,410
4	6,200	5,270
5	7,220	6,130
6	8,240	6,990

For family units with more than 6 members, add $1,020 for each additional member in a nonfarm family and $860 for each additional member in a farm family.

POVERTY GUIDELINES FOR ALASKA

	Nonfarm family	Farm family
Size of family unit:		
1	$3,940	$3,380
2	5,210	4,450
3	6,480	5,520
4	7,750	6,590
5	9,020	7,660
6	10,290	8,730

For family units with more than 6 members, add $1,270 for each additional member in a nonfarm family and $1,070 for each additional member in a farm family.

POVERTY GUIDELINES FOR HAWAII

	Nonfarm family	Farm family
Size of family unit:		
1	$3,620	$3,130
2	4,790	4,110
3	5,960	5,090
4	7,130	6,070
5	8,300	7,050
6	9,470	8,030

For family units with more than 6 members, add $1,170 for each additional member in a nonfarm family and $980 for each additional member in a farm family.

[FR Doc. 78-8939 Filed 4-4-78; 8:45 am]

[6315-01]

[CSA Notice 6143-7]

PART 1061—EMERGENCY ENERGY CONSERVATION PROGRAM

Subpart—Funding Requirements for Emergency Energy Assistance Program

MISCELLANEOUS AMENDMENTS

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is amending its rule on the Emergency Energy Assistance Program published at 43 FR 9476 (CSA Notice 6143-7). The most significant change affects the eligibility for assistance of persons 60 years of age and over by lowering the income levels from 150 percent of the CSA Poverty Guidelines to those at or below 125 percent and/or who are recipients of Supplemental Security Income. This change is being made at the specific request of the Office of Management and Budget. The second change clarifies criteria for funding of energy related, as well as weather related, emergencies declared by the Federal Government as triggers for release of EEAP funds.

DATE: This rule is effective April 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Saul or Mr. Wallace W. Lumpkin, Community Services Administration, Office of Program Development, Energy Programs, 1200 19th Street NW., Washington, D.C. 20506, 202-254-5460.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).)

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR part 1061 is amended by amending §§ 1061.51-3(b)(1) and 1061.51-7(b)(1) to read as follows:

§ 1061.51-3 [Amended]

In § 1061.51-3(b)(1) the following opening phrase "In any State or locality where weather conditions, such as a blizzard, have been declared by the Federal Government to constitute an emergency or disaster * * *" is deleted and the following phrase is substituted: "In any State or locality where it has been declared by the Federal Government that an energy or weather related emergency or disaster exists * * *."

§ 1061.51-7 [Amended]

In § 1061.51-7(b) delete the entire subparagraph (1) and replace with the following: "(1) *Income eligibility.* Households with incomes no higher than 125 percent of the CSA Poverty Guidelines as set forth in CSA Instruction 6004-1j, and changes thereto, and/or elderly individuals and couples (age 60 and over) who receive Supplementary Security Income (SSI) may be assisted with funds under this program (see attached Income Chart)."

[FR Doc. 78-8940 Filed 4-4-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 55 (Sub-No. 25)]

PART 1003—LIST OF FORMS

PART 1100—RULES OF PRACTICE

Revision of Application Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of grace period for filing of applications for permanent operating authority.

SUMMARY: On April 1, 1978, new filing and processing procedures announced on December 13, 1977, [42 FR 62486 (1977)] involving applications for permanent motor carrier, broker, water carrier, and freight forwarder operating authority are to become effective. It has come to the Commission's attention, however, that some field offices have yet to receive copies of the new application forms. The Commission therefore is announcing a two-week (April 1-16, 1978) period of grace during which time filings on either the old or the new application forms will be accepted. Applications filed on the new forms during this grace period will be processed under the new procedures. Appplications filed on the old forms during this grace period will not be rejected. On and after April 17, 1978, all applications seeking permanent motor carrier, broker, water carrier, and freight forwarder operating authority must be filed on the new forms which will be processed under the new procedures.

Decided: March 30, 1978.

By the Commission.

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

[FR Doc. 78-9017 Filed 4-4-78; 8:45 am]

proposed rules

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

[1601-01]

GENERAL ACCOUNTING OFFICE

[4 CFR Part 21]

PROCEDURES FOR DECISIONS ON APPROPRIATED FUND EXPENDITURES IN FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

AGENCY: General Accounting Office.

ACTION: Proposed Rule.

SUMMARY: This proposed rule is intended to formalize the procedure that Federal agencies and labor organizations currently use in requesting decisions from the Comptroller General on the legality of appropriated fund expenditures incident to the Federal Labor Relations Program. The informal and non-standardized procedure presently in use has led to misunderstandings among the parties in the program and has resulted in unnecessary delay in the issuance of decisions. This new procedure is designed to correct these deficiencies by providing interested parties with the guidance they need to submit complete decision requests on a timely basis to the General Accounting Office and thereby expedite the issuance of decisions.

DATES: All comments shall be considered which are received by May 5, 1978.

ADDRESSES: Comments should be addressed to: Robert L. Higgins, Assistant General Counsel for Civilian Personnel Law, Office of the General Counsel, General Accounting Office, Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT:

Robert L. Higgins, Assistant General Counsel, Office of the General Counsel, General Accounting Office, Washington, D.C. 20548, 202-275-6410.

Accordingly, it is proposed to amend 4 CFR Chapter I by adding a new Part 21, reading as follows:

PART 21—PROCEDURES FOR DECISIONS ON APPROPRIATED FUND EXPENDITURES IN FEDERAL LABOR-MANAGEMENT RELATIONS PROGRAM

Sec.

21.1 Purpose and scope.
21.2 Definitions.
21.3 Who may request a decision.
21.4 Content of request.
21.5 Service.
21.6 Timeliness of requests for decisions.
21.7 Considerations governing the issuance of a decision.
21.8 Joint requests for decisions.
21.9 Compliance with Federal Labor Relations Council review procedures.
21.10 Distribution of decisions.

AUTHORITY.—Sec. 8, 28 Stat. 207, as amended (31 U.S.C. 74); Sec. 3, 55 Stat. 876 (31 U.S.C. 82d).

§ 21.1 Purpose and scope.

This part sets forth the procedures under which the U.S. General Accounting Office will render decisions concerning the legality of appropriated fund expenditures on labor-management relations issues. The smooth functioning of the Federal labor-management relations program requires that labor-management relations matters involving questions regarding the legality of appropriated fund expenditures be resolved as expeditiously as possible. The following procedures are established to accomplish this objective.

§ 21.2 Definitions.

As used in this part, unless the context requires otherwise—

(a) A "labor-management relations matter" means an issue or dispute involving the legality of an expenditure of appropriated funds arising from any of the following: (1) an arbitration award; (2) an actual or proposed collective-bargaining agreement provision; (3) a decision or order of the Federal Labor Relations Council; or (4) a decision or order of the Assistant Secretary of Labor for Labor-Management Relations.

§ 21.3 Who may request a decision.

Heads of agencies and Departments, the Federal Labor Relations Council and the Assistant Secretary of Labor for Labor-Management Relations, authorized certifying officers, disbursing officers and heads of labor organizations may apply for a decision on the legality of appropriated fund expenditures that arise in the Federal Labor-Management Relations Program.

§ 21.4 Content of request.

A request for a decision shall be in writing, dated, signed by the requester, addressed to the Comptroller General, United States General Accounting Office, Washington, D.C. 20548, and contain as applicable:

(a) The name and address of the party requesting the decision;

(b) In the case of requests submitted by anyone other than the Federal Labor Relations Council or the Assistant Secretary of Labor for Labor-Management Relations, a statement of the legal question to be decided, a presentation of all relevant facts involved, and a statement of the party's argument;

(c) Copies of all pertinent records and supporting documents such as an arbitration award and the collective-bargaining agreement; and

(d) A copy of any decisions and reports issued at an earlier stage of development in the matter, such as decisions of the Federal Labor Relations Council, the Assistant Secretary of Labor for Labor-Management Relations, Department of Labor Regional Administrators and Administrative Law Judges.

§ 21.5 Service.

(a) Any person requesting a decision that involves a labor-management relations matter is responsible for promptly serving a copy of the request and supporting documents on all known interested parties. Service shall be made by registered or certified mail or in person. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail. A signed and dated statement of service shall be submitted along with the request and indicate the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(b) Any party served or any other person may submit a written response to the request for decision or may submit written comments to the Comptroller General, U.S. General Accounting Office, Washington, D.C. 20548. Any such response or comments should be submitted within 15 days after the date of the request in order to ensure that it will be considered by the General Accounting Office.

§ 21.6 Timeliness of requests for decisions.

Because of the sensitive nature and far reaching implications of labor-management relations disputes and grievances, questions in this area involving the legality of appropriated fund expenditures should be submitted to the General Accounting Office for a decision without undue delay.

§ 21.7 Considerations governing the issuance of a decision.

(a) Decisions on the use of appropriated funds involved in labor-manage-

ment relations matters will be issued as expeditiously as possible, normally within 60 calendar days of receipt of the arguments and comments of all interested parties. Where a delay is anticipated in the issuance of a decision, interested parties will be notified and provided with a tentative date that issuance of the decision may be expected.

(b) Questions submitted for a decision must involve an actual issue or dispute and may not be of a purely speculative or hypothetical nature.

(c) The Comptroller General may refuse to issue a decision on a matter that is the subject of litigation before a court of competent jurisdiction.

§ 21.8 Joint requests for decisions.

In an effort to reduce the amount of time required for the decision-making process, agencies and labor organizations are encouraged to submit joint requests for decisions on matters where both parties agree on or can stipulate the factual situation and the only question that remains to be resolved is the legality of the expenditure.

§ 21.9 Compliance with Federal Labor Relations Council review procedures.

When an agency or a labor organization requests a decision from the Comptroller General on appropriated fund expenditures ordered by an arbitration award or a decision of the Assistant Secretary of Labor for Labor-Management Relation, the request does not relieve the parties of their obligation to comply with Executive Order 11491, as amended, or to comply with Federal Labor Relations Council regulations contained in 5 CFR, Part 2411, concerning review by the Council.

§ 21.10 Distribution of decisions.

A copy of a decision of the Comptroller General will be forwarded to the requester and to all other interested parties of record. Additional copies of decisions may be obtained from the Office of General Counsel, General Accounting Office, Washington, D.C. 20548.

ELMER B. STAATS,
Comptroller General,
of the United States.

[FR Doc. 78-9016 Filed 4-4-78; 8:45 am]

[3410-02]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

[7 CFR Part 913]

[Docket No. A0-353-A2]

HANDLING OF GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Hearing on Proposed Amendment of Marketing Agreement as Amended, and Order, as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider proposed changes in the marketing order. The principal issues to be considered are: (1) Provision for selecting an administrative committee separate from Order 905 (7 CFR Part 905), and provide for a public member on such committee; (2) changing the definition of the standard container, and (3) provide for including export shipments in the computation of handlers' prorate bases.

DATE: The hearing will be held April 20, 1978, at the location listed under the address below.

ADDRESS: The hearing will be held in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Fla.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held beginning at 10 a.m., local time, with respect to proposed amendment of the marketing agreement, as amended, and Order No. 913, as amended, regulating the handling of grapefruit grown in the Interior District of Florida.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to proposed amendment, hereinafter set forth, or any appropriate modifications thereof, of the marketing agreement, as amended, and the order, as amended.

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

PROPOSED BY THE INTERIOR GRAPEFRUIT MARKETING COMMITTEE

PROPOSAL NO. 1

Revise § 913.6 to read:

§ 913.6 Handle or ship.

"Handle" or "ship" means to sell or transport grapefruit, or in any other way to place grapefruit in the current of commerce between the regulation area and any point outside thereof.

PROPOSAL NO. 2

Revise § 913.7 to read:

§ 913.7 Carton or standard packed carton.

"Carton or standard packed carton" means a unit of measure equivalent to four-fifths (⅘) of a United States bushel of fruit, whether in bulk or in any container.

PROPOSAL NO. 3

§§ 913.8 through 913.11 [Redesignated as §§ 913.9 through 913.12]

Redesignate §§ 913.8 through 913.11 as §§ 913.9 through 913.12 and insert a new § 913.8 reading as follows:

§ 913.8 Producer.

"Producer" is synonymous with "grower" and means any person who is engaged in the production for market of grapefruit in the Interior District and who has a proprietary interest in the grapefruit so produced.

PROPOSAL NO. 4

Redesignate §913.20 as § 913.15 and insert the following two new sections:

§ 913.13 Grower districts.

(a) "Grower District 1" shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, and Lake.

(b) "Grower District 2" shall include the Counties of Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwannee, and County Commissioner's Districts One, Two, and Three of Volusia County, and that part of the Counties of Indian River and Brevard which is included in the Interior District.

(c) "Grower District 3" shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Soto, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, and the parts of the Counties of Palm Beach and Martin which are included in the Interior District.

(d) "Grower District 4" shall include the County of Polk.

§ 913.14 Redistricting.

(a) The committee may, with the approval of the Secretary, redefine the

grower districts into which the Interior Distict is divided or reapportion or otherwise change the grower membership of grower districts, or both: *Provided*, That the membership shall consist of at least six but not more than seven grower members, and any such change shall be based, so far as practicable, upon the respective averages for the immediately preceding five fiscal periods of (1) the volume of grapefruit shipped from each grower district; (2) the total number of acres of grapefruit in each such district.

(b) The committee shall consider such redistricting and reapportionment during the 1980-81 fiscal period, and only in each fifth fiscal period thereafter, and each such redistricting or reapportionment shall be announced on or before March 1 of the then current fiscal period.

PROPOSAL NO. 5

Revise redesignated § 913.15 to read as follows:

§ 913.15 Establishment and membership.

(a) There is hereby established an Interior Grapefruit Marketing Committee consisting of at least 6 but not more than 7 grower members, and 6 shipper members. Grower members shall be persons who are not shippers or employees of shippers. Shipper members shall be shippers or employees of shippers. The committee may be increased by one non-industry member nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the non-industry member.

(b) Each member shall have an alternate who shall have the same qualifications as the member for whom he is an alternate.

PROPOSAL NO. 6

Insert the following new sections:

§ 913.16 Term of office.

The term of office of members and alternate members shall begin on the first day of August and continue for one year and until their successors are selected and have qualified. The consecutive terms of members shall be limited to three terms. The consecutive terms of office of alternate members shall not be so limited. Members, their alternates, and their respective successors shall be nominated and selected by the Secretary as provided in § 913.17.

§ 913.17 Nominations.

(a) *Grower members.* (1) The committee shall give public notice of a meeting of producers in each grower district to be held not later than July 10 of each year, for the purpose of making nominations for grower members and alternate grower members. The committee, with the approval of the Secretary, shall prescribe uniform rules to govern such meetings and the balloting thereat. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated, and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July.

(2) Each nominee shall be a producer in the grower district from which he is nominated. In voting for nominees, each producer shall be entitled to cast one vote for each nominee in each of the districts in which he is a producer. At least two of the nominees for member and their alternated shall be affiliated with a bona fide cooperative marketing organization, and at least two member nominees and their alternates shall not be so affiliated.

(b) *Shipper members.* (1) The committee shall give public notice of a meeting for bona fide cooperative marketing organizations which are handlers, and a meeting for other handlers who are not so affiliated, to be held not later than July 10 of each year, for the purpose of making nominations for shipper members and their alternates. The committee, with the approval of the Secretary, shall prescribe uniform rules to govern each such meeting and balloting thereat. The chairman of each such meeting shall publicly announce at the meeting the names of the persons nominated and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes cast, the wieght by volume of those shipments voted, and such other information as the Secretay may request. All nominations shall be submitted to the Secretary on or before the 20th day of July.

(2) Nominations of at least two members and their alternates shall be made by bona fide cooperative marketing organizations which are handlers. Nominations for at least two members and their alternates shall be made by handlers who are not so affiliated. In voting for nominees, each handler or his authorized representative shall be entitled to cast one vote, which shall be weighted by the volume of fruit shipped by such handler during the then current fiscal period.

§ 913.18 Selection.

(a) The initial members of the committee and their respective alternates shall be the members and alternates of the Citrus Administrative Committee under Order No. 905 (7 CFR Part 905) whose principal residence and place of business are in the Interior District and who are serving on the effective date of this amendment. Each member and alternate shall serve until a successor has been selected and qualified.

(b) *Successor grower members.* From the nominations made pursuant to § 913.17(a) or from other qualified persons, the Secretary shall select one member and one alternate member each to represent Grower Districts 2 and 3, two members and two alternates to represent Grower District 1, three members and three alternates to represent Grower District 4, or such other number of members and alternate members from each district as may be prescibed pursuant to § 913.14. At least two such members and their alternates shall be affiliated with bona fide cooperative marketing organizations, and at least two such members and their alternates shall not be so affiliated.

(c) *Successor shipper members.* From the nominations made pursuant to § 913.17(b) or from other qualified persons, the Secretary shall select members and alternates of the committee. At least two members and their alternates shall represent bona fide cooperative marketing organizations which are handlers, and at least two members and their alternates shall represent handlers who are not so affiliated.

§ 913.19 Failure to nominate.

In the event nominations for a member or alternate member of the committee are not made pursuant to the provisions of § 913.17, the Secretary may select such member or alternate member without regard to nominations.

§ 913.20 Acceptance of membership.

Any person selected by the Secretary as a member or alternate member of the committee shall qualify by filing a written acceptance with the Secretary within 10 days after being notified of such selection.

PROPOSAL NO. 7

Revise § 913.21 to read:

§ 913.21 Inability of members to serve.

(a) An alternate for a member of the committee shall act in the place and stead of such member (1) in his absence, or (2) in the event of his removal, resignation, disqualification, or death, and until a successor for his unexpired term has been selected.

(b) In the event of the death, removal, resignation, or disqualification of any person selected by the Secretary as a member or an alternate member of the committee, a successor for the unexpired term of such person shall

be selected by the Secretary. Such selection may be made without regard to the provisions of this subpart as to nominations.

PROPOSAL NO. 8

Revise § 913.31 to read as follows:

§ 913.31 Assessments.

(a) Each handler who first handles fruit shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by such committee for its maintenance and functioning during each fiscal period. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of fruit shipped to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period: *Provided*, That if the computation of the prorate bases of handlers includes all fruit handled as specified pursuant to § 913.43(e), each handler's pro rata share shall be the proportion his total shipments bear to the total shipments of all handlers. The Secretary shall fix the rate of assessment per standard packed carton of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped to the applicable destinations during the given fiscal period. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

PROPOSAL NO. 9

Revise §§ 913.41 and 913.42 to read as follows:

§ 913.41 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of grapefruit which it deems advisable to be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during the next succeeding week: *Provided*, That volume regulations shall not be recommended after such regulations have been effective for an aggregate of 14 weeks during any fiscal period.

(b) In making its recommendations, the committee shall give due consideration to the following factors:

(1) Market prices for grapefruit;

(2) Supply, maturity, and conditions of grapefruit in the production area;

(3) Market prices and supplies of citrus fruits from competitive producing areas, and supplies of other competitive fruits;

(4) Trend and level in consumer income; and

(5) Other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 913.42, has fixed the quantity of grapefruit which may be so handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

§ 913.42 Issuance of volume regulation.

Whenever the Secretary finds, from information submitted by the committee, or from other available information, that to limit the quantity of grapefruit which may be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided*, That such regulations during each fiscal period shall not in the aggregate limit the volume of grapefruit shipments for more than 14 weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of grapefruit is in excess of the parity price of grapefruit specified therefor in the act. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend by regulation at any time.

PROPOSAL NO. 10

Revise § 913.43 to read as follows:

§ 913.43 Prorate bases.

(a) Each person who desires to handle grapefruit shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided in this section and § 913.44.

(b) Such application shall be substantiated in such manner and shall be supported by such information as the committee may require.

(c) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(d) Each week during the marketing season when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of this section. The prorate base for each such handler shall be computed by adding together the handler's shipments of grapefruit to destinations outside the regulation area in the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico in the current season and his shipments to such destinations in the immediately preceding seasons, if any, within the representative period, in which he shipped grapefruit and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and 51 weeks for each of such immediately preceding seasons within the representative period in which the handler so shipped grapefruit. For purposes of this section "representative period" means the three preceding seasons together with the current season; the term "season" means the 51 week period beginning with the first full week in August of any year; and the term "current season" means the period beginning with the first full week in August of the current fiscal period through the fourth full week preceding the week of regulation: *Provided*, That when official shipping records are available to the committee the term "current season" shall extend through the third full week preceding the week of regulation.

(e) If the committee determines that it is desirable and appropriate to include in the computation of prorate bases of handlers all fruit handled during the representative period by each handler applicant, it may, upon the approval of the Secretary, include all such fruit in such computation.

PROPOSED BY THE FRUIT AND VEGETABLE DIVISION, AGRICULTURAL MARKETING SERVICE:

PROPOSAL NO. 11

Make such changes as may be necessary to make the entire marketing

agreement and the order conform with any amendment thereto that may result from this hearing.

Copies of this notice of hearing and the order may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: March 30, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-8971 Filed 4-4-78; 8:45 am]

[3410-07]

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.1]

RURAL HOUSING LOAN AND GRANTS

Section 502 Rural Housing Loan Policies, Procedures and Authorizations; Advance notice of Proposed Rulemaking

AGENCY: Farmers Home Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Farmers Home Administration is considering amending this subpart to more clearly define eligibility standards for section 502 Rural Housing Loans. This advanced notice of proposed rule making is being issued in compliance with a Consent Order in the United States District Court for the District of Columbia Civil Action No. 77-0355, Gene Kenneth Vickers, et al Plantiffs, vs Bob Bergland, et al Defendant.

DATES: Comments must be received on or before May 5, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be made available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry B. Ireton 202-447-4295.

SUPPLEMENTARY INFORMATION: Subpart A of Part 1822, Chapter XVIII of Title 7, Code of Federal Regulations, Section 502 Rural Housing Loan Policies, Procedures, and Authorization will be amended to more clearly define and revise the eligibility standards for 502 housing applicants. Comments are specifically requested for on standards to be used in determining "repayment ability" and on possible definitions of credit history. In particular, FmHA is also considering the use of budget forms in all housing loans. Suggestions on what should be included in these forms and what standards should be used to determine "repayment ability" are also requested. The Farmers Home Administration will determine the eligibility of applicants, and approve loans based on these criteria and other provisions of Section 502 of Title V of the Housing Act of 1949.

(Delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: March 30, 1978.

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

[FR Doc. 78-8956 Filed 4-4-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Ch. II]

MINIATURE CHRISTMAS TREE LIGHTS

Extension of the Period for Publishing a Proposed Consumer Product Safety Standard or Withdrawing Notice of Proceeding

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of Time for Publishing a Proposed Consumer Product Safety Standard.

SUMMARY: In this notice, the Commission extends, by 30 days, from April 3, 1978 until May 3, 1978, the period in which the Commission must publish in the FEDERAL REGISTER either a proposed consumer product standard for miniature Christmas tree lights or a notice withdrawing the previously published notice of proceeding for the development of a standard. The reason for extending this time period is the need for additional time to review the complex and lengthy draft proposal to ensure that it is accurate.

DATES: The deadline for publishing a proposed standard is extended to May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Carl Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to extend by 30 days, from April 3, 1978 until May 3, 1978, the period in which the Consumer Product Safety Commission must publish in the FEDERAL REGISTER either a proposed consumer product safety standard for miniature Christmas tree lights or a notice withdrawing the previously published notice of proceeding for the development of a standard.

A proceeding to develop a consumer product safety standard for miniature Christmas tree lights was commenced under the Consumer Product Safety Act (CPSA) by a notice in the FEDERAL REGISTER of March 31, 1977 (42 FR 17154), in which the Commission solicited either (1) offers to develop a recommended consumer product safety standard or (2) the submission of existing standards to serve as a recommended consumer product safety standard. The Commission subsequently accepted the offer of the National Consumers League (NCL) to develop a safety standard for this product, and NCL submitted a recommended standard to the Commission on November 16, 1977.

On January 16, 1978, the Commission extended, by 75 days, from January 16, 1978, the period for publishing a proposed consumer product safety standard or withdrawing the notice of proceeding. The reasons for extending the time period were the need for further development of the "cascade failure simulation" end-product test included in the standard, the need to resolve several additional technical areas, and the need for additional time to include exact labeling and instruction requirements in the standard. The Commission believes that an additional extension of 30 days is necessary as a result of the complexity and length of the draft proposed standard. The time is necessary in order to ensure that the draft proposal is complete and accurate and in order to provide additional time for the Commission to review the draft proposal.

Therefore, in accordance with the provisions of section 7(f)(2) of the CPSA, 15 U.S.C. 2056(f)(2), the Commission hereby extends until May 3, 1978 the time in which it must either publish a proposed consumer product safety standard applicable to miniature Christmas tree lights or withdraw the notice of proceeding. This period may be further extended by a notice published in the FEDERAL REGISTER stating good cause.

Dated: March 31, 1978.

SADYE DUNN,
Acting Secretary, Consumer
Product Safety Commission.

[FR Doc. 78-8989 Filed 4-4-78; 8:45 am]

[6820-23]

GENERAL SERVICES ADMINISTRATION

[41 CFR Part 5B-2]

PROCUREMENT BY FORMAL ADVERTISING

Solicitation of Bids: Requirement for Bidders To Include a Listing of Subcontractors As Part of Their Bids

AGENCY: General Services Administration, Public Buildings Service.

ACTION: Withdrawal of proposed rule.

SUMMARY: GSA is withdrawing its proposal to delete the regulations requiring a listing of subcontractors to be submitted with bids for construction and alteration contracts awarded by the Public Buildings Service. GSA is taking this action because of the nature of the comments received opposing the proposal, the recommendations of a special Advisory Panel on Subcontractor Listing, and a reevaluation of the requirement. The purpose of this notice of withdrawal is to inform the public that GSA has considered all of the comments received and has decided not to issue the regulatory change as proposed.

FOR FURTHER INFORMATION CONTACT:

Mr. T. L. Dunn Director, Contract Systems Division, Office of Construction Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202-566-1860.

SUPPLEMENTARY INFORMATION: On June 1, 1977, the General Services Administration (GSA) published a proposed rule (42 FR 27966) to delete §§ 5B-2.202-70 and 5B-2.404 of the General Services Administration Procurement Regulations (41 CFR Chapter 5B) to eliminate the requirement for bidders to name major subcontractors with bids on GSA/PBS construction contracts. The public was invited to submit comments by July 1, 1977. On July 14, 1977, the comment period was extended to September 1, 1977 (42 FR 36277). Approximately 845 comments were received, 611 against and 234 in favor of the proposed rule.

Because of the strong public response to the proposed rule, GSA established a special advisory panel of five members from the private sector to further involve the public in the resolution of the issue. The panel recommended that the requirement for a listing of subcontractors be retained with modifications.

Having carefully considered all of the comments and recommendations received, GSA has decided to continue its requirement, with modifications, for a listing of subcontractors. Accordingly, 41 CFR 5B-2.202-70 is being revised to implement the panel's recommendations and to incorporate other changes to prevent some of the bidding and award problems previously experienced. The revised regulations will be published within approximately 90 days.

This withdrawal is issued under the authority of section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Dated: March 28, 1978.

JAMES B. SHEA, Jr.,
Commissioner,
Public Buildings Service.

[FR Doc. 78-8948 Filed 4-4-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Child Support Enforcement

[45 CFR Part 302]

STATE PLAN REQUIREMENTS

Bonding of Employees and Handling of Cash Receipts

AGENCY: Office of Child Support Enforcement (OCSE), Department of Health, Education, and Welfare.

ACTION: Notice of proposed rulemaking.

SUMMARY: This amendment adds two new State plan requirements to the child support enforcement program (Title IV-D). The first requires bonding of State or local employees who receive, handle, or have access to cash. The second requires States to maintain methods of administration which are designed to assure that persons responsible for handling cash receipts do not participate in accounting or operating functions which would permit them to conceal in the accounting records misuse of cash receipts. The regulations will provide an exception to the separation requirement for sparsely populated areas where the hiring of unreasonable numbers of additional staff would otherwise be necessary. The amendment implements section 502 of Pub. L. 95-30, the Tax Reduction and Simplication Act of 1977.

DATE: Consideration will be given to written comments or suggestions received by May 22, 1978.

ADDRESS: Address comments to: Director, Office of Child Support Enforcement, Department of Health, Education, and Welfare, P.O. Box 23526, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT:

Suzanne M. Duval, Office of Child Support Enforcement, 202-472-4510.

SUPPLEMENTARY INFORMATION:

BONDING

Section 502 of Pub. L. 95-30 amends the Social Security Act to add a new State plan requirement, section 454(14), which requires the Secretary to prescribe, and the States to comply with, bonding requirements "for employees who receive, disburse, handle, or have access to cash * * *." Congress evidenced a concern that the large amounts of child support money being collected by the States are not being adequately protected by the bonding mechanism.

It appears that the majority of States have blanket bonds on their employees, either all State employees or at least those who have access to cash. Some of these bonds are for honesty or fidelity only, others are for "faithful performance of duties" which includes fidelity. County and local government employees engaged in the IV-D process are not as widely covered by blanket bonds. Some States by statute require that county employees be bonded, and many counties have their own bonding requirements. Most court clerks are required to carry bonds for faithful performance of their duties but their employees may not always be adequately bonded.

In summary, many employees who have access to child support collections are covered by adequate bonds. The proposed regulation would make maximum use of these existing bonding arrangements. OCSE believes that this approach will result in many States already being in full compliance with the new State plan requirement.

For those States that are not fully protected and must obtain additional bonding for State or local government employees, the proposed regulations are designed to allow those States maximum flexibility. The agency may procure individual, schedule, or blanket bonds as it deems most advantageous.

The proposed regulation leaves the bond amount largely to the discretion of the State IV-D agency. The IV-D agency would ultimately be responsible for any loss of child support funds resulting from employee dishonesty; therefore, it is in the agency's interest to insure that it has adequate bonding coverage. The proposed regulation specifies only that the bond be as a minimum $10,000 or 15 percent of the maximum amount of money to which the employee has access during a year.

Some States have created, by State statute, a self-bonding fund to indemnify themselves for losses occasioned by employees. The proposed regulation makes it clear that this type of self-bonding is an acceptable means of complying with this requirement.

SEPARATION

Section 502 of Pub. L. 95-30 also amends the Social Security Act to add

a second new State plan requirement, section 454(15), which requires the States to "maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts * * *."

The principle of separation of functions is a very basic form of internal control of collections. With a few exceptions, OCSE believes that the State agencies involved with the collection, recording, and distribution of child support payments are administratively organized in a manner that provides adequate separation and internal control. The administrative structure of political subdivisions and agencies performing under cooperative agreement in many cases is not as secure. This amendment will necessitate a review by each IV-D agency of its entire child support collection, accounting and distribution structure to insure that no person, in the normal course of his duties, is in a position both to perpetrate and to conceal errors or misuse of child support funds. OCSE would encourage every IV-D agency to adopt a complete system of internal controls designed to insure to the maximum extent practicable that child support collections cannot be misused.

The proposed regulation provides an exception for sparsely populated areas. OCSE anticipates that in some small child support offices it will be necessary to assign one employee duties which otherwise would be incompatible with the separation requirement. The OCSE Regional Representatives will be delegated authority to approve such exceptions when the State IV-D agency can demonstrate that complying with the requirement would necessitate hiring unreasonable numbers of additional staff and that other safeguards are in place which will adequately protect the child support collections. It may be necessary for the State to impose extra audit and other controls on IV-D operations that are excepted from the separation requirement.

45 CFR 302 is amended by adding two new §§ 302-19 and 302.20 which read as follows:

§ 302.19 Bonding of employees.

(a) The State plan shall provide that:

(1) The IV-D agency will insure that every person, who has, by his position, access to or control over funds collected pursuant to this chapter, is covered by a bond against loss resulting from defalcation.

(2) This requirement is applicable to every person who, as a regular part of his employment, receives, disburses, handles, or has access to child support collections, regardless of whether such person is a IV-D agency employee, an employee of any other State or local delegated IV-D functions, an employee of a court or law enforcement official performing under a cooperative agreement with the IV-D agency or an employee of any private or governmental entity from whom the IV-D agency purchases services.

(3) The bond will be for an amount which the State IV-D agency deems adequate to indemnify the State's IV-D program for loss resulting from employee dishonesty. In no event shall the amount of the bond be less than $10,000 or 15 percent of the maximum amount of money to which the employee has access on an annual basis, whichever is larger.

(b) A State or political subdivision may comply with the requirement of paragraph (a) of this section by means of a self-bonding system established under State law which provides an amount of coverage comparable to the coverage provided by paragraph (a)(3) of this section.

(c) The requirements of this section do not reduce or limit the ultimate liability of the IV-D agency for losses of child support collections from the State's IV-D program.

§ 302.20 Separation of cash handling and accounting functions.

(a) The State plan shall provide that the IV-D agency will maintain methods of administration designed to assure that persons responsible for handling cash receipts of child support do not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of child support receipts.

(b) *Exception.* In sparsely populated geographic areas, where the requirements of paragraph (a) of this section would necessitate the hiring of unreasonable numbers of additional staff, the Office may grant a waiver of this requirement. The IV-D agency must document such administrative infeasibility and provide an alternative system of controls that reasonably insures that child support collections will not be misused.

(Sec. 1102, 49 Stat. 647; (U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13679, Child Support Enforcement Program)

NOTE.—The Office of Child Support Enforcement has determined that this document does not require preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Dated: March 20, 1978.

DON WORTMAN,
Acting Director, Office of Child Support Enforcement.

Approved: March 29, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc. 78-8998 Filed 4-4-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

[Ex Parte No. MC-19 (Sub-No. 33)]

TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods (Reweighing of Shipments)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Interstate Commerce Commission proposes to modify its regulations governing the reweighing of household goods shipments to provide that a shipper may demand that a shipment of household goods be reweighed at any time prior to delivery of that shipment. This proposed amendment is intended to ensure that the household goods shipper is given an adequate opportunity to demand a reweigh and to preserve the right of the shipper to protect itself against inaccurate weighing and improperly assessed interstate transportation charges.

DATES: Comments must be filed with the Commission on or before May 5, 1978.

ADDRESS: An original and 15 copies (when possible) of each submission must be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7292.

SUPPLEMENTARY INFORMATION: The Commission's regulations governing the reweighing of shipments (49 CFR 1056.6(d)) now specify that a carrier, upon request of the shipper made prior to the delivery date, will reweigh shipments of household goods.

The regulation governing reweighing of shipments was promulgated in Ex Parte No. MC-19 (Sub-No. 8), *Practices of Motor Common Carriers of Household Goods*, 111 MCC 427 (1970).

In that proceeding, the Commission stated that a request for reweighing

"should be made in advance of the tender for delivery, and the carrier should notify the shipper when and where the reweighing will occur." 111 MCC at 475, emphasis supplied.

A similar statement is contained in the Commission's Form BOp 103, *Summary of Information for Household Goods,* at page 14:

"Upon your timely request the mover is required to weigh the vehicle before and after delivery of your shipment at destination."

In this proceeding, the Commission proposes to amend § 1056.6(d) by rephrasing the first sentence of that section to read as follows:

* * * * *

(d) The carrier, upon request of shipper, or its representative, made prior to delivery of the shipment, will reweigh the shipment. * * *

This proposed amendment is intended to conform the regulations to the intent of the Commission in Ex Parte No. MC-19 (Sub-No. 8), *supra,* to ensure that the household goods shipper is given an adequate opportunity to demand a reweigh and to preserve the right of the shipper to protect itself against inaccurate weighing and improperly assessed interstate transportation charges.

All written submissions will be available for public inspection during regular business hours at the office of the Interstate Commerce Commission, 12th and Constitution, NW., Washington, D.C.

This notice of proposed rulemaking is issued under the authority of part II of the Interstate Commerce Act and the provisions of 4 U.S.C. 552, 553, and 559 (the Administrative Procedure Act).

Issued at Washington, D.C., April 3, 1978.

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

[FR Doc. 78-9146 Filed 4-4-78; 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.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A583]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following North Dakota Counties as a result of drought July 1, 1976, through July 31, 1977, a hailstorm June 27, 1977, and excessive rainfall and high humidity August 18 through October 31, 1977, in Divide County; drought July 1, 1976, through July 31, 1977, hailstorms June 27 and 29, 1977, and excessive rainfall August 1 to October 15, 1977, in Nelson County; drought July 1, 1976, through July 31, 1977, a hailstorm June 27, 1977, and cool and wet weather August 1 through October 15, 1977, in Ramsey County; and drought July 1, 1976, to June 30, 1977, high winds and a hailstorm June 15, 1977, excessive rainfall August 1 to October 15, 1977, and intermittent snowstorms November 8 through December 15, 1977, in Ransom 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 Part 1904, Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Arther A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than September 12, 1978, for physical losses and March 16, 1979, 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 28th day of March 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-8963 Filed 4-4-78; 8:45 am]

[3410-07]

[Designation Number A587]

PENNSYLVANIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Pennsylvania Counties as a result of drought April 15 through June 27, 1977, and excessive rainfall during the period June 28 to November 15, 1977, in McKean County; and drought April 1 through April 30, 1977, excessive rainfall June 28 to July 29, 1977, and January 24, 1978, and snowstorms October 16, 1977, and January 19 and 20, 1978, in Wyoming 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 Governor Milton J. Shapp that such designation be made.

Applications for emergency loans must be received by this department no later than September 14, 1978, for physical losses and March 19, 1979, 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 28th day of March 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-8962 Filed 4-4-78; 8:45 am]

[3410-11]

Forest Service

ST. JOE WILD AND SCENIC RIVER

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the St. Joe wild and scenic river, Forest Service Report No. USDA-FS-FES (Leg)76-02.

The environmental statement concerns a proposal for inclusion of 72.8 miles of the St. Joe River from St. Joe Lake to the boundary of the St. Joe National Forest in the national wild and scenic rivers system.

This final environmental statement was transmitted to EPA on March 30, 1978.

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

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

USDA, Forest Service, Northern Region, Federal Building, Missoula, Mont. 59801.

USDA, Forest Service, Idaho Panhandle National Forests, 218 North 23rd Street, Coeur d'Alene, Idaho 83814.

A limited number of single copies are available upon request to Regional Forester Robert H. Torheim, Northern Region, Federal Building, Missoula, Mont. 59801, and Forest Supervisor Ralph D. Kizer, Idaho-Panhandle National Forests, 218 North 23rd Street Coeur d'Alene, Idaho 83814.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: March 30, 1978.

R. MAX PETERSON,
Deputy Chief.

[FR Doc. 78-8964 Filed 4-4-78; 8:45 am]

[3410-11]

Forest Service

MEDICINE LAKE PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Medicine Lake Planning Unit, USDA-FS-R5 DES (Adm) 78-05.

This environmental statement concerns a proposed land management plan for the 266,778-acre Medicine Lake Planning Unit in Modoc and Siskiyou Counties, Calif. The unit includes portions of the doublehead and

Big Valley Ranger Districts, Modoc National Forest, the McCloud Ranger District, Shasta-Trinity National Forest, and the Goosenest Ranger District, Klamath National Forest.

The proposed plan provides for a balanced mix of resource management activities and uses within the unit including utilization of renewable resources to contribute to economic stability and growth. Significant geologic features, including the Burnt Lava Flow Virgin Area, are recommended for providing interpretive programs. Recreational uses and the maintenance of visual quality within the Medicine Lake Caldera is emphasized. The proposed management of four roadless and undeveloped areas totalling about 60,000 acres includes Geological Area Classification for significant geologic features and management for a range of activities over the balance of the areas, based upon the resource values present and the suitability of these areas for the various uses. The plan provides for joint study by the Forest Service and the National Park Service to determine if there are needed adjustments in the common boundary between the National Forest and Lava Beds National Monument.

This draft environmental statement was transmitted to the Environmental Protection Agency (EPA) on March 24, 1978.

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

USDA, Forest Service, South Agriculture Building, room 3210, 12th and Independence Avenue SW., Washington, D.C. 20250.
Modoc National Forest, 441 North Main Street, Alturas, Calif.
Klamath National Forest, 1215 South Main Street, Yreka, Calif. 96097.
McCloud Ranger District, McCloud, Calif. 96057.
USDA, Forest Service, 630 Sansome Street, room 720, San Francisco, Calif. 94111.
Shasta-Trinity National Forest, 2400 Washington Drive, Redding, Calif. 96001.
Doublehead Ranger District, Tulelake, Calif. 96134.
Goosenest Ranger District, Mt. Hebron, Calif. 96066.

A limited number of single copies are available upon request to Kenneth C. Scoggin, Forest Supervisor, Modoc, National Forest, California Region, 441 North Main Street, Alturas, Calif. 96101. Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines.

Comments are invited from the public, and from State and Local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any 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 Kenneth C. Scoggin, Forest Supervisor, Modoc National Forest, Region Five, 441 North Main Street, Alturas, Calif. 96101. Comments must be received within 60 days after transmittal to EPA in order to be considered in the preparation of the final environmental statement.

ROBERT W. CERMAK,
Acting Regional Forester.

MARCH 24, 1978.

[FR Doc. 78-8974 Filed 4-4-78; 8:45 am]

[3410-16]

Soil Conservation Service

ALPENA COUNTY ROADS, KING'S LANDING RC&D MEASURE, MICHIGAN

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Alpena County Roads, King's Landing RC&D Measure, Alpena County, Mich.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include the installation of one grade stabilization structure and 1 acre of critical area planting. Total construction costs are approximately $10,000: $7,500 RC&D funds and $2,500 local funds.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Mich. 48823, 517-372-1910, extension 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590 a-f, q).)

Dated: March 27, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-8976 Filed 4-4-78; 8:45 am]

[3410-16]

CARRABELLE RECREATION RC&D MEASURE, FLORIDA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Carrabelle Recreation RC&D Measure, Franklin County, Fla.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William E. Austin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for recreational development. The planned works of improvement include a fishing pier, boardwalks, boardramp, picnic areas, oyster shell parking lot, restroom facilities, mulched walkways, landscape plantings, and barriers to protect native vegetation and sand dunes.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. William E. Austin, State Conservationist, Soil Conservation Service, 401 Southeast 2nd Avenue, Gainesville, Fla. 32602, 904-377-8732. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590 a-f, q).)

Dated: March 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-8977 Filed 4-4-78; 8:45 am]

[3410-16]

BUFFALO ISD EROSION CONTROL RC&D MEASURE, TEXAS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buffalo ISD Erosion Control RC&D Measure, Leon County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to stabilize 11.3 acres of critically eroding school grounds through the establishment of vegetation, small grade stabilization structures, diversions, waterways, and fencing.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, P.O. Box 648, Temple, Tex. 76501, 817-334-3011. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q).)

Dated: March 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources Soil Conservation Service.

[FR Doc. 78-8982 Filed 4-4-78; 8:45 am]

[3410-16]

COOSA VALLEY RC&D AREA, CRITICAL AREA TREATMENT RC&D MEASURES, ALABAMA

Intent Not To Prepare Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statements are not being prepared for the Coosa Valley RC&D Area Critical Area Treatment RC&D Measures, in Calhoun, Chambers, Cherokee, Clay, Cleburne, Coosa, Etowah, Randolph, St. Clair, Talladega, and Tallapoosa Counties, Ala.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. W. B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statements are not needed for this project.

These measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, gully control structures, diversions, critical area plantings, concrete and grass flumes, and grassed waterways.

The notice of intent not to prepare an environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. W. B. Lingle, State Conservationist, Soil Conservation Service, 138 South Gay Street, Auburn, Ala. 36830, 205-821-8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-8987 Filed 4-4-78; 8:45 am]

[3410-16]

HAYDEN FLOOD PREVENTION RC&D MEASURE, COLORADO

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hayden Flood Prevention RC&D Meas- ure, Routt County, Colo.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert G. Halstead, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood protection for the eastern portion of the Town of Hayden. The planned works of improvement include a 6,450 feet of excavated floodway which would carry the 100-year frequency flows along the east side of Hayden and outlet into the Yampa River.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert G. Halstead, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colo. 80217, 303-837-4275. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

Dated: March 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation

and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-8985 Filed 4-4-78; 8:45 am]

[3410-16]

LOWER JAMES RC&D AREA CRITICAL AREA TREATMENT RC&D MEASURES, SOUTH DAKOTA

Intent Not To Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Critical Area Treatment RC&D Measures in the Lower James RC&D Area in Jerauld, Sanborn, Aurora, Davison, Hanson, Hutchinson, and Yankton Counties, S.D.

The environmental assessment of these Federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert D. Swenson, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

The measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, debris basins, fencing, and grassed waterways.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert D. Swenson, State Conservationist, Soil Conservation Service, 200 Fourth Street SW., Huron, S.D. 57350, 605-352-8651. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

Dated: March 27, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-8978 Filed 4-4-78; 8:45 am]

[3410-16]

MADISON COUNTY HIGH SCHOOL CRITICAL AREA TREATMENT RC&D MEASURE, NORTH CAROLINA

Intent Not To Prepare an Enironmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Madison County High School Critical Area Treatment RC&D Measure, Madison County, N.C.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treatment of 20 acres of critically eroding school grounds. The planned works of improvement include the establishment of adapted vegetation and necessary supporting measures for water disposal. Supporting measures planned are drop inlets, pipes, grassed waterways, and diversions to collect and convey surface waters to stable outlets.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, N.C. 27611, 919-755-4210. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: March 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-8981 Filed 4-4-78; 8:45 am]

[3410-16]

MARLOW MILLER PARK CRITICAL AREA TREATMENT RC&D MEASURE, OKLA.

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Marlow Miller Park Critical Area Treatment RC&D Measure, Stephens County, Okla.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include landfilling, shaping, topsoiling, fertilizer application, and vegetation. Pipe drops, diversion terraces, concrete chutes, and liners will also be installed.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mrs. Roland Willis, State Conservationist, Soil Conservation Service, Farm Road And Brumley Street, Stillwater, Okla. 74074, 405-624-4360. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

Dated March 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation

and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources Soil Conservation Service.

[FR Doc. 78-8986 Filed 4-4-78; 8:45 am]

[3410-16]

NOBLE GHOST CRITICAL AREA TREATMENT RC&D MEASURE, SUPPLEMENT NO. 1, TEXAS

Intent Not To Prepare Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for that portion of land area being added to the Noble Ghost Critical Area Treatment RC&D Measure Plan by Supplement No. 1 that is situated in Lamar and Delta Counties, Texas.

The environmental assessment of these Federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on private agricultural land and county roads. The planned works of improvement include the filling, grading, and shaping of active eroding areas; installation of small earthen diversions and grade stabilization structures; establishing a permanent vegetative cover on all disturbed areas; and fencing some sites to protect vegetation.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, P.O. Box 648, Temple, Tex. 76501, 817-334-3011. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

Dated: March 27, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-8979 Filed 4-4-78; 8:45 am]

[3410-16]

QUAPAW POW-POW GROUNDS CRITICAL AREA TREATMENT RC&D MEASURE, OKLAHOMA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Quapaw Pow-Pow Grounds Critical Area Treatment RC&D Measure, Ottawa County, Okla.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include diversion terraces, concrete channel liners, waterway, establishing vegetation, and fertilizing.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland Willis, State Conservationist, Soil Conservation Service, Farm Road and Brumley Street, Stillwater, Okla. 74074, 405-624-4360. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

Dated: March 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-8984 Filed 4-4-78; 8:45 am]

[3410-16]

RANDALL RC&D AREA CRITICAL AREA TREATMENT RC&D MEASURES, S. DAK.

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Randall RC&D Area Critical Area Treatment RC&D Measures in Bon Homme, Brule, Buffalo, Charles Mix, Douglas, and Gregory Counties, S. Dak.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the envrionment. As a result of these findings, Mr. Robert D. Swenson, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project. These measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, debris basins, fencing, and grassed waterways.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert D. Swenson, State Conservationist, Soil Conservation Service, 200 Fourth Street SW., Huron, S. Dak. 57350, 605-352-8651. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: March 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-8980 Filed 4-3-78; 8:45 am]

[3410-16]

RENSSELAER LAND DRAINAGE RC&D MEASURE, IND.

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rensselaer Land Drainage RC&D Measure, Ind.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for land drainage. The planned works of improvement include 4,000 feet of open channel; 20 grade stabilization structures; 1,000 feet of surface drains; 2,700 feet of subsurface drain; 2,300 feet of grass waterway; and 5 acres of critical area planting (grass seeding).

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Buell M. Ferguson, State Conservationist, Soil Conservation Service, Atkinson Square West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Ind. 46224, 317-269-6515. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a- f, q.)

Dated: March 27, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-8983 Filed 4-4-78; 8:45 am]

[3410-16]

VILLAGE OF FREDERIC FLOOD PREVENTION RC&D MEASURE, MICH.

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Village of Frederic Flood Prevention RC&D Measure, Crawford County, Mich.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include the installation of approximately 2,790 feet of diversion channel; 3,015 feet of grassed waterway; 370 feet of reinforced concrete outlet pipe; and 20 culverts at private and public road crossings. Total construction costs are approximately $32,500, which are 100 percent RC&D funds.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Mich. 48823, 517-372-1910, extension 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a- f, q.)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources Soil Conservation Service.

[FR Doc. 78-8988 Filed 4-4-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 30471]

BRANIFF AIRWAYS, INC. (BRANIFF SPORT TEAMS TARIFF INVESTIGATION)

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on April 10 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Parties have either requested and/or consented to this proceeding on short notice, have been advised by telephone of the conference, and have agreed to submit detailed statements of the issues and their positions in advance of the prehearing conference.

Dated at Washington, D.C., March 31, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-9007 Filed 4-4-78; 8:45 am]

[6320-01]

[Docket 32246; Order 78-3-145]

NORTHWEST AIRLINES, INC.

Category Y Tariffs; Order Rejecting Tariffs

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of March 1978.

In Order 78-1-101, served January 25, 1978, the Board found that the "Category Y" tariffs of Pan American World Airways, Inc., and Northwest Airlines, Inc., are unjust and unreasonable, and ordered them canceled. These tariffs allow the carriers to accommodate official military passengers on scheduled commercial service at a rate equivalent to the minimum round-trip charter rate that the Board prescribes for military air transportation. The Board postponed the cancellation date for these tariffs until May 23, 1978, to allow the carriers to propose modified Category Y rules that would be found reasonable if they met certain criteria set forth in the order. In response to that invitation, Northwest filed new Category Y tariffs on March 1, 1978, to go into effect on April 16, 1978.[1]

[1] Local Military Passenger Fares Tariff, No. MAC-2, CAB No. 528. The fares would

Footnotes continued on next page

The new tariff retains the original Category Y fare level and rules, but adds the following restrictions: (1) The fares could not be used by more than 1,000 passengers per calendar week, or 3,000 per calendar month, in each direction between points within the United States (i.e., between the west coast and Honolulu) and between points in the United States and Asia; (2) seats must be booked at least 60 days before the first day of the month during which the flight will be operated (the former tariff required 90 days notice); (3) prior to an initial booking for a calendar month the carrier may notify the Military Airlift Command (MAC) of periods during the month when bookings will not be accepted due to anticipated traffic peaks; and (4) the carrier may rebook previously confirmed space on alternative flights during the same month, if this is done up to 30 days before the first day of the month in which the passengers will travel.

Northwest's justification states that the Board decided in the *Category Y Fare Investigation*, Docket 28096, that the Category Y fare level is not unreasonable for the transportation of military passengers in scheduled service, provided that the rules are designed to prevent a service burden on regular passengers; that in Order 77-10-137, dated October 28, 1977, the Board rejected United Air Lines' group-50 discount fares to Hawaii for similar reasons, and later allowed the discount fare to go into effect after United added a capacity control rule limiting the use of the fare to 15 percent of total coach seats per week;[2] that since the 1,000 passenger-per-week and 3,000 passenger-per-month capacity control feature of the new Category Y tariff amounts to only 7.3 percent of Northwest's transpacific coach seats, then, just as in the case of the group-50 fare, the potential for service burden on other passengers is eliminated; that a restriction by week and by month, rather than on a flight-by-flight basis, has the further benefit of allowing traffic to be shifted to off-peak days of the week, and off-peak periods of the month; that the new provisions allowing the carrier to black-out specific flights in advance of initial bookings by MAC, and permitting it to rebook up to 30 days before the month in which the Category Y passengers will travel, can be used by the carrier to avoid potential traffic displacement; and that a comparison of the fare yield of Category Y with the yield of United's group-50 fare after deduction of commission expense and common fare payouts, considering also the nondiversionary nature of Category Y traffic, proves that Category Y is at least as economic as the group-50 fare.

The National Air Carrier Association (NACA), representing Trans International Airlines, Inc., and World Airways, Inc., filed a complaint against Northwest's tariff alleging that it is unreasonable, unjustly discriminatory, and otherwise unlawful, and requesting that the tariff be investigated, and suspended pending investigation, on the following grounds: That the new tariff makes only cosmetic changes in the Category Y fares that were previously found unlawful; that the new rules do not come close to satisfying the Board's decision that Category Y must be changed into a space-available fare during the off-peak season and to a standby fare during the peak period; that the minor modifications of the reservation and rebooking procedures would not eliminate the potential for inconveniencing or displacing regular fare-paying passengers; and that the "capacity control feature"—i.e., limiting total bookings to 1,000 passengers per week and 3,000 per month—would not provide genuine protection to civilian passengers because Category Y traffic is concentrated on a small number of Northwest's transpacific markets, and because the major potential for inconvenience is during the summer peak period, during which time the same volume of Category Y bookings would be allowed as in the off-peak period.

Northwest filed an answer to NACA's complaint reiterating its original arguments and asserting that the Board could not lawfully disapprove a Category Y tariff that is similar to United's group-50 fare and other civilian discount fares that have been approved; that Category Y traffic is not concentrated in a small number of transpacific flight segments; that civilian traffic displacement under Category Y has been minimal; that DOD has no "leverage" or bargaining power over Northwest; and that the Board only "suggested" a set of standards for a reasonable Category Y program in Order 78-1-101 and that it would have been "plainly illegal" for the Board to have listed the rules which would have to be adopted for the Category Y program to be considered lawful. [3] The Department of Defense filed an answer in support of Northwest's tariff, in which it indicated that the tariff would not adversely affect the utility of Category Y service to DOD traffic, and that it does not and will not exercise economic domination over the Category Y carriers. [4] The Department of Energy filed an answer supporting the Category Y program on the grounds of fuel conservation.

Upon examination of the tariff, the record in the Category Y fare investigation, and other information, we conclude that the two tariffs differ in form but not in substance. Northwest has added minor restrictions that would have no effect on the actual operation of a service that we have found to be unlawful. Therefore, a repetition of the previous investigation is not necessary, and we have decided to reject the Category Y tariff.

In Order 78-1-101, the Board ordered Northwest and Pan American to cancel their Category Y tariffs, pursuant to the Board's authority under section 1002(j) of the Federal Aviation Act of 1958, as amended. Although the Act does not allow the Board to prescribe the fares that must replace the canceled Category Y tariffs, section 1002(j) permits us, upon a finding that an international fare and the accompanying rules are unlawful, to "take action to reject or cancel such tariff and *prevent the use* of such rate, fare, or charge, or such classification, rule, regulation, or practice" [emphasis added]. We interpret that language to mean that the Board has the authority to prevent the refiling of a tariff that was previously found unlawful by rejecting that filing. However, since Northwest's new Category Y tariff is not identical to the previous one, the question arises whether the two tariffs are sufficiently different to require an independent investigation of the new one.

The new tariff gives Northwest certain rights to refuse initial bookings of Category Y passengers when traffic peaking is anticipated, and to rebook previously confirmed space. The fundamental drawback is that the carrier is free to exercise these procedures or not exercise them, at its own discretion. As we explained in Order 78-1-101, we are not prepared to rely upon either the military or the carriers to act as disinterested guardians of the traveling public. We found that the carriers "have an economic incentive to undertake transfers that discommode regular fare-paying travelers, and MAC has an incentive and bargaining strength to press them to do so" [5] For these reasons, we concluded

Footnotes continued from last page
apply to travel commencing on and after May 23, 1978.

[2] See Order 77-12-60, dated December 9, 1977.

[3] Northwest subsequently filed a motion for leave to file an otherwise unauthorized document, to include a new page 8 to its answer. The news page references Order 77-8-109, in the *Peanuts Fare Investigation*, which was issued 2 days after the answer was filed, and which Northwest believes supports its position. We will grant this motion and accept the revision to page 8 of Northwest's answer.

[4] DOD actually filed two answers, one in advance of NACA's complaint, and one after the complaint. Although the first was therefore procedurally defective, we accepted it into Docket 32246 after the NACA complaint was received, and we have considered both answers in reaching our decision.

[5] Order 78-1-101, at 12.

that Category Y tariffs would be acceptable only if availability of the service were subject to certain stipulated restrictions, rather than simply at the discretion of the carrier. In light of these findings, Northwest cannot maintain that voluntary booking procedures provide real protection to normal-fare traffic; and therefore the carrier has made no substantive change in rules that were previously found unlawful.

Northwest's "capacity control" feature is even less likely to produce any change in the operation of Category Y service. As can be seen in the appendix, there was not a single week during calendar year 1977 when Northwest carried more than 1,000 Category Y passengers in either direction, and the monthly totals never came close to 3,000. There were only three times westbound and five times eastbound when more than 600 Category Y passengers were boarded in a week during that period. Only in February and June eastbound and in January westbound were there more than 2,200 Category Y passengers in a month: 2,280; 2,335; and 2,232, respectively. The average Category Y passenger boardings were 1,934 per month and 446 per week. Obviously, Category Y operations would have to be expanded greatly for Northwest's "capacity control" provisions to have any effect at all. Thus, a new set of tariff rules that allows an increase in total Category Y traffic, with no change in the manner in which Category Y passengers are accommodated on individual flights, does not constitute a real change in the Category Y rules.

Northwest's arguments that the new tariff is similar to civilian discount fares that the Board has approved, and that the Board cannot lawfully require more stringent rules for Category Y service, are actually criticisms of the Board's decision in the Category Y fare investigation, and should have been raised in a petition for review of Order 78-1-101. To the extent these issues were raised in Northwest's petition for reconsideration in Docket 20896, they will be dealt with in the Board's final order in that investigation.

For the reasons stated above, the Board finds that Northwest has filed tariffs that do not differ in substance from tariffs previously found unlawful. In these circumstances, an investigation of these tariffs is unnecessary, since they fail to conform to existing Board orders, and can be rejected on that basis.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, and 1002 thereof;

It is ordered, That: 1. The motion of Northwest Airlines, Inc., for leave to file an otherwise unauthorized document is granted.

2. Local Military Passenger Fares Tariff, No. MAC-2, CAB No. 528, is rejected.

3. A copy of this order shall be served upon Northwest Airlines, Inc., the National Air Carrier Association, the Department of Defense, and the Department of Energy.

This order shall be published in the FEDERAL REGISTER.[6]

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-9008 Filed 4-4-78; 8:45 am]

[6320-01]

[Docket 32118; Order 78-3-149]

PAN AMERICAN WORLD AIRWAYS, INC.

Increased Excess Baggage Charges; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of March 1978.

By Orders 78-2-70 and 78-2-120, February 13, 1978, the Board set for investigation and suspended Pan American's proposed increases of excess baggage charges in domestic, overseas, and international markets. It concluded that Pan American had submitted no evidence that the charges should be applied systemwide and that the problem could not be localized; that the average excess bag weighs 35 kilograms (77 pounds); or that the proposed charges are in any way cost related. The Board subsequently allowed Pan American to submit further justifications by February 24, 1978, on the issues specifically set out in its orders, and scheduled a conference on March 3, 1978, between Pan American and other interested persons and the Board staff "for the purpose of seeking a mutually satisfactory resolution of" the issues.[1]

The additional justification provided by Pan American on February 24, 1978, in response to the Board's invitation does not provide any additional evidence to establish affirmatively that the charges are cost related; that they should be applied systemwide, or that the average excess bag weighs 35 kilograms (77 pounds). Pan American's justification addresses itself only in a very general way to the first two matters. Specifically, they assert that the problem of excess baggage involves stations other than New York, but admit that they do not have any detailed records of excess baggage problems systemwide; and that the true cost of carrying extraordinary amounts of excess baggage is the revenue lost from the displacement of revenue-producing cargo, i.e., air freight and mail, without providing any data or estimates of the amount of such loss. The justification does not address itself to the question whether the average excess bag weighs 35 kilograms (77 pounds).

In the *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation* case, Docket 24869 (*Excess Baggage Case*), the Board found that on an industrywide basis the average economy passenger tenders 1.5 bags weighing a total of 38.5 pounds (17.5 kilograms)[2] and that baggage-service costs represent 11.92 percent of the total passenger-service costs. On the basis of these findings, the Board concluded that an "excess-baggage charge of seven-tenths of one percent of the economy fare per kilogram bears a reasonable relationship to cost"[3] and held that "a passenger should not be required to pay for 'excess' baggage unless the carriage of the 'excess' amounts imposes additional costs on the carrier."[4]

Under the proposed tariff a passenger tendering an excess bag must pay a flat sum, set to approximate the freight charges for 35 kilograms (77 pounds) of air freight, regardless of whether the bag actually weighs that amount. The excess baggage charge does not conform with the costing used in the *Excess Baggage* case and there is no proof that "the carriage of the 'excess' amount imposes additional costs on the carrier."[5] Accordingly, we believe that the proposed charge may be unjust and unreasonable.

While there is no recent Board case on the subject of excess baggage charges in domestic air transportation,[6] we believe that Pan American's domestic and overseas proposal may be unlawful because there is no proof

---

[6]Appendix filed as part of original document.

[7]All Members concurred.

[1]The conferenced was convened as scheduled, but the participants were unable to reach a satisfactory resolution.

[2]While the baggage survey in the *Excess Baggage* case was made in May 1974, we believe that the findings are representative of current conditions. Data submitted in the *Transatlantic, Transpacific, and Latin American Service Mail Rates Investigation*, Docket 26487, seem to confirm this. They indicate an average weight per bag from 26.9 to 30.3 pounds. Neither Pan American nor any of the other parties has challenged the Board's findings in either the *Excess Baggage* case or the *Transatlantic, Transpacific, and Latin American Service Mail Rates Investigation*.

[3]Order 76-3-81, p.11. Foreign air carriers are free to file tariffs proposing different rates provided they accompany such filings with a thorough economic justification.

[4]Order 76-3-81, p. 5.

[5]Id.

[6]The only case on this subject is the *Free Baggage Allowance and Excess Baggage Charges*, Docket 7912, E-13487, February 5, 1959. It appears, however, that the Board's findings and conclusions are not representative of current conditions.

that the carriage of excess baggage imposes costs over and above those costs already covered by the current charge. The 77 pounds figure upon which they predicate the proposed charges, which range between 300 and 1,500 percent above the current ones, is inconsistent with the Board's recent findings in the *Priority and Nonpriority Domestic Service Mail Rates Investigation*, Docket 23080-2, pending a proper industry survey, that the average domestic passenger tenders 1.3 pieces weighing 32 pounds.[7] This 45 pound disparity suggests that the excess charges may not be cost-related. A passenger should not be required to pay for excess baggage unless there is a cost-related basis for the charge.

While the Board is sympathetic to the problems caused by passengers tendering inordinate amounts of "excess baggage" (including items not reasonably described as "necessary or appropriate for wear, use, comfort, or convenience in connection with his trip"[8] to the detriment of service for other baggage or freight, we believe that any solution must be causally related to the specific source of the problem.[9] The proposed excess baggage charges apply to an overly broad group; are not specifically drawn to deal with the type of passenger who abuses the system; and would thus have a severe impact on passengers who do not abuse the regulation.

We therefore tentatively find that Pan American's proposed increases of excess baggage charges in domestic, overseas, and international markets are unjustified; there is insufficient evidence that they should be applied systemwide; there is no evidence that the average excess bag weighs 35 kilograms; and the charges are not cost-related. We tentatively conclude that Pan American's proposed tariff revisions providing for excess baggage charges are unjust and unreasonable and therefore unlawful and should be canceled.

Interested persons will be given 25 days following service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary, and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 403, 404, 801, and 1002:

It is ordered, That: 1. Pan American and other 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 Pan American to cancel its tariff revision;

2. 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 objection specifying the tentative findings or conclusion objected to and providing statistical data and/or other evidence to support the statement of objections;

3. 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 its tentative findings and conclusion if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. 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 its tentative findings and conclusions; and

5. Petitions for leave to intervene filed by Braniff Airways, Inc., and Network Courier Service, Inc., are hereby granted; and

6. This order shall be served upon Pan American World Airways, Inc., Braniff Airways, Inc., DHL Corp., the Air Courier Conference of America, Network Courier, Purolator Sky Courier, Inc., and Government of Guam.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.78-9009 Filed 4-4-78; 8:45 am]

[7] Pan American in its brief to the Board requested that the Board assign a weight of 31 pounds to checked baggage per passenger.

[8] Tariff CAB No. 55, issued by Air Tariff Corporation, Agent. On 5th Revised Page 9, definition of "baggage" in Rule No. 1.

[9] The carriers might consider a separate rating classification for excess baggage.

[10] All Members concurred.

[6320-01]

[Docket 32050; Order 78-3-156]

WESTERN AIR LINES, INC.

Application for Amendment of Its Certificate of Public Convenience and Necessity for Route 152 to Name San Francisco and Guadalajara as Additional Coterminal Points; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of March 1978.

On January 30, 1978, Western Air Lines, Inc. (Western) filed an application for amendment of its certificate of public convenience and necessity for Route 152 so as to add San Francisco, Calif., and Guadalajara, Mexico, on its existing Los Angeles-San Diego-Mexico City-Acapulco route.[1]

In support of its application, Western states, inter alia, that it has been designated under the U.S.-Mexico Air Transport Agreement for U.S. Route E (Los Angeles, San Diego-Mexico City, Acapulco); on January 20, 1978, the United States and Mexico agreed to amend the Agreement to describe U.S. Route E as U.S. Route A.1. and to add San Francisco and Guadalajara to that route;[2] Western will be redesignated under the Agreement to operate over U.S. Route A.1.; in order to implement service to the new cities of San Francisco and Guadalajara, its certificate for Route 152 must be amended to reflect the changes agreed to by the U.S. and Mexican governments.

Western plans to operate two daily nonstop round trips between Los Angeles and Guadalajara if its application is approved. One of the carrier's Los Angeles-Guadalajara round trips will also serve San Francisco.[3] For the

[1] The application was accompanied by a petition requesting that the Board process the application by show-cause procedures. We will grant the petition.

[2] New Route A.1. reads: San Francisco, Los Angeles, San Diego-Guadalajara, Mexico City, Acapulco.

[3] The January 20, 1978, amendment to the U.S.-Mexico Agreement restricts operations over U.S. Route A.1. as follows: (1) No San Francisco-Mexico City nonstop service until October 1, 1981, or until a second Mexican carrier provides such service, whichever occurs first; (2) no traffic rights on San Francisco-Guadalajara nonstops; and (3) no traffic rights on San Diego-Guadalajara nonstops. Western requests that the restrictions attached to U.S. Route A.1. not be included as conditions in its amended certificate. Western is subject to the restrictions pertaining to Route A.1. by virtue of a condition contained in its certificate for Route

Footnotes continued on next page

first year of operations, Western forecasts it will carry 117,336 passengers on its Los Angeles-Guadalajara and San Francisco-Los Angeles-Guadalajara flights. The carrier estimates that its proposed operations will result in a profit of approximately $936,000 from revenues of $11,752,000 and expenses of $10,816,000. Western will offer a new low "Super Saver" (APEX) fare with a discount of approximately 36 percent from the regular coach fare on its Guadalajara flights from both San Francisco and Los Angeles. The carrier plans to inaugurate service to Guadalajara on July 1, 1978.

The San Francisco and Los Angeles Area Chambers of Commerce filed answers in support of Western's application. The San Francisco Chamber of Commerce points out that (1) there is currently no U.S. flag air service between San Francisco and Guadalajara; (2) Western has rendered valuable service benefits to San Francisco for more than two decades by providing single-plane and connecting service at Los Angeles and San Diego to Mexico City and Acapulco; and (3) Western is therefore the logical carrier to serve the new California-Mexico route described in the recently amended U.S.-Mexico Agreement as U.S. Route A.1.

The Los Angeles Chamber of Commerce states[4] (1) Western has sought approval for many years from the Governments of the United States and Mexico to serve Guadalajara from Los Angeles; (2) the U.S.-Mexico Agreement now authorizes U.S. flag nonstop service between Los Angeles and Guadalajara; and (3) Western has been the designated U.S. flag carrier for Route E and is the logical carrier to provide service to Guadalajara over the new U.S. Route A.1.

In view of the foregoing and all the facts of record, we have decided to issue an order to show cause why Western's certificate should not be amended to add San Francisco and Guadalajara as additional points to its Route 152.[5] We tentatively find and conclude that the public convenience and necessity requires such an amendment. We also tentatively find that an evidentiary hearing is not required in this proceeding.[6]

Accordingly, it is ordered, That: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and amend the certificate of public convenience and necessity of Western Air Lines, Inc., for Route 152 to read as follows: Between the coterminal points San Francisco, Los Angeles, and San Diego, Calif., and the coterminal points Guadalajara, Mexico City, and Acapulco Mexico.

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, or certificate amendment set forth in this order shall, within 10 days[7] after the date of this order, file with the Board and serve upon all persons listed in paragraph 7 below, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant or material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given the matters and issues raised therein by the objector before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with its findings and conclusions set forth in this order if it is determined that there are no factual issues present that warrant the holding of an oral hearing;[8]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which, subject to the approval of the President, (1) shall make final the Board's tentative findings and conclusions set forth in this order, and (2) shall issue an amended certificate of public convenience and necessity for Route 152 in the form attached;

5. The petition of Western Air Lines, Inc., for issuance of an order to show cause is granted;

6. The motion of the Los Angeles Area Chamber of Commerce to submit a late-filed document is granted; and

7. A copy of this order shall be served upon all air carriers certificated to serve San Francisco and Los Angeles; the Governors of California and Jalisco; the Mayors of San Francisco, Los Angeles, and Guadalajara; the Chambers of Commerce of San Francisco and Los Angeles; and the Airport Directors of San Francisco International Airport, and Miguel Hidalgo International Airport in Guadalajara.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[9]

PHYLLIS T. KAYLOR,
Secretary.

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (AS AMENDED) FOR ROUTE 152

Western Air Lines, Inc. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in air transportation of persons, property, and mail as follows: Between the coterminal points San Francisco, Los Angeles, and San Diego, Calif., and the coterminal points Guadalajara, Mexico City, and Acapulco, Mexcio.

The service here authorized is subject to the following terms, conditions, and limitations:

(1) Notwithstanding any other provision of this certificate, the holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any orders of the Board issued pursuant to, or for the purpose of requiring compliance with them.

(2) The holder shall render service to the points named here, except as temporary suspensions of service may be authorized by the Board.

(3) The holder may continue to serve regularly any point named through the airport last used regularly to serve such point before the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may in addition regularly serve the points named here through any convenient airport and may operate nonstop service between any two points not consecutively named here.

(4) The exercise of the authority granted here shall be subject to the carrier first obtaining the required operating rights from the Government of Mexico.

The exercise of the privileges granted by this certificate shall be subject to such

---

Footnotes continued from last page

152 which requires the holder to operate "* * * in accordance with all treaties and agreements between the United States and other countries * * *." We will therefore not include the restrictions in Western's amended certificate.

[4]The answer filed by the Los Angeles Area Chamber of Commerce was accompanied by a motion to submit a late-filed document. We will grant the motion.

[5]Based upon our review of Western's Environmental Evaluation we find that the addition of two daily Los Angeles and one daily San Francisco take-off and landing cycles do not constitute a "major" Federal action within the meaning of the National Environmental Policy Act of 1969. Moreover, since Western's proposed operations will not result in the near-term consumption of 10 million gallons of fuel, our action here will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPACA).

[6]We also tentatively find that Western is fit, willing, and able properly to perform the air transportation authorized by the certificate proposed to be issued by this order and to conform to the provisions of the Act and the Board's rules, regualtions, and requirements thereunder.

[7]In order for Western to commence operations by July 1, 1978, and considering the absence of objections to the applicant's petition for show cause procedures, we find that the public interest requires the allowance of only 10 days for objections to this order.

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

[9]All members concurred.

other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall become effective on ————: *Provided, however,* That the continuing effectiveness of the authority granted here shall be conditioned upon the timely payment, by the holder, of such license fees as may be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate, and affix the Board's seal, on ————.

Secretary.

Issuance of this certificate to the holder approved by the President of the United States on ————, in ————.

[FR Doc. 78-9010 Filed 4-4-78; 8:45 am]

[6320-01]

[Docket 32325; Docket 30971; Order 78-3-157]

PHOENIX-SALT LAKE CITY SERVICE INVESTIGATION

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of March 1978.

Application of Western Air Lines, Inc., for nonstop service between Phoenix, Ariz., and Salt Lake City, Utah.

On August 8, 1977, Western filed a motion for hearing on its application filed June 8, 1977, for nonstop authority between Phoenix, Ariz., and Salt Lake City, Utah.

In support of its motion, Western states that it would provide first competitive service in one of the Nation's largest nonstop markets; that one flight would continue beyond Salt Lake City to Great Falls, Mont., and thus provide first single-plane one-stop service in the Phoenix-Great Falls market; that its proposal to introduce the DPFI coach formula fare would result in a saving to the traveling public.

The Utah Parties,[1] the City of Phoenix, and the Great Falls Area Chamber of Commerce answered in support of the motion. Frontier Airlines also filed in support of the motion, stating that the Salt Lake City-Phoenix market needs service and that it would be able to provide such service more efficiently and to a larger number of passengers than Western.

Hughes Airwest, the incumbent, opposes the motion. It states that Western has not shown any deficiency of service or proposed service benefits substantial enough to warrant a hearing; that it proposes only one additional round-trip flight; that Western's financial projections are inadequate; and that its own fares are consistent with the Board's existing DPFI policy.

We have decided to institute the Phoenix-Salt Lake City Service Investigation, Docket 32325, to consider the need for competitive nonstop authority in the Phoenix-Salt Lake City market.

In accordance with the policy announced in our order instituting the Chicago - Albany / Syracuse - Boston Competitive Service Investigation, (Order 77-12-50), the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and if so, which carrier(s) should be selected. We therefore expect the instituted investigation to include an examination of the need for and feasibility of various new price/quality options and related issues, as we explained in Order 77-12-50. We repeat, however, that traditional service benefits, including the benefits of city-pair competition, are important issues which will be weighed with price and price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive, whether multiple awards should be made, whether multiple awards may encourage real price competition, and whether they are consistent with the Federal Aviation Act.

Accordingly, *it is ordered,* That:

1. The motion for hearing of Western Air Lines in Docket 30971 be granted;

2. An investigation designated as the Phoenix-Salt Lake City Service Investigation, Docket 32325, be instituted pursuant to section 204 of the Act and set for hearing before an administrative law judge of the Board at a time and place to be designated later;

3. This investigation shall consider whether the public convenience and necessity require that new authority be granted in the Phoenix-Salt Lake City market; if so, which air carrier(s) should be authorized; and whether the new or existing authority should be subject to any terms, conditions or limitations;

4. Any authority awarded in this investigation shall be ineligible for subsidy;

5. The application of Western Air Lines in Docket 30971 be consolidated into the investigation instituted by paragraph 2, above;

6. Frontier Airlines, Hughes Airwest, Western Air Lines, the Utah Parties, the City of Phoenix, and the Great Falls Area Chamber of Commerce be made parties to the investigation;

7. Applications, amendments to applications, motions to consolidate, and petitions for reconsideration of the order be filed within 20 days from the date of service of this order and answers be filed within 10 days thereafter;[2] and

8. All other carriers filing applications that they seek to have consolidated into the investigation shall file environmental evaluations pursuant to section 312.12 of the Board's Regulations within 30 days of the date of service of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-9011 Filed 4-4-78; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1976, for which tabulations were completed between March 1, and March 31, 1978.

Dated: March 29, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[1] The Utah Agencies and the Utah Department of Transportation. The Utah Agencies consist of representatives of the State of Utah, by and through the Utah Department of Transportation, Salt Lake City Corp. and the Salt Lake City Chamber of Commerce.

[2] We delegate to the presiding administrative law judge the authority to consolidate by order any new applications which conform to the scope of the proceeding.

[3] All members concurred.

State/place or special area	County	Date of census	Population
Alaska: Soldotna City	Kenai-Cook Inlet	Feb. 27, 1978	2,246
Arkansas:			
Black Rock City	Lawrence	Feb. 14, 1978	819
Horseshoe Bend City	Fulton, Izard and Sharp	Jan. 9, 1978	1,755
Illinois:			
O'Fallon City	St. Clair	Jan. 18, 1978	11,907
Palos Hills City	Cook	Oct. 11, 1977	15,573
Iowa: Ely City	Linn	Jan. 11, 1978	383
Oklahoma: Burns Flat Town	Washita	Jan. 30, 1978	1,894
Wisconsin:			
Genesee Town	Waukesha	Jan. 19, 1978	4,701
Germantown Village	Washington	Jan. 18, 1978	9,729
Port Washington City	Ozaukee	Dec. 6, 1977	8,500
Saukville Town	Ozaukee	Feb. 13, 1978	1,610
Seymour Town	Eau Claire	Feb. 1, 1978	2,755
Wells Town	Monroe	Jan. 16, 1978	478

[FR Doc. 78-8784 Filed 4-4-78; 8:45 am]

[3510-25]

Industry and Trade Administration

EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending March 10, 1978

Total bituminous coal exports for this week were 102,698 short tons compared with 162,451 short tons exported the preceding week and average weekly exports of 182,000 short tons for the preceding 6 weeks. All bituminous coal exports for the week were of metallurgical grades. The weighted average price of this coal was $55.21 per short ton. With the low level of export activity, only a small number of firms reported coal shipments during the week. A breakdown of these exports by volatility and area of destination is, therefore, withheld from this report to prevent disclosure of information deemed to be confidential pursuant to section 7(c) of the Export Administration Act of 1969, as amended. For the same reason, only the weighted average price of total metallurgical and total bituminous coal exports is shown in the accompanying tables.

Exports of coke manufactured from coal for this week were 4,651 short tons compared with 4,998 short tons exported the preceding week and a weekly average of 28,000 short tons for the preceding 6 weeks. The weighted average price of this commodity for the week was $128.40 per short ton with a reported high and low price of $142.79 and $122.34 per short ton, respectively. No apparent price change is indicated since the high price of $142.79 per short ton reported for this week is the same as that reported for the past 8 weeks.

Domestic coal production for the week was 7,580,000 short tons, an increase from the 7,330,000 short tons produced the preceding week. This week's production is at the highest level since the start of the strike. Coal production has been increasing steadily since the week ending January 28 when the lowest weekly production for his strike period was reported at 4,970,000 short tons.

Total coal consumption for the week was estimated to be 10,143,000 short tons compared with 10,551,000 short tons consumed the preceding week. Weekly coal consumption has essentially decreased each week since the week ending January 21, 1978, when a high for this strike period of 12,183,000 short tons were consumed. This decreasing weekly consumption is attributed to fuel conservation through voluntary and mandatory programs and the use of alternate fuels such as oil and gas. Total end-of-week coal inventories were estimated to be 86,145,000 short tons, a decrease of 3,776,000 short tons from the preceding week.

No upward movement in domestic coal prices is noted for the week ending March 10, 1978. However, spot market steam coal prices have risen from $4 to $9 per short ton from pre-strike levels.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

TABLE 1.—*U.S. exports of bituminous coal and coke of coal, in short tons*

[For week ending Mar. 10, 1978]

Commodity	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile [1] metallurgical coal	NA	NA	*** 133,877	199,136	96,895	(*)	(*)
Medium volatile [2] metallurgical coal	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile [3] metallurgical coal	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal	NA	NA	889,125	* 550,459	** 436,605	521,109	128,822
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922
	Average			Week ending			
	January 1976	January 1977		Jan. 6, 1978	Jan 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile [1] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
Medium volatile [2] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
High volatile [3] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
Total metallurgical coal		NA	NA	174,709	311,331	97,800	262,585
Other bituminous coal		NA	NA				
Total bituminous coal		834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal		12,326	20,514	4,466	5,062	29,143	30,634

TABLE 1.—*U.S. exports of bituminous coal and coke of coal, in short tons*—Continued

Commodity	Exports					
	Weekly average		Week ending			
	February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Low volatile [1] metallurgical coal	NA	NA	(4)	(4)	(4)	(4)
Medium volatile [2] metallurgical coal	NA	NA	(4)	(4)	(4)	(4)
	Weekly average		Week ending			
	March 1976	March 1977	Mar. 3, 1978	Mar. 10, 1978		
High volatile [3] metallurgical coal	NA	NA	(4)	(4)	(4)	(4)
Total metallurgical coal	NA	NA	251,327	72,569	139,143	206,762
Other bituminous coal	NA	NA		(4)(R)		
Total bituminous coal	736,138	769,840	251,327	72,569	139,143	206,762
Coke of coal	22,185	12,805	3,998	75,173	43,315	8,595
	Weekly average		Week ending			
	March 1976	March 1977	Mar. 3, 1978	Mar. 10, 1978		
Low volatile [1] metallurgical coal			NA	NA	(4)	(4)
Medium volatile [2] metallurgical coal			NA	NA	(4)	(4)
High volatile [3] metallurgical coal			NA	NA	(4)	(4)
Total metallurgical coal			NA	NA	162,451	102,698
Other bituminous coal			NA	NA	(4) (R)	
Total bituminous coal			898,473	765,515	162,451	102,698
Coke of coal			19,541	24,320	4,998	4,561

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
*Includes 20,848 short tons of metallurgical grade coal not identified as to volatility.
**Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
***Partial, in content tons.
[R] Revised.

NA—Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 2.—*Contracts for export of bituminous coal and coke of coal, in short tons*

[For week ending Mar. 10, 1978]

Commodity	Contracts							
	Week ending							
	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978	Apr. 14, 1978	Apr. 21, 1978	Next 6 weeks	Total for 12 weeks
Low volatile [1] metallurgical coal	129,816	84,216	100,716	84,216	124,216	84,216	991,208	1,598,604
Medium volatile [2] metallurgical coal	181,963	203,950	162,310	191,457	211,450	335,565	2,452,630	3,739,325
High volatile [3] metallurgical coal	31,510	31,510	31,510	36,710	36,710	36,710	302,375	507,035
Total metallurgical coal	343,289	319,676	294,536	312,383	372,376	456,491	3,746,213	5,844,964
Other bituminous coal	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Coke of coal	3,263	3,183	2,943	2,793	2,643	2,663	37,061	54,549

[1] 22 pct of less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 percent volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*

[For week ending Mar. 10, 1978]

Commodity and area of destination	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile [1] metallurgical coal:							
Asia			7,458	111,525	24,808	(4)	(4)
Europe			43,463	40,893	69,440	(4)	(4)
Western Hemisphere			82,956	46,718	2,647	(4)	(4)
Total	NA	NA	** 133,877	199,136	96,895	(4)	(4)
Medium volatile [2] metallurgical coal:							
Asia				102,906	93,291	(4)	(4)
Europe				173,711	15,958	(4)	(4)
Western Hemisphere				6,803	9,383	(4)	(4)
Total	NA	NA	NA	283,420	118,632	(4)	(4)
High volatile [3] metallurgical coal:							
Asia				11,331	0	(4)	(4)
Europe				0	76,532	(4)	(4)
Western Hemisphere				35,724	100,295	(4)	(4)
Total	NA	NA	NA	47,055	176,827	(4)	(4)
Total metallurgical coal:							
Asia			377,151	225,762	118,099	134,389	(4)
Europe			269,606	214,604	161,930	206,831	(4)
Western Hemisphere			224,411	* 110,093	* 112,325	136,928	(4)
Total	NA	NA	*** 889,125	* 550,459	* 436,605	521,109	128,822

Commodity and area of destination	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Low volatile [1] metallurgical coal:							
Asia	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Europe	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Medium volatile [2] metallurgical coal:							
Asia	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Europe	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total	(4)	(4)	(4)	(4)	(4)	(4)	(4)
High volatile [3] metallurgical coal:							
Asia	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Europe	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total metallurgical coal:							
Asia	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Europe	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total	174,709	311,331	97,800	262,585	251,327	72,569	139,143

Commodity and area of destination	Week ending		
	Feb. 24, 1978	Mar. 3, 1978	Mar 10, 1978
Low volatile [1] metallurgical coal:			
Asia	(4)	(4)	(4)
Europe	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)
Total	(4)	(4)	(4)
Medium volatile [2] metallurgical coal:			
Asia	(4)	(4)	(4)
Europe	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)
Total	(4)	(4)	(4)

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*—Continued

Exports

Commodity and area of destination	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
High volatile [2] metallurgical coal:							
Asia					(4)	(4)	(4)
Europe					(4)	(4)	(4)
Western Hemisphere					(4)	(4)	(4)
Total					(4)	(4)	(4)
Total metallurgical coal:							
Asia					(4)	(4)	(4)
Europe					(4)	(4)	(4)
Western Hemisphere					(4)	(4)	(4)
Total					206,762	162,451	102,698

	Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,509	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Other bituminous coal	0	0	0	0	0	0	0
Total bituminous coal	174,709	311,331	97,800	262,585	251,327	72,569	139,143
Coke of coal	4,466	5,062	29,143	30,634	3,998	75,173	43,315

	Week ending Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978
Other bituminous coal	0	0	0
Total bituminous coal	206,762	162,451	102,698
Coke of coal	8,595	4,998	4,651

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
* Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
** Partial, in content tons.
*** Includes 17,957 short tons of metallurgical grade coal to destinations not listed above.

NA—Not available.
Sources: Office of Export Administration and Bureau of the Census.

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*

[For week ending Mar. 10, 1978]

Contracts

Commodity and area of destination	Week ending Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978	Apr. 14, 1978	Apr. 21, 1978	Next 6 weeks	Total for 12 weeks
Total metallurgical coal: [1]								
Asia	155,968	120,555	75,555	86,462	185,055	185,055	1,623,154	2,431,804
Europe	153,226	113,226	113,226	191,826	153,226	237,341	1,411,489	2,373,560
Western Hemisphere	34,095	85,895	105,755	34,095	34,095	34,095	424,570	752,600
Total	343,289	319,676	294,536	312,383	372,376	456,491	*3,746,213	*5,844,964
Other bituminous	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total bituminous coal [3]								

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*—Continued

Commodity and area of destination	Contracts							
	Week ending							
	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978	Apr. 14, 1978	Apr. 21, 1978	Next 6 weeks	Total for 12 weeks
Coke of coal	3,263	3,183	2,943	2,793	2,643	2,663	37,061	54,549

[1] Volatility data by destination have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[2] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[3] Data withheld to avoid disclosure of data withheld above. See footnote 2.
[4] Includes 287,000 tons to destinations not listed above.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 5.—*Export prices of bituminous coal and coke of coal, in dollars per short ton*

[Week ending Mar. 10, 1978]

Commodity	Average			Weighted	High	Low
	March 1976	March 1977	November 1977			
Low volatile [1] metallurgical coal	NA	NA	NA	(4)	(4)	(4)
Medium volatile [2] metallurgical coal	NA	NA	NA	(4)	(4)	(4)
High volatile [3] metallurgical coal	NA	NA	NA	(4)	(4)	(4)
Total metallurgical coal	NA	NA	53.84	55.21	(4)	(4)
Other bituminous coal	NA	NA	35.01			
Total bituminous coal	50.79	50.64	50.99	55.21	(4)	(4)
Coke of coal	62.97	57.19	79.70	128.40	142.79	122.34

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*

[For week ending Mar. 10, 1978]

	Weekly average			Week ending			
	Dec. 1975	Dec. 1976	Nov. 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Imports:							
Bituminous coal [1]	20,097	21,452	31,158	NA	NA	NA	NA
Coke of coal	20,774	28,903	41,267	NA	NA	NA	NA
Exports:							
Bituminous coal [1]	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Average		Week ending			
	January 1976	January 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Imports:						
Bituminous coal [1]	16,346	27,198	NA	NA	NA	NA
Coke of coal	3,483	5,987	NA	NA	NA	NA
Exports:						
Bituminous coal	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514	4,466	5,062	29,143	30,634

	Weekly average		Week ending			
	February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1976	Feb. 17, 1978	Feb. 24, 1978
Imports:						
Bituminous coal [1]	NA	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA	NA
Exports:						
Bituminous coal [1]	736,138	769,840	251,327	72,569	139,143	206,762
Coke of coal	22,185	12,805	3,998	75,173	43,315	8,595

TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*—Continued

	Weekly average		Week ending	
	March 1976	March 1977	Mar. 3, 1978	Mar. 10, 1978
Imports:				
Bituminous coal [1]	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA
Exports:				
Bituminous coal [1]	898,473	765,515	162,451	102,698
Coke of coal	19,541	24,320	4,998	4,651

[1] Includes both metallurgical grade and steam coal.
NA: Not Available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 7.—*Bituminous coal and coke of coal* production, consumption, and stocks, in thousand short tons*

[For week ending Mar. 11, 1978]

	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Total bituminous coal production**	12,019	12,593	14,798	9,100	5,080	r5,515	5,700
Consumption:							
Metallurgical***	1,519	1,568	NA	1,290	1,368	1,364	1,324
Other bituminous:							
Electric utility	8,414	9,387	NA	9,228	9,550	9,358	8,928
General industry	1,358	1,421	NA	1,330	1,252	1,163	1,146
Total other	9,772	10,808	NA	10,558	10,802	10,561	10,074
Total bituminous	11,291	12,376	NA	11,848	12,170	11,925	11,398
Bituminous coal stock (end of specified periods):							
Metallurgical***	8,671	9,804	NA	r15,084	14,776	13,982	13,088
Other bituminous:							
Electric utility	109,707	117,468	NA	r146,171	141,691	136,993	131,308
General industry	8,504	6,900	NA	9,495	9,248	8,896	8,425
Total other	118,211	124,368	NA	155,666	150,939	145,889	139,713
Total bituminous	126,882	134,172	NA	170,750	165,715	159,871	152,801

	Weekly average			Week ending			
	January 1976	January 1977	Jan. 7, 1978	Jan. 14, 1978	Jan. 21, 1978	Jan. 28, 1978	Feb. 4, 1978
Total bituminous coal production**	11,627	9,520	5,755	r5,260	r5,045	r4,970	5,440
Consumption:							
Metallurgical***	1,505	1,428	1,291	1,192	1,221	1,161	1,129
Other bituminous:							
Electric utility	9,009	9,730	9,359	9,652	9,763	9,765	9,386
General industry	1,211	1,442	1,220	1,298	1,199	1,152	1,185
Total other	10,220	11,172	10,579	10,950	10,962	10,917	10,571
Total bituminous	11,725	12,600	11,870	12,142	12,183	12,078	11,700
Bituminous coal stocks (end of specified periods):							
Metallurgical***	8,115	8,107	11,992	10,900	9,771	8,8231	r7,772
Other bituminous:							
Electric utility	104,456	103,883	126,268	119,399	112,535	105,945	r99,244
General industry	6,425	5,960	8,046	7,579	7,246	6,811	6,484
Total other	110,881	109,843	134,314	126,978	119,781	112,756	r105,728
Total bituminous	118,996	117,950	146,306	137,878	129,552	121,577	r113,500

	Week ending				
	Feb. 11, 1978	Feb. 18, 1978	Feb. 25, 1978	Mar. 4, 1978	Mar. 11, 1978
Total bituminous coal production*	r6,110	6,570	6,680	[1]7,330	7,580
Consumption:					
Metallurgical***	1,069	1,035	970	969	926

TABLE 7.—*Bituminous coal and coke of coal* production, consumption, and stocks, in thousand short tons*—Continued

	Weekly average		Week ending				
	December 1975	December 1976	November 1977	Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Other bituminous:							
Electric utility			9,479	8,923	8,660	8,360	8,034
General industry			1,189	1,188	1,167	1,222	1,183
Total other			10,668	10,111	9,837	9,582	9,217
Total bituminous			11,737	11,146	10,797	10,551	10,143
Bituminous coal stocks (end of specified periods):							
Metallurgical***			6,888	6,024	R5,479	R4,834	4,351
Other bituminous:							
Electric utility			92,937	87,692	R83,421	R79,604	76,442
General industry			6,121	5,882	5,706	5,483	5,352
Total other			99,058	93,574	R89,127	R85,087	81,794
Total bituminous			105,946	99,598	R94,606	R89,921	86,145

*Data on coke of coal production, consumption, and stocks are not available on a weekly basis.
**More detailed production data are not available.
***More detailed data in terms of volatile content are not available.
R Revised.
NA Not available.

Data Source: Department of Energy.

[FR Doc. 78-8758 Filed 3-30-78; 11:11 am]

[3510-25]

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY/KENNEDY CENTER ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Publ. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00084. Applicant: Albert Einstein College of Medicine of Yeshiva University/Kennedy Center (502), 1410 Pelham Parkway, Bronx, N.Y. 10461. Article: JEM-100CX/SEG Electron Microscope, and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine surgically removed portions of the peripheral (PNS) and central nervous system (CNS) of experimental animals, as well as neural tissue cultures, intoxicated with a variety of chemicals and environmental pollutants (e.g., As and Pb). The objectives pursued in these scientific investigations include the definitive identification of specific ultrastructural changes brought about in vital cellular components of the PNS and CNS as a consequence of exposure to various neurotoxic agents. Another objective to be pursued involves localization and determination of the relative concentration of some of these agents in such altered neural tissues by energy dispersive X-ray microanalysis and related electron energy loss modalities. Application received by Commissioner of Customs: January 4, 1978.

Docket No. 78-00087. Applicant: University of Illinois at the Medical Center, Office of Business Affairs, P.O. Box 6998, Chicago, Ill. 60680. Article: Electron Microscope, Model H-300 and Accessories. Manufacturer: Hitachi, Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for a variety of research studies which include the following:

Synaptogenesis in the Trigeminal Mesencephalic Nucleus (Oral Anatomy).
Separation of Neurons and Glia by Density Gradient Centrifugation (Biology Chemistry).
Study of the Fine Structure of Pigment Cells During Development of the Chick Retina, with Emphasis of Differences between Nuclear and Peripheral Retinal Areas (Anatomy).
Nucleolus and Nuclear Differentiation in the Oral Epithelium of Zink Deficient Rats (Oral Pathology).
The Ultrastructure of Normal Primate Lung and Lung in Shock (Surgery).
The Ultrastructure of Nuclear Histones in Melanocytes and Melanoma (Surgery).
Neonatal and other Incremental Lines in Human Enamel (Oral Histology).
Study of the Fine Structure of Developing Neuromuscular Junctions in the Chick (Anatomy).
Dentinogenesis in Frog's Teeth (Oral Histology).
The Maturation of Rat Incisor Enamel (Oral Histology).
Fixation of Tissues by Metallizable Chloros-triozines (Oral Pathology).
Localization of Salivary Gland Virus Particles in SGV-Sensitive Cell Lines (Oral Pathology).
Search of Virus Particles from Spontaneously Transformed Normal Calvarium derived Tissue Culture Cells to Transplantable Neoplasms in Mice (Oral Pathology).
Odontoblastic Process in Sclerotic end Formation (Oral Histology). DNA Synthesis in the Alloxan Diabetic Kidney (Anatomy).
Chemical and Physical Properties of Feline Leukemia and Sarcoma Virus (Pathology).
Fine Structural Aspects of Ganglion Cell Differentiation of Chick Retina (Anatomy).

In addition, the article will be used for training faculty, students, and technical personnel who require EM capability for research. Article ordered: June 20, 1977.

Docket No. 78-00091. Applicant: Georgetown University, School of Medicine, Department of Pathology, 3900 Reservoir Road NW., Washington, D.C. 20007. Article: Electron Microscope, Model JEM-100S, Haskris Water Recirculator with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the study of ultrastructure of pathological material (human and animal) during experiments involving characterization of cell surface antigens. The objective pursued in the course of these experi-

ments will be diagnosis of diseases, and obtaining new information relevant to immune functioning of cell types. In addition, the article will be used for graduate instruction in ultrastructural technique. Article ordered: December 28, 1977.

Docket No. 78-00094. Applicant: McGee Eye Institute, 608 Stanton L. Young Drive, Oklahoma City, Okla. 73104. Article: Electron Microscope, Model H-500 with Gonionmeter. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used to examine eye tissue from both humans and animals. Connective tissue and biochemical, biophysical, and pathological properties of the eye will be studied. Investigations will be conducted to: (1) Determine the role proteoglycans play in the normal physiology of vision; (2) demonstrate any differences that may occur between the proteoglycan content of the normal cornea verses corneas with known pathology; (3) demonstrate any difference of enzyme levels between normal and diseased corneas, and other eye tissues; (4) demonstrate the effect lysosomal proteases may have on the melting syndrome; (5) demonstrate antigen-antibody complexes in autoimmune diseases of the eye; and (6) develop clinical applications of the electron microscope to pathology. Article ordered: October 24, 1977.

Docket No. 78-00097. Applicant: University of Michigan, Ann Arbor, Mich. 48109. Article: Electron Microscope, Model JEM-100CX with side entry goniometer stage and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research in the fields of biological, physical, mineralogical, and engineering sciences: (1) Microstructural factors influencing the strength of the bonding of dental porcelain to base metal alloys; (2) study of exsolution relations in manganese pyroxenes; (3) characterization of the crystal chemistry and structure of minerals using the stem; (4) character of twinning in pyrrhotite minerals; (5) study of crystalline polymers; (6) solid-state deformation of polymers: extrusion of polyenthylene; (7) preferred orientation textures in very thin films of drawn and recrystallized polyethylene; (8) cell interactions in hereditary tumors: cell surface structures; (9) subcellular localization of heavy metals; (10) lectin binding on neoplastic cells. Article ordered: October 7, 1977.

Docket No. 78-00100. Applicant: University of Michigan, room 3014, Administration Building, Ann Arbor, Mich. 48109. Article: Electron Microscope, Model EM-400 HMG and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to study cells for research in modern cell biology, e.g., stages in the development of breast cancer, localization of hormone receptors in cells of the seminiferous tubules in the testis, localization of enzymes by cyto-chemistry at the electron microscope level in cells of the guinea pig corpus luteum, cyto-chemical localization of enzymes involved in ion transport in various transport epithelia, and fine structure of epidermal tissue cultures. In addition, the article will be used by graduate students as part of their training to become scientists. Article ordered: November 29, 1977.

Docket No. 78-00107. Applicant: University of Minnesota, Department of Otolaryngology, 2630 University Avenue SE., Minneapolis, Minn. 55414. Article: Electron Microscope, Model JEM-100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the ultrastructural study of the mammalian cochlea. Experiments to be conducted will involve characterization of ultrastructural changes in the cochlea following intense sound and ototoxic drugs. In addition, the article will be used for resident training in ultrastructural technique. Application received by Commission of Customs: January 26, 1978.

Docket No. 78-00108. Applicant: LDS Hospital (Intermountain Health Care Inc.), 325 8th Avenue, Salt Lake City, Utah 84143. Article: Electron Microscope, Model JEM-100S with sheet film camera and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine various types of biological specimens principally, pathological tissues obtained from patients from biopsy or autopsy. Experiments to be conducted will include the following: (1) Establishment of diagnosis in human diseases where light microscopy is inadequate, such as poorly differentiated tumors and renal diseases; (2) focus on the ultrastructural alternations occurring in the lungs of experimental animals and man with acute respiratory distress syndrome; (3) studies of the alterations of macrophage cell surface occurring during macrophage activation and participation in tumor killing. The article may also be used as an educational tool for pathology residents and research fellows. Article ordered: December 30, 1977.

Comments: No comments have been recrived with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-8900 Filed 4-4-78; 8:45 am]

[3510-25]

MICHIGAN CANCER FOUNDATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00149. Applicant: Michigan Cancer Foundation, 110 East Warren Avenue, Detroit, Mich. 48201. Article: JNM-FX-100 High Resolution Fourier Transformation Multinuclear Magnetic Resonance Spectrometer System and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for nuclear magnetic resonance spectroscopy in the following research projects:

(1) Magnetic Resonance Studies of the Role of the Divalent Cation in Steroid Alcohol and Estrogen Sulfotransferase,

(2) Conformational Dynamics of 3-Phosphoadenosine 5'Phosphosulfate and Its Analogs,

(3) Synthesis of Aminocyloligo-nucleotides as Tools for Study of Protein Biosynthesis,

(4) Affinity-Labeling of Macromolecules, and

(5) Transition State Models of Protein Synthesis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to perform spin-spin relaxation time (T_2) experiments by the Carr-Purcell pulse method. The department of Health, Education, and Welfare advises in its memorandum dated March 8, 1978, that (1) the capability of the article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument of apparatus that provides the pertinent feature of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scienfific value to the foreign article, for such pruposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-8902 Filed 4-4-78; 8:45 am]

[3510-25]

UNIVERSITY OF VIRGINIA HOSPITAL ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before April 25, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00150. Applicant: University of Virginia Hospital, Department of Radiology, Charlottesville, Va. 22901. Article: LKB 2250-041 PMV Cryo Microtome, Type 450 MP. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section large undecalcified tissues of a quality never before feasible. Investigations will include autoradiographic drug and chemical distribution studies of whole animals as well as fetal distribution studies of teratogenic compounds; histochemical studies of hormone and enzyme localization in cells and tissues of large specimens; metabolism studies of drugs and toxic or carcinogenic environmental agents; gross morphology and light microscopy examination of whole human organs and animals to measure tumor metastasis. Application received by Commissioner of Customs: March 14, 1978.

Docket No. 78-00153. Applicant: Northwestern University, 633 Clark Street, Evanston, Ill. 60201. Article: Dual Channel Transient Recorder Model DL 922 and Accessories. Manufacturer: Data Laboratories, Ltd., United Kingdom. Intended use of article: The article is intended to be used for pulsed nuclear magnetic resonance (NMR) studies of relaxation times. Fourier transformation studies of the NMR line shape and splitting, and ultransonic measurements of the velocity of sound and its attenuation, at temperatures as low as one millikelvin. Specifically, the article will be used to rapidly digitize and store the real and imaginary signal from a pulsed NMR/ultrasonic spectrometer simultaneously, and then feed them to a PDP-11 minicomputer at an acceptable rate for compex Fourier transformation. Application received by Commissioner of Customs: March 20, 1978.

Docket No. 78-00157. Applicant: University of Pennsylvania, 3451 Walnut Street, Philadelphia, Pa. 19104. Article: Mass Spectrometer, Model CH-7-A and Accessories. Manufacturer: Varian Mat G.m.b.H., West Germany. Intended use of article: The article will be used for investigations in respiratory physiology, particularly of gaseous exchanges, at the whole body, organ, cellular and molecular levels. The pertinent projects are as follows: (1) Measurement of CO Production and Catabolism; (2) metabolism of Oxygen; and (3) measurement of very low absolute concentration of gases such as O_2, CO and CO_2 in solution; (4) exchanges of CO between blood and alveolar gas in the lungs and between maternal and fetal blood in the placenta to determine the transfer characteristics of these capillary surfaces. This work will be carried out in the Department of Physiology in the Medical School in which there are at any one time about 20 Postdoctoral Research Fellows and 30 graduate students in Physiology and/or Bioengineering and/or Biophysics and Biochemistry. Application received by Commissioner of Customs: March 20, 1978.

Docket No. 78-00158. Applicant: Sandia Laboratories, 1515 Eubank Boulevard SE., Albuquerque, N. Mex. 87115. Article: Image Converter Camera, Model IMACON 675 and Accessories. Manufacturer: John Hadland, United Kingdom. Intended use of article: The article is intended to be used to resolve 15 one-nanosecond frames in 25 nanoseconds in order to study the following events: (1) Electron emission from the cathode by viewing the cathode plasma; (2) electron deposition in the anode or fusion target by viewing the anode plasma; (3) determining the number of electrons incident on the target from the resulting X-ray emission; and (4) to measure the temperature and density of fusionable target by utilizing the camera as a detector behind a high-resolution spectrometer. Application received by Commissioner of Customs: March 20, 1978.

Docket No. 78-00162. Applicant: University of California, Los Angeles, School of Engineering and Applied Science, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Amplifier, Model TEA 601A and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article will be used as a final unit in a chain of CO, laser amplifiers generating a 1-2 nanosecond pulse of power greater than one gigawatt. This pulse is to be focused into gas discharge plasma sources to simulate the environment in the outer regions of laser-fusion fuel pellets. Instabilities which will inhibit coupling of laser radiation into the fuel are to be studied under experimental conditions, where relative ease of diagnostics enables one to understand the basic physics of the interaction much more readily than in actual pellet compression experiments. This line of research is one of a number being pursued in an attempt to find an alternative to oil and other fossil fuels as a source of electrical power. In addition, Ph.D. students will use this equipment in their research for the purpose of obtaining their degree. Application received by Commissioner of Customs: March 20, 1978.

Docket No. 78-00170. Applicant: Dartmouth College—Chemistry Department, Steele Hall, Dartmouth College, Hanover, N.H. 03755. Article: Nuclear Magnetic Resonance Spectrometer System, Model FX-60Q. Manufacturer: JEOL Analytical Instruments,

Japan. Intended use of article: The article is intended to be used for research in the following projects:

(1) Conformational Dynamics of Chain Molecules—Probing of chain dynamics ^{13}C Fourier transform;

(2) An investigation in Organofluorine Chemistry—Directed toward the synthesis and study of molecules of special interest; namely selected perfluorinated annulenes, annulenes ions, and heterannulenes, together with valence isomers of these systems;

(3) Long range (through space) ^{13}C-^{19}F spin coupling, whose dependence on distance and geometry. The results of this investigation will be used in making structural assignments in fluorinated benzath racenes, which are involved in a study of aromatic hydrocarbon carcinogenesis;

(4) An investigation of oxidative demethylation during steroid biosynthesis and in attempts to simulate such enzymic hydroxylation reactions in the laboratory;

(5) Examination of catalytically important n^4-butadienyl, n^3-cyclobutenyl, and n^4-cyclobutadiene complexes of the transition metals;

(6) Elucidation of the structure of metal-nucleotide adducts, T_1 and line broadening studies will be carried out with those metal ions which are paramagnetic;

(7) An investigation of pancreatic cancer in an attempt to isolate and establish the structure of DNA bases which have been modified by attack of the carcinogen O-diazoacetyl-L-serine; and

(8) Study of membrane transport systems for sugars and an especially potent class of enzyme inhibitors, transition state analogs.

In addition, the article is intended to be used for the following educational purposes:

(a) Organic Chemistry.—To teach students within a special topics framework to think creatively about organic chemistry, and in the laboratory to master advanced techniques and develop a feeling for research.

(b) Undergraduate Investigation in Chemistry.—Introduction to the discipline, the patterns of thought, and the laboratory habits which will be essential to their success in graduate research.

(c) Graduate Investigation in Chemistry.—Foster development into scientists sufficiently mature to plan and execute independently research projects of their own conception. Application received by Commissioner of Customs: March 20, 1978.

Docket No. 78-00171. Applicant: Oakland University, Rochester, Mich. 48063. Article: Ramanor HG-2S Double 1 meter Monochromator and Accessories. Manufacturer: Jobin-Yvon Optical Systems, France. Intended use of Article: The article is intended to be used for research application for identification of molecules present in systems under investigation, determining of concentrations of certain species, and structural studies of either isolated molecules or molecules in vitro. Specific research projects include:

A. Study of tightly bound cluster hydrates,

B. Study of chemical models for nitrate reductase,

C. Study of the preresonance raman intensity enhancement of vibronically active models,

D. Molecular structural studies of ring compounds,

E. Raman spectroscopic studies of evolutionarily related oligomeric enzymes,

F. Isomerism of ternary complexes of copper (II) and Nickel (II).

The article will also be used for educational purposes which will concentrate on identification of reaction products although some applications to structural studies will be considered to compliment infrared studies of inorganic and simple organic molecules and thermal analysis of polymers. Application received by Commissioner of Customs: March 20, 1978.

Docket No. 78-00173. Applicant: University of Southern California, Department of Chemistry—University Park, Los Angeles, Calif. 90007. Article: TEA CO_2 Laser Model DD-250 and Accessories. Manufacturer: Gen Tec Inc., Canada. Intended use of article: The article is intended to be used for the study of excitation, and dissociation of infrared active gas molecules (e.g., SF_6, SF_5, Cl, C_2H_3Cl) by intense infrared laser radiation. It is intended to determine the extent and mechanisms of energy deposition in various molecules and in the dissociation fragment. Specifically, the article will be used for making appearance potential measurements which will be used to determine the energy of either the fragments or molecules. In addition, the article will be used in the courses Chemistry 490L (undergraduate research) and Chemistry 790L (graduate research) and post-doctoral research as well as for the training of chemistry post-doctorates in advanced research techniques. Application received by Commissioner of Customs: March 20, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-8901 Filed 4-4-78; 8:45 am]

[3510-25]

Industry and Trade Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Tuesday, April 25, 1978, at 9:30 a.m. in Room 5230, Main Commerce Building 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of na-

tional defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittee thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: March 31, 1978.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulations, U.S. Department of Commerce.

[FR Doc. 78-9027 Filed 4-4-78; 8:45 am]

[3510-17]

Office of the Secretary

PRESENTATION BEFORE INTERAGENCY COMMITTEE ON STANDARDS POLICY BY RICHARD O. SIMPSON, PROGRAM ADMINISTRATOR OF NATIONAL STANDARDS POLICY ADVISORY COMMITTEE (NSPAC), ON NSPAC'S RECOMMENDATIONS REGARDING A NATIONAL STANDARDS POLICY FOR THE UNITED STATES

Open Meeting.

The Department of Commerce functions as the Federal Government focal point in the development, coordination, and strengthening of U.S. national and international standards policy in the public interest. In this capacity the Department has become cognizant of the activities of the National Standards Policy Advisory Committee (NSPAC), which was established under the auspices of the American National Standards Institute early in 1977.

The Department has noted that NSPAC has prepared a document entitled "A Recommended National Standards Policy for the United States." NSPAC's stated objective in preparing that document "was to prepare a recommended U.S. National Standards Policy that would, if implemented, go a long way towards creating a working environment within which the Nation's standards capability—both public and private—could be effectively, economically, and equitably used in behalf of the national interest." This NSPAC document was published in full in the FEDERAL REGISTER of February 14, 1978 (43 FR 6298).

The Interagency Committee on Standards (ICSP) is chartered and chaired by the U.S. Department of Commerce. The purpose of the ICSP is to facilitate the effective participation by the Federal Government in domestic and international standards activities and to promote the development of uniform policies among agencies participating in these activities. In this connection the ICSP has invited Mr. Richard O. Simpson, Program Administrator of NSPAC, to describe the origin of NSPAC and the contents of the NSPAC document mentioned above at the ICSP's next regular meeting on April 26, 1978.

The public is invited to attend Mr. Simpson's presentation on the NSPAC document. This presentation will take place at 9:30 a.m., April 26, 1978, room 6802, U.S. Department of Commerce, 14th Street, NW., (between E Street and Constitution Avenue), Washington, D.C.

The first 30 minutes following Mr. Simpson's presentation will be devoted entirely to comments, questions, and answers which members of the ICSP or other Federal Government personnel in attendance as observers may wish to present to the ICSP and Mr. Simpson. It is recognized that other interested persons may wish to express their views on the NSPAC document to the ICSP representatives at the April 26 meeting. Accordingly, the ICSP chairman has determined in the public interest that one hour will be set aside for such views to be expressed. That hour will begin immediately upon the termination of the half hour set aside for discussion by Federal Government personnel with Mr. Simpson, as described above.

Any interested person wishing to be called upon to express his or her views on the NSPAC document at the April 26, 1978 ICSP meeting should contact Dr. Howard I. Forman, ICSP chairman and Deputy Assistant Secretary of Commerce for Product Standards no later than April 20, 1978, either by telephone or by letter. Dr. Forman is located at the main Commerce Building, room 3876, on 14th Street NW. (between E Street and Constitution Avenue), Washington, D.C., telephone 202-377-3221. Time for the expression of such views will be allocated as equitably as possible, depending upon the number of such requests and consistent with the plan to conclude the meeting by 12:30 p.m. (which is one half hour longer than the normal termination time of regular ICSP meetings).

Dated: March 30, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-9006 Filed 4-4-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY ENERGY ASSISTANCE PROGRAM

Funding Declarations

The Director of the Community Services Administration (CSA) has found, based on criteria indicated in Column* (5) of Appendix A that Energy Related Emergencies have existed since the dates indicated in Column (3).

Therefore, eligible grantees who cover those areas indicated in Column (2) will proceed as follows:

Grantees who receive funds by Letter of Credit may withdraw and expend funds in the amount approved in Column (4) or that portion of that amount which have been granted to them under Program Account 80, Emergency Energy Assistance Program; *or*

Grantees who normally receive checks are being informed that their checks are being forwarded by the Treasury Department for the total amount of the EEAP grant. However, these grantees immediately may begin obligating funds against this grant in the amount appropriated in Column (4) and from the date indicated in Column (3).

Column (3) contains the earliest date to our knowledge which provided the basis for a finding by the Director of CSA that an Energy Related Emergency existed. However, any eligible grantee within those areas covered in Column (2) may submit evidence to support the existence of Energy Related Emergencies which existed between December 31, 1977, and the date given in Column (3) for a finding by the Director of CSA. (See CSA Notice 6143-7, Section 4 or § 1061.51-3 in the FEDERAL REGISTER (43 FR 9476).

Request for supplemental (additional) funds shall be made in accordance with the provisions of Section 11.c. of CSA Notice 6143-7.

GRACIELA (GRACE) OLIVAREZ,
Director.

---

*All references to "column" refer to Appendix A to this Notice.

APPENDIX A

State(s) declared	Areas covered	Emergency declaration date	Approved allocation for area covered	Basis for determination *
(1)	(2)	(3)	(4)	(5)
REGION II				
New York	Counties of:			
	Bronx, Kings, New York, Queens and Richmond.	Jan. 9, 1978	$1,048,320	4.b.(1)
	Nassau	do	174,837	4.b.(1)
	Orange	do	91,229	4.b.(1)
	Putnam	do	30,400	4.b.(1)
	Dutchess	do	48,000	4.b.(1)
	Rockland	do	48,000	4.b.(1)
	Westchester	do	226,610	4.b.(1)
New Jersey	Counties of:			
	Burlington	Feb. 5, 1978	48,586	4.b.(1)
	Mercer	do	50,583	4.b.(1)
	Middlesex	do	58,122	4.b.(1)
	Monmouth	do	68,569	4.b.(1)
	Ocean	do	55,384	4.b.(1)
REGION III				
Delaware	Entire State	Jan. 1, 1978	210,000	4.b.(2)(a)
District of Columbia	District-wide	do	245,000	4.b.(2)(a)
REGION VII				
Kansas	Entire State	do	530,000	4.b.(2)(a)
REGION VIII				
South Dakota	do	do	405,000	4.b.(2)(a)
REGION IX				
California	do	do	845,000	4.b.(1)

* Reference CSA Notice 6143-7, sec. 4; FEDERAL REGISTER 1061.51-3(b).

[FR Doc. 78-8782 Filed 4-4-78; 8:45]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

OFFICIALS AUTHORIZED BY THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL TO ISSSUE VISAS FOR COTTON TEXTILES AND COTTON TEXTILE PRODUCTS EXPORTED TO THE UNITED STATES

Revised List

MARCH 31, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Revision of list of Brazilian official authorized to issue visas for cotton textiles and cotton textile products, exported to the United States.

SUMMARY: The Government of the Federative Republic of Brazil has notified the Government of the United States that the list of officials who are authorized to issue visas for cotton textiles and cotton textile procucts exported to the United States has been revised. The new list is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

EFFECTIVE DATE: April 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On July 8, 1972 a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the FEDERAL REGISTER (37 FR 13498), which established an export visa requirement for cotton textiles and cotton textile products, produced or manufactured in Brazil, and exported to the United States. One of the requirements is that the visas accompanying such shipments must be signed by an official authorized by the Brazilian Government to issue export visas. The Government of the Federative Republic of Brazil has revised the list of officials.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry for consumption or withdrawal from warehouse for consumption of shipments of cotton textiles and cotton textile products, produced or manufactured in Brazil, which have been visaed by the officials indicated on the revised list.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

MARCH 31, 1978

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of June 29, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64 (currently Categories 300-369), produced or manufactured in the Federative Republic of Brazil, for which that Government had not issued an appropriate export visa. One of the requirements is that each visa include the signature of a Brazilian official authorized to issue visas.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as amended on December 15, 1977; pursuant to the provisions of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by E.O. 11951 of January 6, 1977, the directive of June 29, 1972 is further amended, effective on April 1, 1978, to authorize those Brazilian officials indicated on the enclosed list to issue visas.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

OFFICIALS OF THE FEDERATIVE REPUBLIC OF BRAZIL AUTHORIZED TO ISSUE VISAS FOR COTTON TEXTILES AND COTTON TEXTILE PRODUCTS EXPORTED TO THE UNITED STATES

Joao Ridrigues Alves.
Jose Carlos de Araujo.
Jose Alkindar Xavier Balbe.
Antonio Carlos Bastos, Jr.
Jose Magno de Leao Brasil.
Newton Geraldo Camilo.
Paulo Cordeiro.
Luiz Cezar Cotta.

Ruy Carlos Cury.
Luiz Estanislau Enoch.
Fued Farhat.
Victor Angelo Pinto Ferreira.
Antonio Bezerra de Figueiredo.
Carlos Leon Finger.
Francisco Ursina Filho.
Publio Jackson Furiatti.
Antonio Maurilio Galesso.
Wilson dos Santos Garcia.
Eudes Izar.
Euclides Romeu Justo.
Mario Emilio Kreibich.
Paulo Henrique Souza e Silva Lisboa.
Helio Ribeiro Lopes.
Adolfo Lueders, Jr.
Fernando Antonio Ferreira de Medeiros.
Adir de Oliveira Meirelles.
Newton Cerqueira Melo.
Jorge Luiz Pessoa Morado.
Rubens de Azerdo Moulin.
Edison Mueller.
Arnaldo Nogueira, Jr.
Vincente Antonio Nucci.
Rufino Cancio Pires.
Fauzi Rahme.
Flavio Eduardo Patricio Ribeiro.
Amos Lima de Santana.
Antonio Santos.
Ary de Oliveira Seabra.
Antonio Ferreira Sena.
Diether Dagobert Siebert.
Egydio Sponchiado.
Ernio Antonio Thimmig.
Jose Nicolao Turnes.
Roberto Varella.
Nanzur Castro Vasconcellos.
Henrique Jose Vieira.
Wilfried Volkmann.
Armando Vulcano.
Celso Mario Zipt.

[FR Doc. 78-9045 Filed 4-4-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket Number 78-2]

CONSUMER PRODUCT SAFETY ACT

Publication of Complaint

Under provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR 1025), the Commission must publish in the FEDERAL REGISTER Complaints which it issues under the Consumer Product Safety Act.

Printed below is a Complaint in the matter of G.L. Electric Flasheat Co., a corporation and Gervis J. Galloway, individually and as an officer of the company.

March 30, 1978

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of G. L. Electric Flasheat Co., a corporation and Gervis J. Galloway, individually and as an officer of G. L. Electric Flasheat Co.

CPSC Docket No. CPSC 78-2.

COMPLAINT

JURISDICTION

1. This proceeding is instituted pursuant to the authority contained in sections 15 (b), (c), (d), (e), and (f) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2064 (b), (c), (d), (e), and (f)).

THE RESPONDENTS

2. Respondent G. L. Electric Flasheat Co., 19366 Kelly Road, Harper Woods, Mich. 48225, has been a Michigan corporation since September 1977.

3. Respondent Gervis J. Galloway, 19366 Kelly Road, Harper Woods, Mich. 48225, is the president of the respondent corporation.

4. Whenever this complaint refers to any act of the respondents, the reference shall be deemed to mean that the directors, officers, employees or agents, of the respondents did authorize such act while actively engaged in the management, direction, or control of the affairs of the respondents and while acting within the scope of their employment. Whenever this complaint refers to any act of respondents the reference shall be deemed to mean the act of each respondent, jointly and severally.

THE CONSUMER PRODUCT

5. The corporate respondent has been engaged in the manufacture, sale, or distribution in "commerce" as the term "commerce" is defined in section 3(a)(12) of the CPSA (15 U.S.C. 2052(a)(12)), of an unknown number of portable immersion electric water heaters including, but not necessarily limited to, Flasheat models known as the "Flasheat" (Catalog Number 101), the "AC and DC" (Catalog Number 501) and the "Fast Heat" (Catalog Number 401).

6. The portable immersion electric water heaters described in paragraph 5 above, that were manufactured, sold, or distributed by the corporate respondent are "consumer products" as that term is defined in section 3(a)(1) of the CPSA (15 U.S.C. 2052(a)(1)).

7. The portable immersion electric water heaters described in paragraph 5 above, are constructed of an exposed resistive heating element which, in the Models 501 and 101 water heaters, is contained inside a perforated cylindrical metal case and in the Model 401 is contained in between two round, flat porcelain shells which are open around the edge. Either heater case allows the water to be in complete contact with the heating element. The heaters come in these two shapes.

8. The heating element inside the case is powered by electrical current supplied by a power cord which plugs into a standard electrical outlet.

THE SUBSTANTIAL PRODUCT HAZARD

9. The heaters are designed in such a way that when they are immersed in water, as intended, the water directly contacts the resistive heating element. When this occurs one of two conditions will exist that present the potential for a substantial shock hazard:

(a) If the container holding the water is not grounded below the water line, the contained water becomes electrically charged. A person entering the water and being grounded at the same time or subsequently contacting a ground while in the water will be subjected to an electrical shock whose current path will flow between the part of the body entering or in the water and that part of the body in contact with the ground. If the path travels through the chest cavity, death is almost certain.

(b) If the container holding the water is grounded below the water line (as for example, by an all metal drain) an electric current will be produced between the submerged heater and the ground location. A person entering the container between the water heater and the ground location will become part of the current path and current will flow through the body between the water heater and the ground location in sufficient magnitude to produce loss of complete muscular control which could result in death.

10. The heaters are specifically marketed for use in the bath and kitchen. At least one person has been electrocuted in a bathtub while allegedly using a portable immersion electric water heater which contains the identical design defect as that contained in the heaters described in paragraph 5 above.

11. This potential shock hazard is a product defect within the meaning of section 15(a)(2) of the CPSA (15 U.S.C. 2064(a)(2)) which creates a substantial risk of injury to the public and thereby constitutes a substantial product hazard within the meaning of this section.

RELIEF SOUGHT

Wherefore, in the public interest, the staff of the Consumer Product Safety Commission requests that the Commission (after affording interested persons an opportunity for a hearing):

1. Determine that the portable immersion electric water heaters described in the Complaint present a "substantial product hazard" within the meaning of section 15(a)(2) of the CPSA (15 U.S.C. 2064(a)(2));

2. Order the respondents to cease manufacturing for sale, offering for sale, distributing in commerce, importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), and doing any combination of such actions, the portable immersion electric water heaters which present the substantial product hazard described herein;

3. Determine that notification is required to adequately protect the public from the substantial product hazard presented by the portable immersion electric water heaters which are the subject of the Complaint and order respondents to do the following:

(a) Give public notice of the defect in the portable immersion electric water heaters in question including the purchase, if necessary, of newspaper space and/or broadcast time;

(b) Mail notice of the defect to each manufacturer, distributor, and retailer of the products;

(c) Mail notice of the defect to each person to whom respondents know the products in question have been delivered or sold;

(d) Include in the notices required by (a), (b), and (c) above, a complete description of the hazard presented and adequate instructions and warnings for safe operation, repair, and storage of the product until such time as the election set forth in paragraph 4 below is exercised;

4. Determine that action under section 15(d) of the CPSA (15 U.S.C. 2064(d)) is in the public interest and order respondents to elect within 10 days to do one or more of the following:

(a) Repair (including modification) so as to eliminate the defect presented by the portable immersion electric water heaters in question; or

(b) Replace the portable immersion electric water heaters with a like or equivalent product which is free from the defect outlined above; or

(c) Refund the purchase price of the portable immersion electric water heaters (less a reasonable allowance for use, if such products have been in the possession of the consumer for one year or more either at the time of the public notice or at the time the consumer receives actual notice of the defect);

5. Determine that reimbursement of expenses incurred in connection with carrying out the Commission Order issued under Section 15 (c) or (d) (15 U.S.C. 2064 (c) or (d)) is in the public interest and require the respondents to reimburse any manufacturer, distributor, or retailer of the portable immersion electric water heaters in question for their expenses in connection with carrying out such Commission Order; and

6. Grant such other and further relief as the Commission deems necessary to protect the public health and safety and to implement the CPSA.

By order of the Commission.

SADYE DUNN,
Acting Secretary, Consumer Product Safety Commission.

MARCH 24, 1978.

[FR Doc. 78-8990 Filed 4-4-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

MILITARY AIRLIFT COMMITTEE

Meeting

MARCH 16, 1978.

The Military Airlift Committee of the National Defense Transportation Association (NDTA) will hold a meeting on May 3, 1978 from 1 p.m. to 4:30 p.m. and on May 4, 1978, from 8:15 to 11 a.m. at Andrews Air Force Base, Md.

The purpose of this meeting is for the NDTA Military Airlift Committee, serving as an advisory committee, to advise the Commander in Chief, Military Airlift Command (MAC) on broad management problems pertaining to his command responsibilities. Presentations and discussions, in consonance with the theme "Airlift Systems Development—Government/Industry Cooperation," will be featured.

The meeting is open for general public attendance, but this does not include participation in the proceedings or questioning the briefers and Committee members. If an individual wishes to make a formal, oral statement germane to the meeting, he may submit a formal application, including the substance of the statement, in advance to the Commander in Chief, Military Airlift Command, Attention: Executive Agent, Military Airlift Committee, Scott Air Force Base, Ill. 62225. Formal, written statements may be submitted to the Commander in Chief at any time before or after the meeting.

For additional information concerning this meeting, contact Colonel Floyd D. Castleman (Executive Agent), at 618-256-3025.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-8634 Filed 4-4-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting Cancellation

MARCH 24, 1978.

The USAF Scientific Advisory Board Group, Armament Development and Test Center, AFSC, meeting scheduled for March 30-31, 1978, at Eglin AFB, Fla., has been canceled. This meeting was published in vol. 43 FR 10718, March 15, 1978. The meeting will not be rescheduled.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-8991 Filed 4-4-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. AR61-2 and AR69-1, et al.]

AREA RATE PROCEEDING, ET AL (SOUTHERN LOUISIANA AREA AND TEXAS EASTERN TRANSMISSION CORP.

Proposed Plan of Refund

MARCH 30, 1978.

Take notice that Texas Eastern Transmission Corp., on November 29, 1977, tendered for filing, in accordance with the Commission's order directing disbursement and flow through of refunds issued on September 23, 1977, its proposed plan of refund through monies received from producers pursuant to Opinion No. 598.

Texas Eastern proposes a flow-through to its jurisdictional customers refunds received from producers totaling $567,459.20, including interest, by crediting the balance of its gas cost adjustment account by the jurisdictional portion of such amount, as provided for in section 23.8 of the general terms and conditions of its FPC gas tariff, fourth revised volume No. 1.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal 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 April 14, 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. 78-8918 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CS71-70]

BRIGHT & CO. (FORMERLY BRIGHT & SCHIFF)

Redesignation

MARCH 29, 1978.

By letter of February 21, 1978, Bright & Co., has advised the Commission that its company's name has been changed from Bright & Schiff to Bright & Co., effective January 1, 1978.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act in Docket No. CS71-70 to Bright & Schiff, is redesignated as that of Bright & Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8907 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-247]

COLUMBIA GAS TRANSMISSION CORP.

Application

MARCH 30, 1978.

Take notice that on March 22, 1978, Columbia Gas Transmission Corp. (applicant), 1700 MacCorkle Avenue SE., Charleston, W.Va. 25314, filed in Docket No. CP78-247 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities by sale, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon 1,666 feet of 10-inch transmission pipeline (line C-106), located in Gravel Bank, Washington County, Ohio, by sale to

Gas Transport, Inc. (Gas Transport). Applicant states that the segment of line proposed for abandonment is used exclusively to transport gas for Gas Transport for the account of Anchor Hocking Corp. (Anchor Hocking).

It is stated that Gas Transport has been active in developing new natural gas production in the area near Gravel Bank in order to offset declining natural gas supply and that the acquisition by Gas Transport of the segment of line proposed for abandonment would permit utilization of this facility in the gathering of this additional gas supply and make it unnecessary to construct alternative facilities.

Applicant states that Gas Transport would purchase the segment of the pipeline at applicant's book value of approximately $7,507.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 24, 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 section 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. 78-8919 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. RP78-47]

EL PASO NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

MARCH 28, 1978.

Take notice that El Paso Natural Gas Co. ("El Paso"), on March 15, 1978, tendered for filing a proposed change in rate under special rate schedule F-3 to its FERC gas tariff, third revised volume No. 2. El Paso states that the gas purchase agreement comprising a part of said special rate schedule provides for the sale of natural gas at the wellhead to Michigan Wisconsin Pipe Line Co. in Dewey County, Okla.

El Paso states that the proposed change in the base rate under rate schedule F-3 of 2.5 cents is being made pursuant to the contractual pricing provisions of said rate schedule. Said change will increase annual revenues thereunder by $1,236 based on an estimated sales volume for the twelve (12) month period succeeding the proposed effective date of the rate change on April 15, 1978. Such proposed rate is less than the July 1, 1976, maximum rate for flowing gas of 29.5 cents permitted by the Commission's opinion No. 749 issued December 31, 1975, at Docket No. 478.

In connection with the instant notice of change, El Paso also tendered for filing and acceptance ninth revised sheet No. 1-D.1 to its third revised volume No. 2 tariff. El Paso states that said tariff sheet reflects the increased rate proposed to be collected by El Paso under rate schedule F-3, commencing on April 15, 1978.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before April 5, 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 wtith the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8908 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ES78-24]

EL PASO ELECTRIC CO.

Application

MARCH 30, 1978.

Take notice that on March 21, 1978, the El Paso Electric Co., of El Paso, Tex., filed an application for authorization to engage in negotiations regarding the proposed issue and sale in a negotiated private placement an additional $11,000,000 principal amount of 6¾ percent Bonds pursuant to Sections 34.1(a)(4) and 34.2(f)(2) of the Commission's Regulations under the Federal Power Act.

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 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 April 14, 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. 78-8920 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-239]

EL PASO NATURAL GAS CO.

Application

MARCH 30, 1978.

Take notice that on March 17, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-239 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 25,000 Mcf of natural gas per day for Natural Gas Pipeline Co. of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Natural has requested Applicant and others for assistance in making available to Natural's pipeline system certain natural gas supplies which have been acquired by Natural in the Bar X Field, located in Uintah and Grand Counties, Utah, which supplies are not located in the proximity of Natural's existing system. It is further stated that in order to assist Natural, Northwest Pipeline

Corp. (Northwest), has agreed to deliver certain volumes of natural gas to Applicant, for Natural's account, at an existing point of interconnection between the pipeline systems of Northwest and Applicant, which interconnection is known as the Ignacio Receipt Point, in La Plata County, Colo.

Applicant would under the proposed service pursuant to a gas transportation agreement dated January 9, 1978, between Applicant and Natural. It is indicated that Natural would cause the delivery by Northwest to Applicant, at the Ignacio Receipt Point, of up to 25,000 Mcf of natural gas per day and that Applicant would accept, and concurrently therewith, transport such quantities of natural gas for Natural's account and would deliver to Natural or its designee, at specified delivery points located in the Lockridge Field, Ward County, Tex., and in Lea County, N. Mex., a quantity of natural gas equivalent, on an Mcf basis, to that quantity of natural gas received on that day by Applicant from Northwest for Natural's account at the Ignacio Receipt Point. Should an imbalance occur between quantities of natural gas received by Applicant from Northwest and the quantities of natural gas delivered by Applicant to Natural, the parties would cooperate to eliminate as soon as practicable any such imbalances that may occur from time to time, it is asserted.

The application indicates that Applicant should not be obligated to accept natural gas for Natural's account in excess of Applicant's available mainline transmission system capacity at any given time and recognizes that Applicant's use of its existing system capacity for the transportation of natural gas for Natural is subordinate to Applicant's use of such capacity for its own natural gas supplies and in connection with its storage arrangements. It is stated that pursuant to the subject transportation agreement Applicant would from time to time evaluate the capability of its San Juan Basin facilities to accept at and transport from the Ignacio Receipt Points those quantities of natural gas tendered to Applicant from Northwest, and that upon determination by Applicant that the available capacity of its existing facilities is inadequate to handle the proposed transportation quantities, the following would occur:

Applicant shall determine the facility additions or modifications required in order to perform such transportation services for Natural, and shall notify Natural of such necessary additions and modifications. Subsequently, Natural shall, within sixty (60) days of such notification, either (i) authorize Applicant to seek all necessary regulatory authorizations to operate such facility additions and modifications and, upon receipt thereof, Applicant shall timely construct or install such facilities or (ii) instruct Applicant not to make such additions or modifications for Natural's account in which event Applicant's obligations to accept and transport natural gas for Natural's account pursuant to the Transportation Agreement in quantities in excess of Applicant's indicated available system capacity shall be on a best efforts basis. In the event that additional facilities are deemed necessary, and appropriate authorizations are received, Natural has agreed to pay Applicant on a cost-of-service basis for any such additions or modifications over the remaining term of the Transportation Agreement.

Applicant states that the proposed transportation service is a back-haul or displacement arrangement in that Applicant's delivery points to Natural are upstream of the point of receipt of natural gas by Applicant. Consequently, Applicant is not required physically to transport the quantities of natural gas to Natural and, in effect, can reduce, on an Mcf for Mcf basis, the required flow in a segment of its pipeline system, it is stated.

Applicant indicates that Natural would pay Applicant for the back-haul transportation service an administrative fee consisting of 1.0 cent for each Mcf delivered by Applicant at the above-mentioned delivery points.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 18, 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. 78-8921 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-255]

ILLINOIS POWER CO.

Filing

MARCH 29, 1978.

Take notice that on March 13, 1978, Illinois Power Co. tendered for filing Modification No. 4 to agreements with certain municipalities and a proposed Emergency Energy Transmission Agreement. On January 20, 1978, the Municipalities of Breese, Carlyle, Freeburg, Highland, Mascoutah, Peru and Princeton, Ill. (the "Municipalities") filed an Emergency Petition for an Order Requiring Continuation of Service under Section 202(c) of the Federal Power Act. Illinois Power Co. (Illinois Power) on January 30, 1978 filed a Motion to Reject and Answer to the Emergency Petition. By order dated February 1, 1978, the Federal Energy Regulatory Commission (Commission) waived its regulations, treated the filing as a complaint and instituted a staff investigation. A hearing was held on February 3, 1978 in Chicago, Ill. On February 21, 1978, the Commission issued an order denying the Emergency Petition and terminating the docket conditional on subsequent filings. In that order, Illinois Power Co. was directed to revise Article IV, Sections 1 and 5 of the Agreements with the Municipalities and to file a rate schedule for the Transmission (Wheeling) of Power from other sources for the Municipalities within 20 days.

Pursuant to ordering paragraphs B and C of the February 21, 1978 order in Docket No. EL78-6, Illinois Power submits Modification No. 4 to its agreements and a proposed Emergency Energy Transmission Agreement.

Illinois Power states that a copy of the filing was mailed to each of the Municipalities and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 or the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments

or protests should be filed on or before April 14, 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8909 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-103]

INDIANA & MICHIGAN ELECTRIC CO.

Extension of Time

MARCH 29, 1978.

On March 17, 1978, Indiana & Michigan Electric Co. (I. & M.) filed a motion to extend the time for filing its case-in-chief, pursuant to the procedural dates established by the Commission's Order issued January 6, 1978, in the above referenced proceeding. The motion states that the intervenor, Northern Indiana Public Service Co., has no objection to the requested extension.

Upon consideration, notice is hereby given that the procedural dates established by the January 6, 1978 Order are extended as follows:

Filing of case-in-chief by I. & M., May 17, 1978.
Initial conference, June 28, 1978, at 10 a.m.

Pursuant to Ordering Paragraph (D) of the January 6, 1978 Order, Staff Counsel shall prepare and serve top sheets on all parties for settlement purposes 90 days after submittal of I. & M.'s case. All other procedural dates shall be established by a Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8910 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. SP78-3 (Denial)]

INTERSTATE ENERGY CO.

Order Denying Special Permission Application

MARCH 27, 1978.

Interstate Energy Company has filed an application to publish incentive rates and rules based on minimum volume.

The application should be denied.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environment Policy Act of 1969.

It is ordered: That the application to publish Supplement No. 1 to Tariff FERC No. 1 to put into effect the proposed rates and rules and relief from the terms of Rule 4(i) of Tariff Circular No. 20 be, and it is hereby denied.

KENNETH F. PLUMB,
Secretary, FERC.

[FR Doc. 78-8903 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-10 and RP72-32 (PGA77-2a)]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Extension of Time

MARCH 21, 1978.

On March 6, 1978, Staff Counsel filed a motion to extend the time for service of top sheets in the above referenced proceeding, pursuant to the Commission's Order issued November 25, 1977.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 1, 1978, within which Staff Counsel shall serve top sheets on all parties. Pursuant to Ordering Paragraph (I) of the November 25, 1977 Order, a Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a settlement conference within 10 days after the service of top sheets. All further procedural dates will be established by the Presiding Administrative Law Judge.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8904 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ID-1722]

JOHN T. KAUFFMAN

Application

MARCH 29, 1978.

Take notice that on March 20, 1978, John T. Kauffman filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director and Executive Vice President, Operations, Pennsylvania Power & Light Co., a Public Utility.
Director, Safe Harbor Water Power Corp., a Public Utility.

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 and protests should be filed on or before April 24, 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 available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8911 Filed 4-4-78; 8:45 am]

[6740-02]

[Project Nos. 2364, 2365, 2613, 2615]

KENNEBEC RIVER PULP & PAPER CO., INC.

Application for Tranfer of Licenses

MARCH 30, 1978.

Public notice is hereby given that an application was filed jointly on March 7, 1978, under the Federal Power Act, 16 U.S.C. 791a-825r, by the Maine Guarantee Authority (MGA) and the Madison Paper Corp. (Correspondence to: Mr. Frank A. Knight, President, Madison Paper Corp., Box 129, Madison, Maine 04950, and Peter G. Rich, Esquire, One Canal Plaza, P.O. Box 426, Portland, Maine 04112) for transfer of licenses for Project Nos. 2364, 2365, 2613, and 2615 to the Madison Paper Corp.

Project Nos. 2364 and 2365, known as the Abenaki and Anson Projects, respectively, are licensed to the Kennebec River Pulp & Paper Co., Inc. (K.R.P.&P.). Project No. 2615, known as the Brassua Project, is licensed jointly to K.R.P.&P., the Central Maine Power Co., the Scott Paper Co., and the Milstar Manufacturing Corp. Project No. 2613, known as the Moxie Project, is licensed jointly to the same four companies plus the Augusta Development Corp.

The application filed by the MGA and Madison Paper Corp. recites that, pursuant to a plan to finance its operations, K.R.P.&P. transferred its interests in these four projects to the Kennebec Development Corp. (KDC), which subsequently conveyed these interests to the Merrill Trust Co. (Merrill) as security for debt financing. The Maine Industrial Building Authority (MIBA), a state agency, guaranteed the mortgage payments of KDC to Merrill. Under state law, the MGA later assumed the liabilities and responsibilities of the MIBA. Subsequently, Merrill foreclosed the mortgage and, pursuant to the guarantee agreement, conveyed the interests in the project property to the MGA.

On January 20, 1978, the MGA entered into a purchase and sale agreement with the Madison Paper Corp. for the sale of the project property and other property formerly owned by K.R.P.&P. This agreement is subject

to a condition precedent to the closing that the Madison Paper Corp. receive a commitment from the Federal Energy Regulatory Commission for licenses for these projects.

Project Nos. 2364 and 2365 are both located on the Kennebec River in Somerset County, Maine, near the Town of Madison. Project No. 2364 has an installed hydroelectric capacity of 3,650 kW and an installed hydromechanical capacity of 9,100 hp. Project No. 2365 has an installed hydroelectric capacity of 6,000 kW. The power from these projects would be used by the paper mill of the Madison Paper Corp. in the Madison, Maine area.

Project Nos. 2613 and 2615 are located in Somerset County, Maine, on the Moxie stream and on the Moose River, respectively. Both of these waterways are tributaries of the Kennebec River. The two projects and water storage projects having a combined storage capacity of 222,100 acre-feet. The stored water is used to increase power generation at the downstream projects during low flow periods.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 12, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 (1975). 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8922 Filed 4-4-78; 8:45 am]

[6740-02]

LANDS WITHDRAWN IN PROJECT NOS. 736, 1056, AND 1826-COLORADO

Order Vacating Land Withdrawals Under Section 24 of the Federal Power Act

MARCH 29, 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. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Forest Service, U.S. Dept. of Agriculture, has requested that the land withdrawals for Project Nos. 736, 1056, and 1826 be vacated in their entirety, thereby requiring Federal Energy Regulatory Commission consideration under Section 24 of the Federal Power Act, as amended.

The lands affected by the withdrawals lie within the San Juan and Uncompahgre National Forests, Colorado, and are described in the Attachment hereto.

Project No. 736 was a small diversion-conduit development (installed capacity 50 horsepower) on Bilk Creek, a tributary of the San Miguel River, near Wilson Peak, in San Miguel County, Colo. The Federal Power Commission accepted the surrender of the license for Project No 736 by order dated May 14, 1940.

The application for Project No. 1056 covered the then existing 470 horsepower Bridal Veil Falls hydroelectric Project on Bridal Veil Creek, a tributary of the San Miguel River, near the town of Telluride in San Miguel County, Colo. The Federal Power Commission consented to the withdrawal of the application for Project 1056 on April 12, 1933, after the project works were conveyed to a scrap dealer. A subsequent owner decided to rehabilitate the Bridal Veil Falls Hydroelectric Project and filed a new application for major license which was designated Project No 1236. Upon learning that all of the project works except certain transmission lines were located on patented lands or were covered by a September 5, 1918, right-of-way granted by the Department of the Interior, the Federal Power Commission by order dated March 28, 1939, consented to the withdrawal of the application for major license for Project No. 1236 and to the submission of an application for minor part license (also designated Project No. 1236) for the transmission lines only. A 20-year license for the transmission lines was issued May 28, 1940. The Federal Power Commission accepted the surrender of the minor part license for Project No. 1236 by order issued May 11, 1959 (21 FPC 652), and vacated the land withdrawal for Project No. 1236 by order issued August 13, 1963, after being advised that the Bridal Veil Falls Hydroelectric Project had been dismantled and that the transmission lines included in Project No. 1236 had been abandoned.

The application for Project No. 1826 covered a transmission line in Tps. 35 N., Rs. 5 and 6 W., New Mexico Principal Meridian, Colorado. The application for this project was dismissed and referred to the Forest Service after it was found that the transmission line involved was not subject to Federal Power Commission jurisdiction.

The above considerations lead us to conclude that retention of the subject lands for Project Nos. 736, 1056 and 1826 serves no useful purpose. Moreover, the U.S. Geological Survey has recommended that the land withdrawals for Project Nos. 736, 1056 and 1826 be vacated in their entirety.

The Commission orders: That the land withdrawals for Project Nos. 736, 1056, and 1826 are hereby vacated in their entirety.

By The Commission.

KENNETH F. PLUMB,
Secretary.

Attachment: Land List

ATTACHMENT

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

1. Project No. 736 (Uncompahgre National Forest). The following described lands were withdrawn pursuant to the filing on August 17, 1926, of an application for license for Project No. 736 for which the Federal Power Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated September 7, 1926:

T. 42 N., R. 10 W.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, E½NE¼, NE¼SE¼;
Sec. 35, NW¼NW¼.

(approximately 240 acres).

2. Project No. 1056 (Uncompahgre National Forest). Certain lands (acreage not determined) in T. 42 N., R. 8 W., (survey suspended) shown on a map in 2 sheets disignated FPC Nos. 1056-1 and -2 were withdrawn pursuant to the filing on January 15, 1930, of an application for license for Project No. 1056. A notice of land withdrawal was not issued for this project.

3. Project No. 1826 (San Juan National Forest). Certain lands (acreage not determined) in Tps. 35 N., Rs. 5 and 6 W., were withdrawn pursuant to the filing on January 27, 1941, of an application for license for Project No. 1826. A notice of land withdrawal was not issued for this project.

[FR Doc. 78-8929 Filed 4-4-78; 8:45 am]

[6740-02]

LANDS WITHDRAWN IN PROJECT NOS.1203 AND 1241-WYOMING

Order Vacating Land Withdrawals Under Section 24 of the Federal Power Act

MARCH 29, 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. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Forest Service, U.S. Dept. of Agriculture, has requested that the land withdrawals for Project Nos. 1203 and 1241 be vacated in their entirety, thereby requiring Federal Energy Regulatory Commission consideration under Section 24 of the Federal Power Act.

The following described lands were withdrawn pursuant to the filings on February 9, 1932, and May 8, 1933, of applications for preliminary permit for Project Nos. 1203 and 1241 respectively:

SIXTH PRINCIPAL MERIDIAN, WYOMING

SHOSHONE NATIONAL FOREST

T. 30 N., R. 100 W.,
Sec. 5, lots 1, 2, 3, S½SW¼, W½SW¼;
Sec. 6, lot 7, E½SW¼.
T. 31 N., R. 100 W.,
Sec. 28, S½SW¼;
Sec. 32, SE¼SE¼;
Sec. 33, NE¼NW¼; W½W½.
T. 30 N., R. 101 W.,
Sec. 1, lots, 3, 4, 6, 7, 9, 10, 11, S½NW¼, SW¼NE¼;
Sec. 2, lots 1, 2, 3;
Sec. 11, NE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 12, lots 1, 2, 3, 4, 5, SW¼.
Approximately 1,722 acres.

A notice of land withdrawal for Project No. 1203 was sent to the General Land Office (now Bureau of Land Management) by letter dated March 28, 1932. A notice of land withdrawal was not sent for Project No. 1241 because the boundary for this project was identical to the boundary for Project No. 1203.

The lands lie at or near Louis Lake, located on Louis Creek, a tributary of the Little Popo Agie River, about 17 air miles south-southwest of the town of Lander, in Fremont County, Wyo.

The applicants for Project Nos. 1203 and 1241 contemplated construction of an 8,000 acre-foot reservoir at Louis Lake with a diversion from the Little Popo Agie River to the reservoir, and a conduit from the reservoir to a powerhouse, on the Little Popo Agie River, in the SE¼SW¼ of sec. 28, T. 31 N., R. 100 W. Proceedings for both projects ended without issuance of a license.

The Geological Survey has estimated that the average discharge of the Little Popo Agie River at the diversion site is about 22 cfs, and that the average discharge of Louis Creek at the dam site is about 7 cfs. Most of this water has been appropriated for irrigation. The development proposed in Project Nos. 1203 and 1241 is no longer considered feasible because of the small amount of water available.

The Geological Survey has recommended that the land withdrawals for Project Nos. 1203 and 1241 be vacated in their entirety.

The Commission orders: That the withdrawals for Project Nos. 1203 and 1241 are hereby vacated in their entirety.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8912 Filed 4-4-78; 8:45 am]

[6740-08]

[Docket No. ER77-482]

MICHIGAN POWER CO.

Filing of Proposed Settlement Agreement

MARCH 28, 1978.

Take notice that Michigan Power Co. (MPCo) tendered for filing a proposed settlement in the above cited docket.

MPCo states that it entered into the proposed agreement with Indiana and Michigan Electric Co. (I&M) in settlement of the proposed rate increase for transmission service for I&M. MPCo states that the proposed settlement would reduce the proposed increase of $219,593 by $66,038 (30 percent).

Any person desiring to be heard with respect to the proposed agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such comments should be filed on or before April 4, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8913 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-266]

MISSISSIPPI POWER & LIGHT CO.

Proposed Interconnection Agreement and Cancellation

MARCH 28, 1978

Take notice that on March 22, 1978, Mississippi Power & Light Co. (MP&L) tendered for filing an Interconnection Agreement between it and the City of Yazoo City (City), Miss., dated February 13, 1978. Concurrently, MP&L tendered for filing a Notice of Cancellation of its existing Interconnection Agreement between it and the City, designated as FPC Rate Schedule No. 122. MP&L states that the proposed Interconnection Agreement will replace the existing Agreement.

MP&L indicates that the proposed Agreement incorporates Service Schedules A (reserve capacity), B (unintentional energy), C (firm capacity), and D (economy energy) which replaces Service Schedules C (reserve capacity) and D (unintentional energy) under the existing Interconnection Agreement.

MP&L requests waiver of the Commission's regulations requiring thirty (30) days notice, permitting the proposed Interconnection Agreement and cancellation to become effective on February 13, 1978, the date of the proposed Agreement.

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 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 April 10, 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. 78-8914 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-237]

NORTHERN NATURAL GAS CO.

Application

MARCH 29, 1978.

Take notice that on March 17, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-237 an application pursuant to sections 3 and 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the importation of synthetic natural gas by displacement, from Canada to the United States, and authorizing Applicant to transport such imported volumes in its transmission system, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to import from Canada into the United States and to receive and transport in its system up to 75,000 Mcf of natural gas per day during the period November 1 through March 31 (winter period) of each year for a period of five years commencing

in November of 1978. Applicant states that the gas it proposes to import would be purchased by Applicant from Union Gas Ltd. of Chatham, Ontario, Canada (Union), and would equate to the aggregate Btu content of the synthetic natural gas (SNG) Union has contracted for and would receive from Petrosar Limited (Petrosar) at Corrunna, Ontario, Canada. It is stated that the annual volumes to be purchased and imported by Applicant would not exceed 10,000,000 Mcf of 1,000 Btu equivalent gas.

It is indicated that pursuant to a gas service agreement dated December 21, 1977, between Applicant and Union, Applicant would purchase from Union SNG certain volumes which Union purchases under the Petrosar Contract, and that such SNG is produced at Petrosar's petrochemical refinery complex located near Sarnia, Ontario.

The application states that between April 1 and November 1 of each year, Union would store, by displacement, for Applicant certain volumes of SNG received from Petrosar, and that during the winter period Union would also store volumes received from Petrosar which are in excess of the volume which Applicant requests be delivered that day. The application further states that on days during the winter period, Applicant would nominate volumes, up to 75,000 Mcf per day, for delivery by Union, and that if Applicant's nomination exceeds the Petrosar plant production for such day, the balance of the nominated volumes would be deemed to have been withdrawn from storage by Union from volumes stored for Applicant's account.

It is indicated that the deliveries to Applicant would be effected in the following manner: Great Lakes Gas Transmission Co. (Great Lakes) has an arrangement with TransCanada Pipe Line Ltd. (TransCanada) which provides for the receipt of natural gas by Great Lakes from TransCanada at the Minnesota-Manitoba border near Emerson, Manitoba, and for the transportation of such gas for TransCanada's account across the northern United States for redelivery to TransCanada at the Michigan-Ontario border near St. Clair, Mich. TransCanada transports a portion of such redelivered volumes to Union's Dawn compressor plant located in the Township of Dawn, Labton County-Ontario where the gas is delivered and sold to Union, it is said. On days when Applicant requests gas from Union, Great Lakes would reduce its deliveries to TransCanada near St. Clair by the volume nominated and TransCanada would in turn reduce its deliveries to Union at Dawn by an equivalent volume. Great Lakes would by displacement, deliver such volumes to Applicant at the designated point(s) of interconnection between the pipeline systems of Applicant and Great Lakes near Carlton and Grand Rapids, Minn. and Wakefield, Mich. It is stated that although the contract provides for three delivery points, it is anticipated that Carlton would be the primary delivery point.

It is indicated that pursuant to the December 21, 1977, agreement between Applicant and Union, Applicant would pay to Union the following rates and charges for the purchase and storage of SNG:

(a) *SNG purchase rates.* For each million BTU of SNG (based on Total Heating Value "THV" of the gases involved) delivered to Union by Petrosar in each month of such delivery, Applicant would pay Union a price per million BTU calculated as follows:

$/MMBtu=[$2.195+0.26 (FC−$7.140)] 1.025

FC equals Petrosar's Feedstock Cost from time to time expressed in dollars per barrel.

(b) *Storage rates.* (i).—*Monthly demand charge*—A monthly demand charge in the amount of $2.25 per Mcf per month multiplied by the difference between: (a) the daily contract demand (75,000 Mcf) hereunder less (b) the average daily level of deliveries under the Petrosar Contract to Union during such month.

(ii) *Commodity charge*—4.5¢/Mcf for all volumes injected into storage; 4.0¢/Mcf for all volumes withdrawn from storage.

There would not be any charge by either Great Lakes or Trans-Canada for the delivery of gas by displacement to Applicant, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 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) 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. 78-8915 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-263]

PACIFIC POWER & LIGHT CO.

Filing

MARCH 30, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on March 20, 1978, tendered for filing, in accordance with section 35 of the Commission's Regulations, Revision No. 2 of Exhibit A, to Pacific's Rate Schedule FPC No. 123. Pacific states that Rate Schedule FPC No. 123 provides for transmission service to Tri-State Generation and Transmission Association, Inc. (Tri-State). Pacific further states that Exhibit A, in accordance with the terms of the rate schedule, is revised annually by Tri-State and approved by Pacific, specifying amounts to be transferred for the fourth year of commitment period.

Pacific requests waiver of the Commission's notice requirements to permit the Exhibit to become effective on February 1, 1978, which it claims is the date of commencement of service.

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 April 10, 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. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8923 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ER 78-261]

PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Cancellation

MARCH 29, 1978.

Take notice that Public Service Co. of Oklahoma on March 21, 1978, tendered for filing Notice for Cancellation of the Letter Agreement dated September 24, 1975, Supplement No. 10 to Rate Schedule FERC No. 161, between Public Service Co. of Oklahoma and Kansas Gas & Electric Co. PSO indicates that this cancellation is proposed to be effective as of May 31, 1978.

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 May 15, 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. 78-8916 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-262]

PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Cancellation

MARCH 29, 1978.

Take notice that Public Service Co. of Oklahoma on March 21, 1978, tendered for filing a Notice of Cancellation of the Letter Agreement dated March 29, 1976, Supplement to Rate Schedule FERC No. 181 between Public Service Co. of Oklahoma and the Empire District Electric Co. PSO indicates that this cancellation is proposed to be effective as of May 31, 1978.

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 May 15, 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. 78-8917 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket Nos. ER77-422, ER78-20 and ER78-49; Docket No. ER78-68]

PUBLIC SERVICE CO. OF OKLAHOMA AND OKLAHOMA GAS & ELECTRIC CO.

Extension of Time

MARCH 21, 1978.

On February 27, 1978, Oklahoma Gas & Electric Co. (OG&E) filed a motion to withdraw its Petition for Reconsideration and/or Clarification filed January 9, 1978, in the above referenced proceeding, and to extend the time for filing appropriate cost support data pursuant to the Commission's Order issued November 30, 1977, in Docket Nos. ER77-422, ER78-20, and ER78-49. The instant motion states that the Municipal Intervenors, Southwestern Power Administration, and Commission Staff Counsel have not objection to the requested extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 1, 1978, to comply with Ordering Paragraph (B) of the November 30, 1977 Order by filing appropriate cost support data. Take further notice that, pursuant to section 1.11(d) of the Commission's Rules of Practice and Procedure, a party may not withdraw a pleading filed in any proceeding in which a hearing has been held or convened without the express approval of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8905 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-238]

SOUTHERN NATURAL GAS CO.

Application

MARCH 30, 1978.

Take notice that on March 17, 1978, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP78-238 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention in place and operation of certain facilities constructed pursuant to § 157.22 of the Commission's Regulations (18 CFR 157.22), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant indicates that it has entered into arrangements with Alabama Gas Corp. (Alagasco), a distributor-customer of Applicant, whereby Alagasco has made and proposes to make emergency sales to distributor-customers on Applicant's and other interstate pipelines' systems through facilities constructed by Applicant pursuant to section 157.22(a) of the Commission's Regulations. It is stated that these facilities, constructed between Alagasco's facilities and Applicant's Montgomery-Columbus pipeline in Alabama (at the McConnells Compressor Station), were utilized to render an emergency service pursuant to § 2.68 of the Commission's Regulations which would terminate on March 20, 1978. Currently, Alagasco proposes to make other emergency sales to other distributors involving transportation by Applicant and the use of these facilities and to accomplish emergency transactions between Applicant and Alagasco in the future. Consequently, Applicant desires to maintain these facilities in place to assist Alagasco in making these sales to other distributors. It is indicated that the proposed facilities involve generally miscellaneous piping, measuring and regulating and compression facilities necessary to receive, compress and measure emergency volumes of gas received from Alagasco.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 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) 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. 78-8924 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-242]

SOUTHERN NATURAL GAS CO.

Application

MARCH 29, 1978.

Take notice that on March 20, 1978, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP78-242 and 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 7,000 Mcf of natural gas per day (at 14.73 psia) for Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Transco has contracted to purchase natural gas produced by Transco Exploration Co. (TXC) from the No. 1 Williams Inc. Well in Bayou Postillion Field, Iberia Parish, La. The application further states that Applicant maintains existing transmission facilities in the Bayou Postillion Field and has agreed, pursuant to a transportation agreement dated March 1, 1978, between the parties to accept delivery of said purchased gas for Transco's account at the connection on Applicant's Little Bayou Pigeon Line at M.P. 4.463, Bayou Postillion Field, Iberia Parish, La., and to redeliver thermally equivalent quantities of such volumes, less 3¼ percent of the volumes to account for fuel, company-used and lost and unaccounted for gas, to Transco's system at the existing authorized interconnection between Applicant's and Transco's facilities at or near Jonesboro, Ga., or at any other existing and authorized point of exchange mutually agreeable to the parties (Redelivery Point).

Applicant states that Transco would pay Applicant for performing the proposed transportation service a rate of 33 cents per Mcf (at 14.73 psia) of gas redelivered to Transco at the Redelivery Point.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 18, 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. 78-8925 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-27]

TEXAS GAS TRANSMISSION CORP.

Application

MARCH 30, 1978.

Take notice that on October 18, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-27 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation, on an interruptible basis, of up to 750 Mcf of natural gas per day at 14.73 psia for Elizabethtown Gas Co. (Elizabethtown), all as more fully set forth in the application on file with the Commission and open to the public inspection.

Applicant requests authorization to transport the proposed volumes of natural gas for Elizabethtown pursuant to a transportation agreement dated August 12, 1977, between Applicant and Elizabethtown. The application states that Elizabethtown has entered into a gas purchase contract with National Exploration Co., Inc., and Texas City Refining, Inc. (Sellers), for the purchase of the natural gas that Applicant proposes to transport, which gas is to be produced from certain leasehold interests presently owned or controlled by Sellers in Jefferson Davis Parish, La. The application further states that such natural gas would be delivered to Applicant through facilities to be constructed on Applicant's Hayes Junction-Roanoke 8-inch line located near Welsh, Jefferson Davis Parish, La. Applicant states that it would simultaneously redeliver up to 750 Mcf per day of natural gas received for Elizabethtown's account to Transcontinental Gas Pipe Line Corp. (Transco), at an existing exchange point with Transco located near Mamou, Evangeline Parish, La., or at other mutually agreeable existing points of exchange between Applicant and Transco.

It is indicated that Applicant would construct and install the metering station and related facilities for Elizabethtown, which would own the facilities, and that Elizabethtown would lease the facilities to Applicant for $1 per year for the duration of the transportation agreement. The estimated cost of the proposed facilities is $10,000, which cost would be financed by Elizabethtown with funds on hand, it is said.

Applicant states that it would collect an initial charge of 4.67 cents per Mcf for all quantities of natural gas transported and delivered to Transco for Elizabethtown, and that it would also retain a volume equal to 0.38 percent of the volume delivered at the point of delivery as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Applicant would be made, i.e., Zone SL.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 24, 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 Natual 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. 78-8926 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. RP74-52]

TRANSWESTERN PIPELINE CO.

Refund Report

MARCH 29, 1978.

Take notice that on December 2, 1977, Transwestern Pipeline Co. (Transwestern) tendered for filing in the captioned proceeding a report on refunds made to its jurisdictional customers in accordance with the Commission's order issued July 25, 1977.

Transwestern, in accordance with Ordering Paragraph (D) of the abovementioned order submitted the following information:

(1) Refund summary showing the refund amount, interest and total refund to each customer.

(2) Derivation of proration factor and calculation of total refund principals.

(3) Copies of detailed refund and interest calculations submitted by Transwestern to all of its jurisdictional customers.

Any person desiring to be heard or to protest such 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 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 April 15, 1978. Protests will be considerd 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. 78-8927 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. CP76-118]

U-T OFFSHORE SYSTEM

Extension of Time

MARCH 21, 1978.

On January 31, 1978, U-T Offshore System (U-TOS) filed a request for an extension of time for filing its rate schedule for long-term service pursuant to the Commission's January 13, 1977, order, pending disposition of the U-TOS application for rehearing of that January 13 order. On March 7, 1978, the Commission issued its order denying rehearing and amending certificate of public convenience and necessity.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 8, 1978, within which U-TOS shall file the required rate schedules for regular service.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8906 Filed 4-4-78; 8:45 am]

[6740-02]

[Docket No. ER78-260]

WISCONSIN POWER & LIGHT CO.

Filing of Proposed Wholesale Power Agreement

MARCH 29, 1978.

Take notice that on March 20, 1978, Wisconsin Power & Light Co. (WPL) tendered for filing a Wholesale Power Contract dated January 1, 1977, between the Rock County Electric Cooperative Association and WPL. WPL states that this contract will supersede an existing contract for wholesale electric service dated January 12, 1968, and designated WPL Rate Schedule FPC No. 69.

WPL requests a proposed effective date of January 1, 1977, and, therefore, requests waiver of the notice requirements of the Commission's Regulations. WPL states that a copy of the Wholesale Power Contract and the filing have been provided to the Rock County Electric Cooperative Association and the Public Service Commission of Wisconsin.

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 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 April 10, 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. 78-8928 Filed 4-4-78; 8:45 am]

[3128-01]

Western Area Power Administration

POWER RATES

Amendment to Notice of Final Procedures for Public Participation in General Adjustments

On March 20, 1978, the Department of Energy issued Final Procedures for Public Participation in General Adjustments in Rates for Power Marketed by the Western Area Power Administration. Notice of the final Procedures was published in the FEDERAL REGISTER on March 23, 1978 (43 FR 12076). The FEDERAL REGISTER Notice stated that the effective date of the Procedures was March 23, 1978. This statement of the effective date was in error and should have designated the date of issuance, Monday, March 20, 1978. Therefore, the Department of Energy hereby amends the pertinent March 23, 1978 Notice, 43 FR 12076, to designate March 20, 1978, as the effective date of the final Procedures contained therein.

Issued in Washington, D.C., March 30, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc.78-8945 Filed 4-4-78; 8:45 am]

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

APPRENTICESHIP INFORMATION REPORT EEO-2; RECORDS AND REPORTS

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1977 Apprenticeship Information Report EEO-2 required by 29 CFR 1602.15 is extended from November 30, 1977, to June 30, 1978. The payroll period for the EEO-2 report remains unchanged.

Signed at Washington, D.C., this 30th day of March 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-8968 Filed 4-4-78; 8:45 am]

[6570-06]

EMPLOYER INFORMATION REPORT EEO-1; RECORDS AND REPORTS

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1978 Employer Information Report EEO-1 required by 29 CFR 1602.7 is extended from March 31, 1978, to July 31, 1978. The payroll period for the EEO-1 report remains unchanged.

Signed at Washington, D.C., this 30th day of March 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-8967 Filed 4-4-78; 8:45 am]

[6570-06]

LOCAL UNION REPORT EEO-3; RECORDS AND REPORTS

Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1977 Local Union Report EEO-3 required by 29 CFR 1602.22 is extended from December 31, 1977, to June 30, 1978. The payroll period for the EEO-1 report remains unchanged.

Signed at Washington, D.C., this 30th day of March 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-8969 Filed 4-4-78; 8:45 am]

[6570-06]

DISCRIMINATION BECAUSE OF RELIGION: WORK SCHEDULING AND EMPLOYEE RELIGIOUS NEEDS

INFORMATIONAL HEARINGS

On March 3, the Equal Employment Opportunity Commission announced in the FEDERAL REGISTER its intention to hold public hearings to gather information concerning the religious needs of employees as they relate to the scheduling of work. The hearings are open to the public and are scheduled as follows:

April 6, 1978, New York, N.Y., 26 Federal Plaza, Room 305, 9:30 a.m.

April 18, 1978, Los Angeles, Calif. 300 North Los Angeles Street, Room 8544, 9:30 a.m.

May 8, 1978, Milwaukee, Wis., War Memorial Center, 750 North Lincoln Memorial Drive, 9:30 a.m.

This hearing has been postponed from May 1 because of scheduling difficulties.

Individuals who wish to testify before the Commission on May 8 should submit a request no later than April 22. The request should include a written summary of the testimony to be offered.

Because of time limitations not all interested persons may be allowed to testify. The Commission will inform persons who have requested an opportunity to testify whether they are scheduled to testify not later than one week prior to the scheduled hearing date. Individuals not able to testify because of time limitations will be given the opportunity to submit a written statement. Individuals wishing to provide information to the Commission but not wishing to testify are encouraged to submit a written statement to the Commission. Such statement must be submitted no later than May 15, 1978, to the Executive Secretariat at the address shown below. Any information provided the Commission, either by oral testimony or in writing shall be used only for informational purposes by the Commission.

All statements received by the Commission in connection with these public hearings may be reviewed by members of the public in the Equal Employment Opportunity Commission reading room between 9:30 a.m. and 4:30 p.m. Monday through Friday, Library (Room 2303), Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

All hearings will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, Room 4002, 2401 E Street NW., Washington, D.C. 20506, telephone: 202-634-7060 or 202-254-7489, between the hours of 9 a.m. and 5 p.m., eastern standard time.

Requests to testify and written statements submitted in connection with this announcement should be marked "Religious Discrimination Hearings" at the lower left hand corner of the envelope.

Signed this 3rd day of April 1978.

For the Commission.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-9152 Filed 4-4-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Request for Comments Regarding Review of Need for Council

MARCH 30, 1978.

This notice is pursuant to the request dated March 7, 1977 of the Office of Management and Budget (OMB) advising of the concern expressed by the President "about the number and usefulness of Federal Advisory Committees" and his ordering "a government-wide, zero-base review of all committees, with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate."

To assist in the foregoing, the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation have been requested to "review the need for, and the accomplishments of" the Federal Savings and Loan Advisory Council. The results of such review will be submitted for GSA and Presidential review. GSA is required under the Federal Advisory Committee Act (Pub. L. 92-463) to review annually each advisory committee to determine whether the committee is carrying out its purpose, whether its responsibilities should be revised, whether it should be merged with other advisory committees or whether it should be abolished.

The Federal Savings and Loan Advisory Council was created pursuant to authority contained in section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a), (1) to confer with said Board and said Corporation "on general conditions and on special conditions affecting the Federal Home Loan Banks and their members and such Corporation" and (2) to "request information, and to make recommendations with respect to matters within the jurisdiction" of the Board and the Corporation.

The Board and the Corporation hereby request any comments and/or recommendations respecting the continuation or abolishment of the Federal Savings and Loan Advisory Council or respecting a revision of its responsibilities and membership, be submitted in writing, not later than April 12, 1978 to:

Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

ROBERT H. MCKINNEY,
Chairman.

[FR Doc.78-9004 Filed 4-4-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST BANK HOLDING CO.

Acquisition of Bank

First Bank Holding Co., Lakewood, Colo., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 97.8 percent of the voting shares of Westland National Bank, Arvada, Colo., a proposed new bank. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 26, 1978.

Board of Governors of the Federal Reserve System, March 30, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-9018 Filed 4-4-78; 8:45 am]

[6210-01]

HOLLADAY BANCORPORATION

Formation of Bank Holding Company

Holladay Bancorporation, Salt Lake City, Utah, 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 of Holladay Bank & Trust, Salt Lake City, Utah. 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 San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 26, 1978.

Board of Governors of the Federal Reserve System, March 30, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-9019 Filed 4-4-78; 8:45 am]

[6210-01]

NORTH DAKOTA BANCSHARES, INC.

Formation of Bank Holding Company

North Dakota Bancshares, Inc., Fargo, N. Dak., 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 85 percent or more of the voting shares of The Fargo National Bank & Trust Co., Fargo, N. Dak. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 24, 1978.

Board of Governors of the Federal Reserve System, March 30, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-9020 Filed 4-4-78; 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 March 30, 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 ICC 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 April 24, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests clearance of a revision to Form OP-MCB-95, Application for temporary authority for motor common and contract carriers under section 210a(a) of the Interstate Commerce Act. Form OP-MCB-95 is used by applicants seeking temporary authority from the ICC to operate as a motor carrier under section 210a(a) of the Interstate Commerce Act. Several minor editorial and one substantive change requires applicants to specify what equipment will be furnished to provide the service requested. Applications will be part of the public record and available for inspection. The ICC estimates that respondents will number approximately 13,000 annually and that reporting time will average two hours per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-9013 Filed 4-4-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON ETHNIC HERITAGE STUDIES

Cancelation of Meeting

This is to amend the notice that appeared in the FEDERAL REGISTER dated March 23, 1978 (43 FR 12090), regarding the meeting of the National Advisory Council on Ethnic Heritage Studies. The meeting planned for April 20-21, 1978, has been canceled.

Signed at Washington, D.C., on March 31, 1978.

THOMAS E. COTNER,
Acting Chief, Ethnic Heritage Studies Branch.

[FR Doc. 78-8995 Filed 4-4-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-78-861]

CONSUMER FORUM ON CONDOMINIUMS

Notice of Forum

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice is given announcing a consumer forum.

SUMMARY: The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is announcing a Consumer Forum on Con-

dominiums. The Forum is scheduled for April 19, 1978, and the description of the Forum is stated.

DATE OF FORUM: A Consumer Forum on Condominiums is scheduled to be held on Wednesday, April 19, 1978, from 9:30 a.m. to 5 p.m. in the Environmental Protection Agency, Conference Room A, 215 Freemont Street, San Francisco, Calif.

ADDRESS: Joseph Smith, Director, Consumer Liaison Division, Office of Consumer Affairs, Room 4212, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Debbi Hurd, 202-755-6996; Beth Marcus, 202-755-6808.

SUPPLEMENTARY INFORMATION: The Condominium Forum will consist of an overview of the condominium experience and HUD's involvement in it, followed by a series of workshops relating to the following three major stages in condominiums: (1) "Before You Buy," (2) "Now That You Live There," and (3) "When You Want to Sell." A summary session of these three workshops will present issues and recommendations for actions.

Members on the panels will include, in addition to HUD officials from the Offices of Neighborhoods, Voluntary Associations and Consumer Protection, General Counsel and Housing, condominium advocates from the Community Associations Institute (CAI), Executive Council of Homeowners (ECHO), Florida Condominium/Cooperative Executive Council and Georgia Association of Condominium Owners (GACO), State officials, industry representatives, and officials from the Veterans' Administration and the Federal National Mortgage Association.

The Forum on Condominiums will be open to the public.

Issued at Washington, D.C., April 3, 1978.

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 78-9233 Filed 4-4-78; 11:43 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Glenn F. Connor, Route 5, Box 295, High Point, N.C. 27263.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2297. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-8930 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Denver Zoological Gardens, 23d and Steele, Denver, Colo. 80205.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of animals listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2279. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-8931 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Terry R. Drew, 1435 South Arlington Heights Road, Arlington Heights, Ill. 60004.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2277. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-8932 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Joseph T. Ladner, 1601 Aycock Street, Arabi, La. 70032.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2319. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-8933 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Dennis E. Meisinger, 11 South 767 Book Road, Naperville, Ill. 60540.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2314. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-8934 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Perry Price, Jr., 10115 Greenacres Drive, Bakersfield, Calif. 93308.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2316. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-8935 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Mitchell Smith, RD No. 3, Elkton, Md. 21921.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2293. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-8936 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: John C. Thomas, Route 2, Box 98, Leon, W. Va. 25123.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2301. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-8937 Filed 4-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: J.E. Travelstead, Jr., 2782 Alaska Avenue E, Port Orchard, Wash. 98366.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as (T(C/P)). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2254. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 5, 1978. Please refer to the file number when submitting comments.

Dated: March 31, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-8938 Filed 4-4-78; 8:45 am]

[4310-70]

National Park Service

APPALACHIAN NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council Mid-Atlantic Region will be held at 9 a.m. e.s.t. on April 13, 1978, at Allenberry Playhouse in Boiling Springs, Pa.

The purpose of the meeting is to report on new developments in the trail programs in Virginia, Maryland,

Pennsylvania, New Jersey and New York. Also the impact of the new legislation on these States will be discussed. Draft Management Principles will be reviewed.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting or who will wish to submit written statements may contact David A. Richie, Project Manager, Appalachian Trail Project Office, National Park Service, Harpers Ferry, W.Va. 25425, telephone 304-535-6371, extension 278.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the Appalachian Trail Project Office, 596 Fillmore Street, Harpers Ferry. Copies of the minutes may also be obtained by writing to the Appalachian Trail Project Office, National Park Service, Harpers Ferry Center, Harpers Ferry, W.Va. 25425.

Dated: March 23, 1978.

DAVID A. RICHIE,
Project Manager.

[FR Doc. 78-8958 Filed 4-4-78; 8:45 am]

[4310-70]

CHANNEL ISLANDS NATIONAL MONUMENT, CALIF.

Public Workshops for the Development of a General Management Plan; Notice of Intent

Notice is hereby given that the National Park Service will hold a series of three public workshops in southern California the latter part of April 1978, to provide for public involvement in the intitial phase of developing a General Management Plan for Channel Islands National Monument.

The workshops, each of which will begin at 7:30 p.m., will be held in the following locations:

April 25, 1978—Community Meeting Room, Buenaventura City Hall, 501 Poli Street, Ventura, Calif.

April 26, 1978—Fleischmann Auditorium, Santa Barbara Museum of Natural History, 2559 Puesta Del Sol, Santa Barbara, Calif.

April 27, 1978—Room 7212, Federal Office Building, 11000 Wilshire Boulevard, Los Angeles, Calif.

Concurrent with these public workshops the National Park Service will consult with appropriate Federal, State and local government officials, organizations and individuals about the planning projects.

The purpose of these workshops and consultations is to provide a broad-based public involvement program through which the National Park Service seeks citizen participation and assistance as it formulates a draft General Management Plan for the Monument. A General Management Plan is the long-range document which guides the development and management of a unit of the National Park System.

Anyone wishing additional information on these public workshops, the National Park Service planning process, or wanting to submit comments for the development and management of Channel Islands National Monument may do so by writing to the Superintendent, Channel Islands National Monument, 1699 Anchors Way Drive, Ventura, Calif. 93003.

Dated: March 7, 1978.

JOHN H. DAVIS,
Acting Regional Director, Western Region.

[FR Doc. 78-8960 Filed 4-4-78; 8:45 am]

[4310-70]

PETRIFIED FOREST NATIONAL MONUMENT

Intention to Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Fred Harvey, Inc., authorizing it to continue to provide concession facilities and services for the public at Petrified Forest National Monument for a period of two (2) years from January 1, 1978, through December 31, 1979.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an expired contract which expired by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Fred Harvey, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Fred Harvey, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: March 27, 1978.

DAVID J. TOBIN, Jr.,
Director, National Park Service.

[FR Doc. 78-8959 Filed 4-4-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT DES 78-4]

OREGON

Availability of Draft Environmental Statement; Correctio

In FR Doc. 78-6030 appearing at page 9540 in the FEDERAL REGISTER of March 8, 1978, the last sentence of the first paragraph on page 9541 is corrected to read as follows:

Written comments or statements should be submitted by April 24, 1978, to the State Director, Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oreg. 97208.

Dated: March 29, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-8633 Filed 4-4-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-39]

CERTAIN LUGGAGE PRODUCTS

Preliminary Conference, Prehearing Conference and Hearing

Notice is hereby given that a Second Preliminary Conference will be held in connection with Investigation No. 337-TA-39, certain Luggage Products, at 10 a.m. on April 11, 1978, in room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. The purposes of this conference are to assess the status of this matter after the Temporary Exclusion Order Hearing, and to resolve any discovery problems which have arisen relating to the preparation for the final hearing.

No discovery shall be obtained after May 9, 1978. Service of prehearing conference statements by complainant will be completed on or before May 18, 1978, and by Respondents and staff on or before May 25, 1978. A Prehearing Conference will be held at 10 a.m. on May 31, 1978, in the Hearing Room of the Administrative Law Judge, room 610, Bicentennial Building, 600 E Street NW., Washington, D.C.

Notice is also given that the hearing on Complainant's permanent relief request in this proceeding will commence at 10 a.m. on June 7, 1978, in the Hearing Room of the Administrative Law Judge, room 610, Bicentennial Building, 600 E Street NW., Washington, D.C., and will continue daily until completed.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish this Notice in the FEDERAL REGISTER.

Issued March 30, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-9030 Filed 4-4-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-37]

CERTAIN SKATEBOARDS AND PLATFORMS THEREFOR

Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with the above styled investigation at 10 a.m. on May 9, 1978, in the Hearing Room of the Administrative Law Judge, room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. No discovery will be obtained subsequent to April 18, 1978. Service of Prehearing Conference Statements by Complainant will be completed on or before April 27, 1978, and by Respondents and Staff on or before May 3, 1978. The purpose of this Prehearing Conference is to review such statements, complete the exchange of exhibits, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the Hearing in this proceeding will commence at 10 a.m. on May 16, 1978, in the Hearing Room of the Administrative Law Judge, room 610, Bicentennial Building, 600 E Street NW., Washington, D.C., and will continue daily until completed.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

Issued: March 30, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-9028 Filed 4-4-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-40]

MONUMENTAL WOOD WINDOWS

Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with the above styled investigation at 10 a.m. on April 18, 1978, in the Hearing Room of the Administrative Law Judge, room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. No discovery will be obtained subsequent to April 7, 1978. On or before April 14, 1978, the parties will have completed service of Prehearing Conference Statements by order of the Presiding Officer. The purpose of this Prehearing Conference is to review such statements, complete the exchange of exhibits, and resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing on Complainant's Temporary Exclusion Order request in this proceeding will commence at 10 a.m. on April 24, 1978, in the Hearing Room of the Administrative Law Judge, room 610, Bicentennial Building, 600 E Street NW., Washington, D.C., or at 10 a.m. on a date as soon after as practicable, and will continue daily until completed. Counsel shall be ready to proceed on April 24, 1978, subject to at least 48 hours advance oral notification of the hearing's commencement.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

Issued: March 30, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-9029 Filed 4-4-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE, PLANNING OFFICE PANEL

Meeting

MARCH 24, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended,) notice is hereby given that a meeting of the Planning Office Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 314 from 9 a.m. to 5:30 p.m. on April 19, 1978.

The purpose of the meeting is to review NEH Youth Projects applications submitted to the National Endowment for the Humanities for projects beginning after July 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-8885 Filed 4-4-78; 8:45 am]

[7536-01]

ADVISORY COMMITTEE, RESEARCH GRANTS PANEL

Meeting

FEBRUARY 28, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NM., Washington, D.C, 20506, in room 807, from 9 a.m. to 5:30 p.m. on April 25, 1978.

The purpose of the meeting is to review conference and other miscellaneous applications in the fields of Literature and Fine Arts, History, Government and Law submitted to the National Endowment for the Humanities for projects beginning after May 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contract the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806

15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-8886 Filed 4-4-78; 8:45 am]

[7536-01]

NATIONAL COUNCIL ON THE HUMANITIES

Renewal

MARCH 22, 1978.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); section 8 of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 957), notice is hereby given that renewal of the National Council for the Humanities has been approved by the Chairman of the National Endowment for the Humanities.

The National Council on the Humanities advises the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions and it reviews applications for financial support and makes recommendations thereon to the Chairman.

The charter for the National Council for the Humanities has been filed with standing committees of the Senate and the House of Representatives having jurisdiction over the Endowment and with the Library of Congress.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-8887 Filed 4-4-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

COLLEGE PROGRAMS SUBCOMMITTEE OF THE ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Amendment to Notice of Meeting

The notice of meeting for College Programs Subcommittee of the Advisory Committee for Science Education, which was published in the FEDERAL REGISTER on March 27, 1978, has been amended to read:

DATE AND TIME: April 23, 1978—9 a.m.

PLACE: Room 608, University of Colorado, 1100 14th Street, Denver, Colo.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 31, 1978.

[FR Doc. 78-8957 Filed 4-4-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

STAINLESS STEEL BAR FROM SPAIN

Provision of Separate Third Restraint Period Quota Quantity

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of provision of separate quota quantity for stainless steel bar from Spain for the third restraint period of the specialty steel quotas.

SUMMARY: The Special Representative for Trade Negotiations hereby provides a separate quota quantity for U.S. imports of stainless steel bar (item 923.22 of the Tariff Schedules of the United States) from Spain for the third restraint period (June 14, 1978-June 13, 1979) of the specialty steel quotas.

EFFECTIVE DATES: The provision of a separate Spanish stainless steel bar quota will be effective June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Karen Alleman, Room 725, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506, 202-395-7203.

SUPPLEMENTARY INFORMATION: The President, by Proclamation 4445 of June 11, 1976 (41 FR 24101), as modified by Proclamation 4477 of November 16, 1976 (41 FR 50969), and Proclamation 4509 of June 15, 1977 (42 FR 30829), imposed temporary quantitative limitations on the importation into the United States of certain articles of stainless or alloy tool steel. Pursuant to to paragraph (6) of Proclamation 4445, the authority to make changes in the quantitative restrictions provided for by Proclamation 4445, as modified, is delegated to the Special Representative for Trade Negotiations. Pursuant to subparagraph (d) of headnote 2, subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS), the Special Representative may allocate or reallocate a specific quota quantity to any country or instrumentality subject to restriction if he determines that it is necessary or appropriate to do so in order to assure equitable treatment.

In order to provide equitable treatment for Spain regarding the importation of certain stainless steel bar, I have determined that it is appropriate to provide a separate quota quantity for Spain for the third restraint period (June 14, 1978-June 13, 1979) for stainless steel bar of the type provided for in item 923.22, subpart A, part 2 of the Appendix to the TSUS.

Accordingly, pursuant to paragraph (6) of Proclamation 4445, of June 11, 1976, and subparagraph (d) of headnote 2, subpart A, part 2 of the Appendix to the TSUS, item 923.22 of subpart A, part 2, of the Appendix to the TSUS is amended to substitute new quota quantities for the third restraint period (June 14, 1978-June 13, 1979) as set forth below:

(1) By inserting "Spain (for the restraint period beginning on June 14, 1978)" between "Sweden" and "Other"; (2) by adding a quota quantity of "3,165" for Spain for the restraint period beginning on June 14, 1978; and (3) by decreasing the quota quantity for other countries entitled to the rate of duty in rates of duty column numbered 1 for the restraint period beginning on June 14, 1978, from "5,300" to "2,135."

Dated: March 30, 1978.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc. 78-9003 Filed 4-4-78; 8:45 am]

[3190-01]

REALLOCATION OF SPECIALTY STEEL QUOTAS

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of shortfall reallocation for specialty steel quotas.

SUMMARY: The Special Representative for Trade Negotiations hereby reallocates shortfalls of certain specialty steel quota categories as set forth below. This action modifies certain quota quantities for the second restraint period, June 14, 1977-June 13, 1978. Quota quantities are reduced for certin suppliers who are not likely to export the quantity of steel which would fill the quotas assigned to them. The quota quantities for other suppliers who are able to supply steel are increased. Potential shortfalls will be reviewed again before the end of the second restraint period and there may be additional adjustments at that time.

EFFECTIVE DATES: The reallocations which result in a reduction of a quota quantity shall be effective April 5, 1978. Reallocations which increase a quota quantity shall be effective on the seventh day following April 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Karen Alleman, Office of the Special Representative for Trade Negotiations, Washington, D.C. 20506, 202-395-7203.

SUPPLEMENTARY INFORMATION: Pursuant to subparagraph (c) of headnote 2, subpart A, part 2 of the Appen-

dix to the Tariff Schedules of the United States (TSUS) the Special Representative is authorized to modify the quota quantities to reallocate shortfalls as defined by subparagraph (c). I have determined that shortfalls are likely to occur in items 923.20, 923.21, and 923.23, TSUS, in the second restraint period (June 14, 1977–June 13, 1978) as follows:

Item	Article	Supplier	Shortfall (in short tons)
923.20	Sheet and strip	Canada	920
		Column 2 Countries*	3
923.21	Plate	Canada	325
		Sweden	2,000
923.23	Rod	do	442

*Col. 2 countries are listed in general headnote 3(e), TSUS.

Accordingly, subpart A, part 2, of the appendix to the TSUS is amended to substitute new quota quantities for the second restraint period (June 14, 1977–June 13, 1978) for articles provided for in items 923.20, 923.21, and 923.23, TSUS, as set forth below:

A. For item 923.20 (sheet and strip):

1. By changing the quota quantity for the European Economic Community from "16,300" to "16,800";
2. By changing the quota quantity for Canada from "8,900" to "7,980";
3. By changing the quota quantity for Sweden from "7,100" to "7,320";
4. By changing the quota quantity for other countries entitled to the rate of duty in rates of duty column numbered 1 from "2,800" to "3,003";
5. By changing the quota quantity for other countries from "3" to "none."

B. For item 923.21 (plate):

1. By changing the quota quantity for the European Economic Community from "3,000" to "5,000";
2. By changing the quota quantity for Canada from "500" to "175";
3. By changing the quota quantity for Sweden from "3,400" to "1,400";
4. By changing the quota quantity for other countries entitled to the rate of duty in rate of duty column numbered 1 from "700" to "1,025".

C. For item 923.23 (rod):

1. By changing the quota quantity for the European Economic Community from "7,600" to "8,042";
2. By changing the quota quantity for Sweden from "4,100" to "3,658."

WILLIAM B. KELLY, Jr.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 78-9002 Filed 4-4-78; 8:45 am]

[3190-01]

NON-RUBBER FOOTWEAR

Marketing Agreement With Republic of China

The following letter, concerning administration of the orderly marketing agreement with the Republic of China on non-rubber footwear, has been sent to the Commissioner of Customs:

Hon. ROBERT CHASEN,
Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C.

MARCH 29, 1978.

DEAR MR. COMMISSIONER: The Government of the Republic of China has requested that the restraint levels applicable to categories T1 and T3 of the United States-Republic of China orderly marketing agreement on non-rubber footwear (corresponding to category Nos. 923.90 and 923.92 of the Tariff Schedules of the United States) be increased by 10 percent and 12.35 percent, respectively. The quantity by which these restraint levels are increased is to be subtracted from the restraint level for category T2 (TSUS 923.91). Such a request, and U.S. compliance with it, is in accordance with the terms of the orderly marketing agreement.

Accordingly, pursuant to operative paragraph (6) of Proclamation No. 4510, of June 22, 1977, you are hereby requested, for the current restraint year, to increase the restraint level applicable to non-rubber footwear imports entering under TSUS item No. 923.90 by 10 percent, and to increase the restraint level applicable to such imports entering under TSUS item No. 923.92 by 12.35 percent. You are further requested to decrease the restraint level applicable during the current restraint year to such imports entering under TSUS item No. 923.91 by the same amount by which the other two levels are increased.

This letter will be published in the Federal Register, and the action will become effective on the first working day after publication.

Sincerely,

ROBERT S. STRAUSS.

RICHARD R. RIVERS,
General Counsel.

[FR Doc. 78-9000 Filed 4-4-78; 8:45 am]

[3190-01]

NON-RUBBER FOOTWEAR

Market Agreement With Republic of Korea

The following letter, concerning administration of the orderly marketing agreement with the Republic of Korea on non-rubber footwear, has been sent to the Commissioner of Customs:

Hon. ROBERT CHASEN,
Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C.

MARCH 30, 1978.

DEAR MR. COMMISSIONER: The Government of the Republic of Korea has requested that the restraint levels for categories K1 and K2 of the U.S.-Korean orderly marketing agreement on non-rubber footwear (corresponding to category Nos. 923.93 and 923.94, respectively, of the Tariff Schedules of the United States) be increased for the current restraint year and that the amount by which each category is increased by deducted from the restraint levels applicable to those categories in the next restraint year. Such a request, and U.S. compliance with it, is in accordance with the terms of the orderly marketing agreement.

Accordingly, pursuant to operative paragraph (6) of Proclamation No. 4510 of June 22, 1977, you are hereby requested, for the current restraint year, to increase the restraint levels applicable to non-rubber footwear imports entering under TSUS item Nos. 923.93 and 923.94 by the amounts indicated below. You are further requested to decrease the restraint levels applicable to each category during the succeeding restraint year by the same amount which that category is increased for the current restraint year.

Categories	Current level	Carry forward
K-1	11,520,000	691,200
K-2	21,480,000	1,288,800

This action is to become effective on the day after this letter is published in the FEDERAL REGISTER.

Sincerely,

ROBERT S. STRAUSS.

RICHARD RIVERS,
General Counsel.

[FR Doc. 78-9001 Filed 4-4-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-341]

RUETGERS-NEASE CHEMICAL CO., INC.

Application and Opportunity for Hearing

MARCH 29, 1978.

Notice is hereby given that Ruetgers-Nease Chemical Co., Inc. ("Applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the periodic reporting requirements of section 15(d) of the 1934 Act.

The Application states, in part:

1. On December 30, 1977 Ruetgers Chemicals, Inc., a New York corporation, was merged into Nease Chemical Co., Inc., a Pennsylvania corporation, and became Ruetgers-Nease Chemical Co., Inc., a wholly owned subsidiary of Ruetgers Chemical Corp., a Delaware corporation.

2. There is no longer any public market for Applicant's securities.

3. On January 20, 1978, Applicant filed a certification pursuant to section 12(g)(4) of the 1934 Act requesting termination of registration of its common stock under section 12(g) of that Act. Registration was terminated on February 21, 1978.

Applicant states that no useful purpose would be served in requiring it to continue to file reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than April 24, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-8896 Filed 4-4-78; 8:45 am]

[8010-01]

[File No. 81-300]

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

Application and Opportunity for Hearing

MARCH 29, 1978.

Notice is hereby given that Terminal Railroad Association of St. Louis ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") that Applicant be granted an exemption from the provisions of section 13 of that Act.

The Applicant states, in part:

1. Applicant, a Missouri corporation, is a terminal and switching railroad company.

2. Applicant has two types of debt security outstanding, Series "C" Bonds and Series "D" Bonds, both listed on the New York Stock Exchange and registered pursuant to section 12(b) of the 1934 Act.

3. The bonds are guaranteed by other railroad companies which comply with the Commission's financial reporting requirements.

In the absence of an exemption, Applicant is required to file annual and periodic reports with the Commission pursuant to section 13 of the 1934 Act.

Applicant contends that the exemptive order requested is appropriate because, since the bonds are guaranteed by the other railroad companies, it is the reports of these companies in which investors will be primarily interested. Applicant further contends that the expense of reporting is not justified by the public interest, and that the trading activity in the bonds is light.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person not later than Apr. 24, 1978 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-8897 Filed 4-4-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1453]

NEBRASKA

Declaration of Disaster Loan Area

As a result of the President's Declaration, I find that Cass, Colfax, Dodge, Douglas, Jefferson, Nuckolls, Platte, Sarpy, Saunders, and Thayer Counties and adjacent counties, within the State of Nebraska, constitute a disaster area because of damage resulting from severe storms, ice jams, snowmelt, and flooding beginning about March 13, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on May 25, 1978, and for economic injury until the close of business on December 27, 1978, at:

Small Business Administration, District Office, Empire State Building, 19th and Farnam Streets, Omaha, Nebr. 68102,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 29, 1978.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc. 78-9023 Filed 4-4-78; 8:45 am]

[8025-01]

[License No. 09/09-5193]

BEAUHAN MINORITY INVESTMENT CORP.

Issuance of License to Operate as a Small Business Investment Company

On July 1, 1976, a notice was published in the FEDERAL REGISTER (41 FR 27142), stating that Beauhan Minority Investment Corp., located at 2 Commercial Boulevard, Novato, Calif. 94947, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.702 (1976), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business July 16, 1976, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09-5193, on March 22, 1978, to operate as a small business investment company, pursuant to section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 30, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-9026 Filed 4-4-78; 8:45 am]

[8025-01]

[License No. 02/05-0068]

CANAVERAL CAPITAL CORP.

Approval of Application for Transfer of Control

Pursuant to the provisions of section 107.701 of the Small Business Administration's (SBA) rules and regulations (13 CFR 107.701 (1977)), a notice of filing of an application for transfer of

control of Canaveral Capital Corp., License No. 02/05-0068, 26 Court Street, Suite 902, Brooklyn, N.Y. 11201, was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63508).

Interested persons were given the opportunity to send their comments to SBA on the proposed transfer of control. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the transfer of control of Canaveral Capital Corp.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 30, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-9024 Filed 4-4-78; 8:45 am]

8025-01]

[License No. 02/02-5338]

CVC CAPITAL CORP.

Issuance of License to Operate as a Small Business Investment Company

On November 22, 1977, a notice was published in the FEDERAL REGISTER (42 FR 59938), stating that CVC Capital Corp., located at 666 Fifth Avenue, New York, N.Y. 10019, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.702 (1977), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business December 7, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 02/02-5338 to CVC Capital Corp., on March 22, 1978, to operate as a small business investment company, pursuant to section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

Dated: March 30, 1978.

[FR Doc. 78-9025 Filed 4-4-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-8/36]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on bulk chemicals of the Subcommittee on Safety of Life at Sea (SOLAS), a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 9:30 a.m. on April 24, 1978 in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting is to discuss the agenda for the Fourth Session of the Subcommittee on Bulk Chemicals of the Intergovernmental Maritime Consultative Organization (IMCO). Major items on the agenda are:

(a) Procedures and arrangements for the discharge of noxious liquid substances;

(b) Provision of reception facilities for noxious liquid substances;

(c) Review and update of the Bulk Chemical Code;

(d) Overflow control of liquid chemicals;

(e) Carriage of bulk chemicals;

(f) Tanks of dry cargo ships;

(g) Harmonization of the Bulk Chemical and Gas Carrier Codes;

(h) Handling in ports of liquid chemical and liquified gases.

Requests for further information should be directed to Mr. Frits Wybenga, U.S. Coast Guard (G-MHM-1/83), Washington, D.C. 20590, telephone 202-426-1217.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

MARCH 24, 1978.

[FR Doc. 78-8973 Filed 4-4-78; 8:45 am]

[4710-07]

[Public Notice CM-8/37]

STUDY GROUPS 10 AND 11 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet jointly on April 21, 1978, at 9:30 a.m. in Room 8210, Federal Communications Commission, 2025 M Street NW., Washington, D.C.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The primary purpose of the meeting will be:

(a) review of documents for XIVth CCIR Plenary (June, 1978) and the Special Preparatory Meeting (October 1978) for the 1979 World Administrative Radio Conference;

(b) review and approval of documents to be transmitted to the U.S. National CCIR Committee.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

MARCH 29, 1978.

[FR Doc. 78-8972 Filed 4-4-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on May 1, 1978, at 9 a.m. PST, the Reno Regional Office Station Committee on Educational Allowances shall at 1201 Terminal Way, Reno, Nev., in Room 103, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Professionals Academy, 3101 Maryland Parkway, Las Vegas, Nev. 89109, shall be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Date this 27th day of March 1978.

R. K. SORENSON,
Director, VA Regional Office.

[FR Doc. 78-8975 Filed 4-4-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 28614 (Sub-No. 1)]

NEWRAIL CO., INC.—PURCHASE—WESTERN PACIFIC RAILROAD CO.

Newrail Co., Inc. (Newrail), Newsacno Co., Inc. (Newsacno), Newtide Co., Inc. (Newtide), The Western Pacific Railroad Co. (Western Pacific), Sacramento Northern Railway (Sacramento), and Tidewater Southern Railway Co. (Tidewater), represented by

Edward K. Wheeler, Wheeler & Wheeler, 1729 H Street NW., Washington, DC 20006 and Walter G. Treanor, Vice President-Law, The Western Pacific Railroad Co., 526 Mission Street, San Francisco CA 94105, have filed with the Interstate Commerce Commission an application (1) for authorization under section 5(2) of the Interstate Commerce Act (Act) for Newrail, Newsacno, and Newtide to purchase assets, including trackage rights over, and joint ownership in and use of, lines owned or operated by other carriers and leases of and contracts to operate properties of other carriers, and terminals incidental to the properties, of Western Pacific, Sacramento, and Tidewater, respectively, and to control through stock ownership or otherwise carriers, which Western Pacific or its subsidiaries control, and (2) for authorization under section 1(18) of the Act for Newrail, Newsacno, and Newtide to operate the lines of railroad of Western Pacific, Sacramento, and Tidewater, respectively. As a part of the transaction, Newstan Co., Inc. (Newstan), a wholly owned noncarrier subsidiary of Newrail, would acquire the assets of Standard Realty and Development Co. (Standard), a wholly owned noncarrier subsidiary of Western Pacific. Among the assets to be purchased by Newstan would be the stock of Western Pacific Transport Co. (Transport), a motor carrier, and the stock of Delta Finance Co., Ltd. (Delta), a noncarrier, which are indirectly owned and controlled by Western Pacific through its wholly owned noncarrier subsidiary, Standard. Western Pacific and its subsidiaries are operated as a system. Seven prospective shareholders of Newrail have joined as party applicants. There will be no change in the operations or facilities of the Western Pacific System, except that operations will be performed by new corporations.

The principal lines of the Western Pacific System extend eastward from San Francisco-Oakland, CA, via Stockton, Sacramento, Marysville, Oroville, Keddie and Portola, CA, through Winnemucca, NV, to Salt Lake City, UT, a distance of about 924 miles.

The counties in which the Western Pacific System operates lines include Alameda, Butte, Contra Costa, Lassen, Modoc, Placer, Plumas, Sacramento, San Francisco, San Joaquin, Santa Clara, Sierra, Solano, Stanislaus, Sutter, Siskiyou, Yolo, and Yolo, and Yuba, in the State of CA; Elko, Eureka, Humboldt, Lander, Pershing and Washoe, in the State of NV; and Tooele and Salt Lake, in the State of UT.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation (Finance Docket No. 28614 (Sub-No. 1)), and the original and two copies shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423 not later than forty-five (45) days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and the request for oral hearing if one is desired. Additionally, interested persons who do not intend to participate formally in a proceeding, but who desire to comment on it may file such statements and information as they may desire, subject to the filing and service requirements specified in this notice. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

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

[FR Doc. 78-9043 Filed 4-4-78; 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. 91-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Commodity Futures Trading Commission	2, 3
Federal Communications Commission	4
Federal Deposit Insurance Corporation	5, 6
Federal Election Commission	7
Indian Claims Commission	8
Securities and Exchange Commission	9

[6320-01]

1

[M-119, Mar. 31, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2:30 p.m., March 31, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Possible Board action on the Mid-week excursion and APEX fares proposed by Air France and the Holiday fare filed by Lufthansa. 2. United States-United Kingdom Consultations concerning cargo charters.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202 673-5068.

SUPPLEMENTARY INFORMATION: Item 1 concerns fares proposed by Air France and Lufthansa. The tariffs in which these fares are contained are scheduled to go into effect on April 1, 1978. Item 2 concerns a Friday March 31, 1978, State Department request for the Board's immediate views on a letter from NACA concerning cargo charters and the signing of the United States United Kingdom Bilateral Agreement. So that the Board may consider these items promptly the following Members have voted that agency business requires that the Board meet on Friday March 31, 1978, on less than seven days notice, and that no earlier announcement of the meeting was possible

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member Richard J. O'Melia
Member Elizabeth E. Bailey

This meeting will include discussion of the French and German Governments' reaction to action which the Board may take concerning these fares and formulation of the United States position in continuing consultations with the French and Germans. Discussion of the Board's views on the cargo charter issue will involve the formulation of the U.S. position to be conveyed to the British. Premature public disclosure of the options, plans and opinions of the Board could seriously undermine the U.S. position during these consultations.

Accordingly the following Members have voted that public observation of this meeting would involve matters, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting should be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member Richard J. O'Melia
Member Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members. Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member Lee R. West, Member Richard J. O'Melia; and Member Elizabeth E. Bailey
Assistants to Board Members. Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriguez, and Mr. Ford Cole.
Office of the Managing Director. Mr. Dennis Rapp and Mr. John Hancock.
Bureau of International Aviation. Mr. Donald Farmer, Mr. Donald Litton, Mr. Joseph Chesen, Mr. Tony Largay, Ms. Mary Pett, Mr. Dick Stair, and Ms. Fran Gedra.
Bureau of Pricing and Domestic Aviation.—Mr. Michael Levine, Ms. Barbara Clark, Mr. Herbert Aswall, Mr. James Deegan, Mr. James Greene, and Mr. James McNahon.
Office of the General Counsel. Mr. Philip Bakes, Mr. Gary Edles, Mr. Peter Schwarzkopf, and Mr. Mitchell Black.
Office of Economic Analysis. Mr. Richard Kiem and Mr. Bruce Stram.
Office of the Secretary. Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.
Reporter. North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-719-78 Filed 4-3-78; 3:49 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., April 14, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Session—Involving the disposition of formal agency adjudications.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-717-78 Filed 4-3-78; 2:52 pm]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2:30 p.m., April 14, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-718-78 Filed 4-3-78; 2:53 pm]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, April 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

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:

Agenda, Item No., and Subject

General 1—Release of the Conglomerate Study to the Federal Trade Commission.
Safety and Special Radio Services—1—General access land mobile applications in the

Los Angeles and New York areas (Docket No. 20909).
Common Carrier Bureau 1 Amendment of Annual Report Forms: Form M—Telephone companies. Form O—Wire-telegraph ocean-cable carriers. Form R—Radio-telegraph carriers (Docket No. 21385).
Common Carrier Bureau 2 Revisions to Pacific Telatronics Tariff FCC No. 4 and disconnection of PTI's service to a cable television operator in Eugene, Oreg.
Common Carrier Bureau 3 Telephone Communication's request for review of construction permit granted to Bonduel Telephone Co., Green Bay Wis.
Common Carrier Bureau 4 Clarification of Commission letter on TWX operating agreements.
Common Carrier Bureau 5 Third report and order concerning installation and connection of Private Branch Exchange (PBX) and key telephone equipment to the telephone network (Docket No. 19528).
Common Carrier Bureau 6 Memorandum Opinion and Order concerning connection of ancillary equipments to existing key telephone system and PBX system internal electrical paths (e.g. lamp and annunciator functions) Docket No. 21182.
Cable Television 1 Petition for special relief filed by Teleprompter of Florida, Inc. (St. Petersburg)
Cable Television 2 Petition for tax certificates filed by Messrs. Beferra, Woody, Bloomquist, and Nickoloff (CSR 1232).
Assignment of License and Transfer of Control 1 Assignment of license KDOG TV (UHF) Houston, Tex., from Crest Broadcasting to Metromedia (BALCT 668).
Renewal 1 Reconsideration of October 3, 1977 order granting renewal of Pacific Broadcasting Corp.'s 3 VHF translators on Guam.
Renewal 2 Waiver of ascertainment documentation and reporting requirements for WHMI, Howell, Michigan, filed by B&H Broadcasting Co.
Renewal 3 Reconsideration of WGOW's renewal and assignment of WGOW and WYNQ (FM), both of Chattanooga, Tenn.
Renewal 4 Appeals court order, in *Committee for Open Media* v. *FCC*, granting remand of Commissions grant of KJAZ FM, Alameda, Calif
Renewal 5 Petition to deny Capital Cities Communications' renewal of KTRK TV, Houston, Tex
Television 1 Request of Communications Improvement, Inc. (interim operator of WLBT TV, Jackson, Miss.) for clarification of its authority
Broadcast 1 Reconsideration of the Commission's refusal to modify the license of KLXA TV (Docket No. 20727).
Complaints and Compliance—1 Field investigation of WHNE, Portsmouth, Va.

Portion closed to the public:

Agenda, Item No., and Subject

General 1 Proposed agreement between the United States and Mexico concerning the use of frequencies, along their border, in the 470-512 MHz and 806-890 MHz bands.
Complaints and Compliance—1 Payment of forfeiture by and termination of litigation against, WANV Inc.
Hearing 1 Petition to enlarge the issues, re-open the record, and remand the proceedings in the Pomona, Calif., Domestic Public Land Mobile Radio Service, Docket No. 20084.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: March 29, 1978.

[S-715-78 Filed 4-3-78; 11:28 am]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3 p.m., April 7, 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:

First Community Bank of Lone Grove, a proposed new bank to be located at the southwest corner of Highway 70 and Newport Road, Lone Grove, Okla. for Federal deposit insurance.

Ingram State Bank, a proposed new bank to be located at 110 Junction Highway (State Highway 27), Ingram, Tex., for Federal deposit insurance.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver liquidator or liquidating agent of those assets.

Case No. 43,430-L Franklin National Bank, New York, N.Y.
Case No. 43,463-SR Chatham Bank of Chicago, Chicago, Ill.
Memorandum re American Bank & Trust, Orangeburg, S.C.

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. (two memorandums)
Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the liquidation of First State Bank of Northern California, San Leandro, Calif
Powell, Goldstein, Frazer & Murphy Atlanta, Ga., in connection with the liquation of the Hamilton Bank & Trust Co., Atlanta, Ga.
Chapman & Cutler, Chicago, Ill., in connection with the liquation of State Bank of Clearing, Chicago, Ill.
Patterson & Patterson, Whitfield, Manikoff and White, Bloomfield Hills, Mich., in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Mich.
Kaye, Scholer, Pierman, Hays & Handler, New York, N.Y., in connection with the liquation of Franklin National Bank, New York, N.Y.
Miller & Martin, Chattanooga, Tenn., in connection with the liquation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.
Strasburger & Price, Dallas, Tex., in connection with the liquation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn
Fulbright & Jaworski, Houston, Tex., in connection with the receivership of Franklin Bank, Houston, Tex.
Meredith, Donnell & Edmonds, Corpus Christi, Tex., in connection with the liquation of Northeast Bank of Houston, Houston, Tex

Recommendation with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution extending to May 1, 1978 the period for public comment on proposed Part 344 of the Corporation's rules and regulations to be entitled "Recordkeeping and Confirmation Requirements for Securities Transactions."

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Report of the Executive Secretary regarding his transmittal of "no signification effect" competitive factor reports.
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.
Reports of the Chief, Division of Liquidation, regarding his disbursement of funds during calendar year 1977 in connection with the liquation of Franklin National Bank, New York, N.Y.
Report of the Chief, Accounting and Budget Branch, Office of the Controller summarizing liquidation and insurance expenses, estimated losses and other fiscal data in connection with active liquidations as of December 31, 1977
Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202 389-4446.

[S-711-78 Filed 4-3-78; 9:00 am]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., April 7, 1978.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Prince George's State Bank, a proposed new bank to be located at 8515 George

Palmer Highway Glenarden, Md., for Federal deposit insurance.

Security State Bank of Nevada, a proposed new bank to be located at 117 Market Street, Caliente, Nev., for Federal deposit insurance.

State Bank of Towner an operating noninsured bank located at 202 Main South, Towner N Dak., for Federal deposit insurance.

Richmond Commerce Bank, a proposed new bank to be located at the southeast corner of the intersection of Richmond and Sage Streets, Houston, Tex. for Federal deposit insurance.

Bonneville Bank, a proposed new bank to be located at 1675 North 200 West, Provo, Utah, for Federal deposit insurance.

Applications for consent to establish branches.

Barnett Bank of Broward County, Fort Lauderdale, Fla., for consent to establish a branch at 7970 Miramar Parkway, Miramar, Fla.

Palm State Bank, Pinellas County (P.O. Palm Harbor), Fla., for consent to establish a branch at the intersection of alternate U.S. Highway 19 and Virginia Avenue, Unincorporated Pinellas County (P.O. Palm Harbor), Fla.

Central Savings Bank, New York (Manhattan), N.Y. for consent to establish a branch at 775 Pulaski Road, Greenlawn Shopping Plaza, Greenlawn (Unincorporated Area), Town of Huntington, N.Y.

Industrial Valley Bank & Trust Co., Jenkintown, Pa., for consent to establish a branch at the intersection of Route 3 and Westtown Road, West Chester, Pa.

Southern Bank & Trust Co., Greenville, S.C., for consent to establish a branch at the intersection of Polly Road and Crosscreek Road on James Island, Charleston, S.C.

Request for consent to the issuance of subordinated convertible capital debentures as an addition to capital structure and for advance consent to their conversion at or prior to maturity.

First Bank & Trust Co., Sand Springs, Okla.

Requests pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses 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" (5 U.S.C. 552b(c)(6)).

Application for consent to a purchase and assumption transaction, for consent to establish four branches, and for consent to retire subordinated capital notes:

Floyd County Bank, New Albany, Ind., an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in American Bank, New Albany, Ind., also an insured State nonmember bank, for consent to establish the four offices of American Bank as branches of Floyd County Bank; and for consent to retire subordinated capital notes.

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. 43,443 L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,444 L—Franklin National Bank, New York, N.Y.

Case No. 43,445 L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,446 L—The Drover's National Bank of Chicago, Chicago, Ill.

Case No. 43,449-SR—Franklin Bank, Houston, Tex.

Case No. 43,449-NR—United States National Bank, San Diego, Calif.

Case No. 43,450-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,451-L—Franklin National Bank, New York, N.Y.

Case No. 43,452-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,454-NR—United States National Bank, San Diego, Calif.

Case No. 43,456-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,453-NR—United States National Bank, San Diego, Calif.

Case No. 43,459-L—Bank of Woodmoor, Monument, Colo.

Case No. 43,460-L—Astro Bank, Franklin Bank, and South Texas Bank, Houston, Tex.

Case No. 43,465-SR—Franklin Bank, Houston, Tex.

Memorandum re United States National Bank, San Diego, Calif.

Memorandum re First National Bank of Eldora, Eldora, Iowa.

Memorandum re Eatontown National Bank, Eatontown, N.J.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9)(A)(ii)).

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 PERSONS FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-712-78 Filed 4-3-78; 9:00 am]

[6715-01]

7

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: No. S-703-78.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, April 6, 1978 at 10 a.m.

CHANGE IN MEETING:

The following items have been added to the open portion of the meeting:

XIII. Commission audit policy.
XIV. Expediting compliance matters.
XV. Proposed revised FEC form 5 (report of independent expenditures by persons).

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-716-78 Filed 4-3-78; 2:10 pm]

[7030-01]

8

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., April 12, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Dockets 59, et al., *Saginaw Chippewa.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-713-78 Filed 4-3-78; 11:28 am]

[8010-01]

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 13486, March 30, 1978.

STATUS: Open meeting; closed meeting.

PLACE: Room 825, 500 North Capitol Street Washington, D.C.

PREVIOUSLY ANNOUNCED TIME AND DATE: April 5, 1978, 10 a.m. (closed meeting); April 6, 1978, 10 a.m. (open meeting); April 6, 1978, immediately following the open meeting (closed meeting).

CHANGES IN THE MEETING: Changes in time; additional items to be considered at closed meeting.

The closed meeting scheduled for Wednesday, April 5, 1978, at 10 a.m., will occur at 9 a.m. The open meeting scheduled for Thursday, April 6, 1978, at 10 a.m., will occur at 9 a.m.

The following additional items will be considered by the Commission at a closed meeting on Thursday, April 6, 1978, immediately following the open meeting at 9 a.m.:

Freedom of Information Act Appeal.

Consideration of request for testimony.
Consideration of amicus participation.
Other litigation matters.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required the above rescheduling of matters and that no earlier notice thereof was possible.

MARCH 31, 1978.

[S-714-78 Filed 4-3-78; 11:28 am]

federal register

WEDNESDAY, APRIL 5, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

Guaranteed Student Loan Program

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 177]

GUARANTEED STUDENT LOAN PROGRAM

Proposed Rulemaking

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The regulation is proposed to implement changes in the operation of the Guaranteed Student Loan Program (GSLP), authorized by the Higher Education Act of 1965, as amended by the Education Amendments of 1976 and by the Technical and Miscelleneous Amendments of 1977. The proposed regulation also incorporates various policy changes that do not result from the statutory changes. The proposed regulation covers both loan guarantee programs of State and private nonprofit agencies and the Federal Insured Student Loan Program.

DATES: Comments must be received on or before May 20, 1978.

It would be extremely helpful if the comments refer to specific sections and are made sequentially. Public hearings will be held in seven cities at the addresses listed below. The date and time for each meeting follow.

May 12, 1978, Washington, D.C., 9 a.m. to 6 p.m.
May 15, 1978, Worcester, Mass., 9 a.m. to 6 p.m.
May 17, 1978, Chicago, Ill., 9 a.m. to 6 p.m.
May 19, 1978, Atlanta, Ga., 9 a.m. to 6 p.m.
May 15, 1978, Dallas, Tex., 9 a.m. to 6 p.m.
May 17, 1978, Denver, Colo., 9 a.m. to 6 p.m.
May 19, 1978, San Francisco, Calif., 9 a.m. to 6 p.m.

ADDRESSES: Comments should be addressed to Miss Patricia Hopson, Bureau of Student Financial Assistance, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. Comments will be available for public inspection at the GSA Building, 7th and D Streets SW., Room 4642, between 8:30 a.m. and 4 p.m., Monday through Friday, except on Federal holidays. The public meetings will be held at the following locations:

May 12, 1978—Federal Office Building No. 6, 400 Maryland Avenue S.W., Room 6104, Washington, D.C.; 9 a.m. to 6 p.m.
May 15, 1978—College of The Holy Cross, Hogan Campus Center, Room 421, Worcester, Mass.; 9 a.m. to 6 p.m.
May 17, 1978—The Center for Continuing Education, The University of Chicago, 1307 East 60th Street, Chicago, Ill.; 9 a.m. to 6 p.m.
May 19, 1978—101 Marietta Tower Buidling, SSA Conference Room, 19th Floor, Atlanta, Ga.; 9 a.m. to 6 p.m.
May 15, 1978—Southern Methodist University, Humphrey Lee Student Center, Room 102, Dallas, Tex.; 9 a.m. to 6 p.m.
May 17, 1978—Main Post Office Building, Room 269, 1823 Stout Street, Denver, Colo.; 9 a.m. to 6 p.m.
May 19, 1978—U.S. Office of Education, 50 United Nations Plaza, Room 23, San Francisco, Calif.; 9 a.m. to 6 p.m.

To facilitate scheduling of speakers, it would be helpful if any person desiring to present his or her views orally at any of the scheduled hearings would inform the appropriate representatives listed below in advance of the hearing. If a prepared statement will be presented, the presenter is requested to file ten copies with the representative either prior to or on the date of the hearing.

Ms. Sue Bierman, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-472-2840.
Mr. Thomas J. O'Hare, U.S. Office of Education, P.O. Box 8370, John F. Kennedy Federal Building, Boston, Mass. 02114, 617-223-7205.
Mr. Francis J. Yanni, U.S. Office of Education, 300 South Wacker Drive, Chicago, Ill. 60606, 312-353-5127.
Dr. Carmen L. Battaglia, U.S. Office of Education, 101 Marietta Tower, Third Floor, Atlanta, Ga. 30323, 404-221-5008.
Dr. Arthur Lee Hardwick, U.S. Office of Education, 1200 Main Tower Building, Dallas, Tex. 75202, 214-655-3852.
Mr. Irwin E. Kirk, U.S. Office of Education, 11027 Federal Office Building, 19th and Stout Streets, Denver, Colo. 80294, 303-837-3544.
Mr. Charles F. Hampton, U.S. Office of Education, 50 United Nations Plaza, San Francisco, Calif. 94102, 415-556-1630.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Davidson, 202-245-0231.

SUPPLEMENTARY INFORMATION: The Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to revise Part 177 of Title 45 of the Code of Federal Regulations, which is entitled "Federal, State, and Private Programs of Low-Interest Loans to Vocational Students and Students in Institutions of Higher Education." The Commissioner concurrently proposes to retitle Part 177 as "Guaranteed Student Loan Program," the name by which the program is commonly known. Authority for the Commissioner to amend the existing regulation is contained in Title IV, Part B of the Higher Education Act of 1965, as amended (20 U.S.C. 1071 through 1087-4). This revision is proposed in accordance with Section 503 of the Education Amendments of 1972 (Pub. L. 92-318), and is intended to set forth existing and proposed program policies as well as to incorporate and clarify effects of the Education Amendments of 1972, the Education Amendments of 1976 (Pub. L. 94-482), and the Technical and Miscellaneous Amendments of 1977 (Pub. L. 95-43). Its major purpose is to conform earlier proposed program regulations to the 1976 and 1977 changes in the authorizing legislation.

On November 5, 1976, the Commissioner proposed an extensive revision of the Guaranteed Student Loan Program regulation, which was intended to consolidate statutory changes and program policies in accordance with section 503 of Pub. L. 92-318. The proposed regulation published in the FEDERAL REGISTER on that date did not, however, attempt to implement provisions of the Education Amendments of 1976, enacted on October 12, 1976. Instead, in the preamble to that proposed rule, the Commissioner solicited public comment both on the regulation as proposed and on regulatory implementation of relevant provisions of the 1976 statute. In view of the extensive impact of the new law on the GSLP, the Commissioner deemed it impractical and inappropriate to publish a final regulation based only on the November 5, 1976, proposed rule.

Title IV, Part B of the Higher Education Act of 1965, as amended, authorizes postsecondary educational financial assistance in the form of low-interest loans to students through the Guaranteed Student Loan Program. The program's benefits are available through loan guarantee programs of State and private nonprofit agencies, under direct State loan programs, and under limited circumstances through a program of Federal loan insurance. Currently 27 State or private nonprofit guarantee agencies are active in the program. No direct State loan programs exist at this time. The Federal Insured Student Loan Program (FISLP) operates in those States not served by guarantee agencies and in others to a limited extent.

Policies and regulatory provisions governing the Guaranteed Student Loan Program have grown lengthier and more complex since the program began. Many of the provisions contained in the November 5, 1976, proposed rule (and appearing again in this proposed rule) are designed to address problems which emerged during a period of very rapid program expansion. Many are intended to help minimize the risk of financial loss to the United States. Moreover, the increasing complexity of the authorizing legislation is directly reflected in the comprehensive regulation now proposed.

While most of the differences between the November 5, 1976, proposed rule and the present proposed regulation are the result of 1976 and 1977 statutory amendments, some reflect policy changes.

Interested parties are encouraged to review the entire regulation package (including both earlier and newly incorporated provisions), and to commu-

nicate their comments and suggestions.

The escrow agent disbursment plan proposed in a separate Notice of Proposed Rulemaking also published on November 5, 1976, and affecting §§177.11 and 177.57(c), has not been included in this proposed regulation. The Commissioner has decided that the escrow agent proposal is not practical to pursue at this time.

This comprehensive proposed regulation consolidates all existing and proposed GSLP regulatory provisions. It retains the general structure proposed in the November 5, 1976, publication. An updated table of contents is included for reader convenience. Section numbers of corresponding regulatory provisions currently in effect appear in parentheses.

PART 177—GUARANTEED STUDENT LOAN PROGRAM

SUBPART A—PURPOSE AND SCOPE

Sec.
177.1 Program purpose and statutory authority.
177.2 Guarantee agency programs.
177.3 Reserved.
177.4 Federal Insured Student Loan Program (FISLP).
177.5 Applicability of Subparts in Part 177.

SUBPART B—GENERAL PROVISIONS

177.11 Definitions. (177.1)
177.12 Student eligibility. (177.1)
177.13 Permissible charges to students. (177.6)
177.14 Prohibited transactions. (177.6)
177.15 Affidavit. (177.10)
177.16 Forms.
177.17 Refunds.

SUBPART C—FEDERAL PAYMENTS

177.21 Interest benefits to lenders on behalf of eligible students. (177.2, 177.4)
177.22 Adjusted family income. (177.3)
177.23 Special allowance payments to lenders. (177.4)
177.24 Penalty interest payments to lenders.
177.25 Death, disability, and bankruptcy payments to lenders and gurantee agencies. (177.5)
177.26 Administrative cost allowance to lenders. (177.4)
177.27 Administrative cost allowance to participating schools.

SUBPART D—GUARANTEE AGENCY PROGRAMS

177.31 Scope.
177.32 Agreements between guarantee agencies and the Commissioner.
177.33 Payment of Federal interest benefits. (177.12)
177.34 Payment of Federal advances for reserve funds. (Subpart C)
177.35 Payment of additional Federal advances for meeting guarantee agency insurance obligations.
177.36 Federal reinsurance. (Subpart D)
177.37 Supplemental Federal reinsurance.
177.38 Administrative cost allowance for guarantee agencies.
177.39 Records, reports, and inspection requirements for guarantee agency programs. (177.8)

SUBPART E—RESERVED

SUBPART F—FEDERAL INSURED STUDENT LOAN PROGRAM

Sec.
177.51 Circumstances under which and extent to which loans may be federally insured. (177.41)
177.52 Agreements between eligible lenders and the Commissioner. (177.42)
177.53 Conditions for insurability of individual loans. (177.44)
177.54 Limitations on maximum loan amounts. (177.43)
177.55 Issuance of Federal loan insurance. (177.42)
177.56 Insurance premiums. (177.45)
177.57 Disbursement of loans. (177.46)
177.58 Repayment of loans. (177.46)
177.59 Due diligence. (177.48)
177.60 Forbearance. (177.51)
177.61 Transfers of insured loans. (177.49)
177.62 Death, disability, and bankruptcy. (177.47)
177.63 Cessation of lender collection activity in certain cases.
177.64 Procedures for filing and payment of claims. (177.48)
177.65 Determination of amount of loss on claims. (177.52)
177.66 Records, reports, and inspection requirements for the Federal Insured Student Loan Program. (177.8)
177.67 Collection efforts by the Commissioner after payment of claims.

SUBPART G—REQUIREMENTS AND STANDARDS FOR PARTICIPATING EDUCATIONAL INSTITUTIONS

177.71 Agreements between eligible schools and the Commissioner. (177.61)
177.72 Agreements between the Commissioner and eligible schools which make or originate loans.
177.73 Records, reports, and inspection requirements for participating schools. (177.62)
177.74 Student information. (177.64)
177.75 Admissions criteria for a vocational, trade, or career program. (177.65)
177.76 Lending eligibility standard for participating schools.
177.77 Notification to lender of change in student enrollment status.
177.78 Certifications by a participating school in connection with a student loan application. (177.1, 177.2, 177.44)
177.79 Loan disbursement responsibilities of a participating school.

SUBPART H—PROCEDURES FOR THE LIMITATION, SUSPENSION, OR TERMINATION OF THE ELIGIBILITY OF LENDERS UNDER THE FEDERAL INSURED STUDENT LOAN PROGRAM

177.81 Purpose and scope. (177.71)
177.82 Definitions. (177.72)
177.83 Effect on prior participation. (177.74)
177.84 Informal compliance procedure. (177.75)
177.85 Emergency action. (177.76)
177.86 Suspension proceedings. (177.76)
177.87 Limitation or termination proceeding. (177.77)
177.88 Initial and final decisions. (177.77)
177.89 Verification of mailing dates.
177.90 Effect of a suspension or termination proceeding.
177.91 Limitation. (177.73)
177.92 Reimbursements, refunds, and offsets. (177.73)
177.93 Reinstatement after termination. (177.78)
177.94 Removal of limitation. (177.78)

The following descriptions of individual sections of the proposed regulation are intended to highlight some of the major differences between this document and the November 5, 1976, proposed rule. These descriptions are arranged in the order of their corresponding sections in the proposed regulation. They do not, however, include all regulatory changes. The reader should consult the proposed regulation sections for precise guidance on matters referred to in this Preamble.

SUBPART A—PURPOSE AND SCOPE

1. This initial subpart provides a brief overview of the Guaranteed Student Loan Program (GSLP) and the provisions of Part 177. This subpart has been revised to reflect the major new elements of the GSLP created by the Education Amendments of 1976 (Pub. L. 94-482).

2. Section 177.3, *Direct Student Loan Programs,* of the earlier proposed regulation has been reserved. Subpart E has also been reserved. Although the Higher Education Act continues to authorize interest benefits, death, disability, and bankruptcy payments for eligible loans made by approved State student loan programs not seeking Federal or guarantee agency insurance for those loans, no such programs currently exist. The Commissioner believes that regulatory provisions for these programs are obsolete since it is not likely that any will be established in the future, in view of the Federal insurance and reinsurance programs now available to State lenders. The existence of a regulation subpart entitled "Direct State Loan Programs" has caused considerable confusion among program participants involved with State loan programs insured under the Federal Insured Student Loan program (Subpart F) or guarantee agency insurance programs (Subpart D), which are widely known as "direct State loan programs". Therefore, the Commissioner proposes to delete all references to direct State loan programs from Part 177.

SUBPART B—GENERAL PROVISIONS

1. *Definitions* (§ 177.11).—a. The reader should note that although the term "default rate" appears nowhere in the regulation, several sections prescribe ratios which are to be used in measuring default experience. Many of these are prescribed by statute for specific purposes. The following sections set forth measures which may be known as "default rates": § 177.37 (b) and (c) relating to guarantee agencies, § 177.51(d)(1) and (3) relating to FISLP State agency lenders, § 177.52(c) (vi) and (vii) relating to FISLP lenders, and § 177.76(a) relating to all GSLP school lenders. In addition, § 168.18 of 45 CFR 168, affecting all Title IV student assistance pro-

grams, sets forth a "default rate" standard for all participating schools. It should be noted that each prescribed measure is calculated differently.

b. A revised definition of "disbursement" incorporates new statutory language requiring the transfer of loan proceeds from the lender to the student borrower to be by check requiring the pesonal endorsement of the borrower.

c. The term "eligible institution" or "institution" is replaced by "eligible educational institution" or "school" in many places throughout this proposed rule. This change is intended to be eliminate confusion between eligible educational institutions and other, non-educational institutions, such as banks, which are also referred to in the regulation. In conformance with the Education Amendments of 1976, the definition of "eligible educational institution" has been amended to prohibit the use or employment of commissioned salemen to promote the availability of the Guaranteed Student Loan Program.

d. The definition of "eligible lender" is revised to reflect the Education Amendments of 1976. Among other changes, a commercial "regulated" lender may not be an "eligible lender" for purposes of the Guaranteed Student Loan Program if guaranteed student loans represent more than half of the dollar volume of its consumer loan portfolio, and a participating school may not be an "eligible lender" if it is a home study school or if it does not employ at least one full-time financial aid officer.

e. For reader convenience the definitions of "estimated cost of attendance" and "estimated financial assistance" now appear in the definitions section. They earlier appeared in § 177.21 only.

g. "Grace period" is newly defined to simplify reference to the 9 to 12 month period between the date a borrower leaves school and the date repayment of the loan is required to begin.

h. The definition of "institution of higher education" incorporates provisions of the Education Amendments of 1976. This new definition broadens the scope of "institution of higher education" to include schools which admit students who are beyond the age of compulsory school attendance in the State in which the school is located.

i. A definition of "origination" is proposed to implement Section 433 and other new provisions of the Higher Education Act. "Origination" refers to the special relationship between a school and a lender, in which the lender delegates to the school substantial functions or responsibilities normally performed by lenders before making loans.

j. "School lender" is a new definition, proposed in order to simplify reference to a participating school which has been approved by the Commissioner or a guarantee agency as an eligible lender under the program.

2. Section 177.12, *Student eligibility,* is a new section combining the new student eligibility provisions of the statute, existing GSLP policies, and elements found in the definition of student in the existing regulation.

3. Section 177.13, *Permissible charges to students,* has been revised to reflect newly proposed policies in the area of interest compounding or "capitalization" (the addition of interest to principal balance). It is proposed that in reporting the unpaid principal balance of a loan for purposes of special allowance (§ 177.23) and, when eligibile, Federal interest benefits (§ 177.21), a lender may include accured interest which has been added to principal with regard to the borrower's obligation to the lender. The circumstances under which the addition of interest to principal balance (and thus the compounding of interest) may take place for loans made under Subpart D may be prescribed by individual guarantee agencies within guidelines established by this proposed rule. For loans made under the Federal Insured Student Loan Program, however, "capitalization of interest" may take place only in the following instances:

a. Interest accruing on nonsubsidized loans during the in-school and grace periods, when added to principal at the beginning of the repayment period, as authorized under § 177.58(h);

b. Interest accuring on nonsubsidized loans during periods of authorized deferment when added to principal at the time repayment is resumed under § 177.58(g);

c. Interest accruing during authorized periods of forebearance under § 177.60, provided that the interest is added to the principal balance at the time repayment actually begins; and

d. Interest accuring during periods of initial delinquency between the date repayment is due to begin and the date repayment actually begins (under § 177.58(h)), provided that the interest is added to the principal balance at the time repayment begins.

The Education Amendments of 1976 removed statutory impediments to the establishment of these policies. Earlier proposed policies in this area were unclear and would have required "double bookkeeping" on the part of lenders in some cases. Although these new policies may, in some cases, involve slightly increased student interest, as well as Federal interest and special allowance liabilities, these considerations are outweighed by the general positive impact these policies are expected to have in curtailing default claims and encouraging lender participation.

4. Section 177.14, *Prohibited Transactions,* has been revised in order to clarify program policy in this area. In order to encourage the availability of loan capital, the Student Loan Marketing Association is specifically exempted from the prohibition against the purchase of loan notes at discount. The maintenance of non-interest bearing "compensating balances" with a lender as a condition of its making loans available to students at a particular school will continue to be viewed by the Commissioner as a violation of this provision.

Subpart C—Federal Payments

1. Section 177.21, *Interest benefits to lenders on behalf of eligible students,* has been revised to accommodate several statutory changes. These revisions include the following:

a. The adjusted family income limit below which student borrowers automatically qualify for Federal interest benefits has been raised from $15,000 to $25,000;

b. For students applying for Federal interest benefits and attending foreign schools, if a determination of need and recommendation of subsidized loan amount is necessary these will be made by the Commissioner or the guarantee agency, as appropriate, rather than by the foreign school.

2. Sections 177.21(b)(4) and 177.23(f) are new provisions regarding the payment of interest and special allowance for approved multiple installment loans. Upon meeting the requirements set forth in these provisions, a lender may be paid interest and special allowance on a loan, based on the whole loan amount, even though only a portion of the loan has actually been disbursed.

3. Section 177.23, *Special allowance payments to lenders,* dealing with special allowance paid to holders of loans, has been revised to incorporate provisions of the Education Amendments of 1976. The rate of the special allowance will be calculated according to the formula stipulated by the law based on the interest rate on 91-day Treasury notes. If the special allowance rate for any single 3-month period would cause the special allowance rate for the 12-month period then ending to exceed 5 percent, then the rate determining the special allowance to be paid for that 3-month period will be reduced to the highest one-eight of 1 percent which would not result in such an excess.

4. Section 177.24, *Penalty interest payments to lenders,* is based on new provisions of the Act requiring the Commissioner to make a special payment as an addition to a lender's regular special allowance payment reflecting the daily accrual of interest on any payments of interest or special allowance which are over 30 days late.

5. Section 177.25, *Death, disability, and bankruptcy payments to lenders*

and guarantee agencies, and several other sections, have undergone significant revision to incorporate new statutory provisions for the treatment of bankruptcy on the part of the student borrower. Bankruptcy has been added as a circumstance under which the Commissioner will pay the borrower's loan obligation (including both principal and interest). Although the statute provides for payment by the Commissioner upon "discharge" of the borrower's obligation in bankruptcy, this regulation provides for payment of a bankruptcy claim upon the borrower's "adjudication as a bankrupt," an earlier step in bankruptcy proceedings. This is in keeping with existing practices and is considered a more workable procedure. This allows the Commissioner to establish an early and continuing position in the bankruptcy proceedings in order to protect the interests of the United States. It also avoids imposing undue burdens on the lender while legal and administrative questions are being worked out if adjudication occurs during the moratorium on bankruptcy discharge (five years from the beginning of the repayment period) applicable to each loan under section 439A of the Higher Education Act, as amended. For record keeping purposes only, if discharge does not take place (or if only a portion of the loan obligation is discharged), the Commissioner will consider the original payment of the claim (or a portion thereof, as applicable) as a default rather than as a bankruptcy payment. As with death and disability claims, guarantee agencies will act on behalf of the Commissioner in paying bankruptcy claims to lenders under their programs. Section 177.25(b)(6) addresses those cases in which a guarantee agency has paid a bankruptcy claim upon adjudication, but it appears that the loan is not likely to be discharged in bankruptcy.

6. Section 177.27, *Administrative cost allowance to participating schools,* is a new section. As provided by the Education Amendments of 1976, a participating school is eligible to be paid by the Commissioner an annual payment equivalent to ten dollars per student enrolled at that institution who receives a loan under the GSLP. The amount of a school's allowance is contingent upon the amount of funds appropriated by Congress. The school must use the payment first to provide student consumer information services in accordance with Part 178, and second for other costs of administering Federal student financial aid programs under Title IV of the Higher Education Act.

Subpart D—Guarantee Agency Programs

1. The clause in § 177.32(c) (as published in the November 5, 1976, proposed rule) setting forth the Commissioner's authority to withhold payments to lenders whose loans are insured by a guarantee agency whenever the agency is found to be in violation of a statute, regulation, or agreement has been deleted. The Office of Education agrees with commenters that this provision would have exposed guarantee agency lenders to undue liability.

2. Section 177.33, *Payment of Federal interest benefits,* has been extensively revised as follows to reflect changes contained in the Education Amendments of 1976.

a. Section 177.33(a)(i) limits loan insurance per academic year to $2,500 to any student who has not completed a program of undergraduate education, and to $5,000 to any graduate or professional student (as defined in § 177.11). Section 177.33(a)(1)(ii) increases the allowable aggregate insured loan limit for graduate and professional students from $10,000 to $15,000. These new loan limits also apply to the Federal Insured Student Loan Program, as provided in § 177.54(c).

b. Section 177.33(a)(1)(iii) restricts to $2,500 or 50 percent of the estimated cost of the student's attendance, whichever is less, the amount of loans to a student for his or her first year of postsecondary education which are made by a lending agency of a State, by a private nonprofit lending agency designated by a State, or which are made or originated by an educational institution. The new requirement also applies to the Federal Insured Student Loan Program, as provided in § 177.54(a).

c. Section 177.33(a)(1)(iv) requires that any loan of more than $1,500 which is made or originated by an eligible school to a student for his or her first year of postsecondary education must be disbursed in two or more installments and must meet several other requirements. These provisions also apply to the Federal Insured Student Loan Program, and are contained in § 177.54(a)(3).

d. Section 177.33(a)(1)(vii) has been revised to allow flexibility in the determination of a borrower's repayment schedule. If the borrower requests that his or her repayment schedule be of shorter duration or begin earlier than otherwise required, the lender may agree to the request. A lender may not compel borrower agreement to such a schedule. If a borrower arranges with the lender a repayment period of less than five years, the borrower, at any time during the repayment period, may have the total repayment period extended to at least five years.

e. Section 177.33(a)(1)(xiii) has been revised to provide two exceptions to the $360 minimum annual repayment requirement. If the borrower and lender agree, repayment may be at a rate of less than $360 per year. In the case of a husband and wife both having guaranteed student loans outstanding, it is required only that the total combined payments of the couple amount to $360 per year. However, in no case may these provisions result in an extension of the maximum 10 and 15 year periods described in § 177.33(a)(1) (vi) and (vii). Similar provisions are also found in § 177.58 applying to the Federal Insured Student Loan Program.

3. Section 177.33(a)(1)(xvii) has been redrafted to accommodate statutory changes providing two additional authorized periods of deferment: (1) During a period when the borrower is pursuing a course of study under a graduate fellowship program approved by the Commissioner and (2) during a single period of no longer than 12 months, at the request of the borrower, during which the borrower is seeking but unable to find full-timed employment. Detailed requirements for each of these deferments applying to both the Federal Insured Student Loan Program and guarantee agency programs are elaborated in § 177.58(g) of the regulation.

4. Section 177.33(a)(1)(xix) reflects the new statutory requirement that a student borrower keep the lender informed of any change in his or her address. The requirement applies also to the Federal Insured Student Loan Program, as provided in § 177.53(a)(7).

5. Section 177.33(a)(1)(xx) sets forth general Office of Education policy regarding guarantee agency establishment and dissemination of standards and procedures. Among other things, a guarantee agency must establish standards of timely filing of claims and of "due diligence" in the making and collection of loans. Both must be comparable to those of the Federal Insured Student Loan Program. All of a guarantee agency's standards and procedures are subject to approval by the Commissioner.

6. Section 177.33(a)(1)(xxi) is a new provision reflecting the statutory requirement that funds borrowed by a student must be disbursed by check payable to the order of the student and requiring the student's personal endorsement. The proposed regulation requires that each check carry the legend "GSLP—Payee Endorsement Required," which may be affixed by the lender by stamp or other means. Under the Uniform Commercial Code, which is in force in most states, a check legend of this kind is the only means of ensuring that the student will personally endorse each loan check, as Congress intends. The legend also serves to identify the check as a GSLP loan disbursement, a need expressed by several commenters. A similar requirement appears in § 177.57

with respect to loans made under the Federal Insured Student Loan Program.

7. Section 177.33(a)(1)(xxiii) reflects the new statutory requirement that the school which certified the borrower's enrollment be notified as to the guarantee agency's insurance of the borrower's loan, the amount of the loan, and the name of the lender which made the loan. This notification may be accomplished in one of the following ways: (1) Transmittal of the specified information by either the lender or the guarantee agency itself to the school within 30 days of the initial disbursement of loan proceeds, or (2) lender transmittal of all checks for the proceeds of the borrower's loan to the school for delivery to the borrower. For loans insured under the Federal Insured Student Loan Program, this statutory provision is reflected in § 177.57(c)(2) which requires that all lenders under Subpart F which are not schools must disburse loan checks through the borrower's school. The responsibilities of schools in delivering loan checks to students are set forth in § 177.79.

8. The "need test" of § 177.34 for receipt of advances for guarantee agency reserve funds under that section has been modified. It is proposed that the requirement that an agency's reserve fund be 75 percent encumbered by loan insurance before advances may be made will not apply to an initial advance of up to $50,000 to an agency which became active on or after October 1, 1976.

9. Section 177.35, *Payment of additional Federal advances for meeting guarantee agency insurance obligations*, reflects a new provision of the law whereby the Commissioner is authorized to make payments of additional Federal advances to guarantee agencies for the limited purpose of meeting insurance obligations. These payments are limited to State guarantee agencies unless a particular State does not have a State student loan insurance program of its own in a particular year, in which case the Commissioner may make advances to one or more private nonprofit guarantee agencies in that State. Section 177.35(d) describes the formula for determining the amount the Commissioner shall advance to each qualifying guarantee agency shall be equal to 10 percent of the original principal amount of loans made by lenders which were insured by an agency and which entered repayment during the fiscal year immediately preceeding the fiscal year in which the advance is to be made, reduced by (1) the amount of any earlier advance(s) made under § 177.35 and (2) the amount of the unspent balance of the advances made under § 177.34 (a figure derived using a prescribed formula). Furthermore, if fully funded by Congress, the minimum amount of any advance to an "old" guarantee agency (as described in § 177.35(c)(1)) shall be $50,000 for its first year of entitlement, and to a "new" agency (as described in § 177.35(c)(2)) shall be $50,000 for each year of its entitlement. "New" agencies will receive advances for five consecutive years, while "old" agencies are entitled to advances for three consecutive years. The Commissioner may make advances under § 177.35 only if the guarantee agency agrees: (1) To maintain a separate fund or account for all advances made by the Commissioner under that section, (2) to use earnings made on any investments of these advances only for making payments under the agency's insurance obligations, and (3) to repay the Commissioner when the sum of advances under this section exceeds 20 percent of the agency's outstanding insurance obligation.

10. Section 177.36(a)has been modified to clarify the fact that the agency will be reimbursed for 80 percent of its "losses" rather than 80 percent of the amount it has "expended" in discharging its insurance obligations. This distinction is important because "losses" takes into account payments which may have been made by a borrower to the agency after the payment of its insurance obligation. Section 177.36(a) has also been revised to reflect the statutory changes authorizing the Commissioner to reimburse the guarantee agency for losses on both principal and accrued interest.

11. Section 177.36(c)(5) provides that payments made by the borrower to a guarantee agency after payment of a reinsurance claim may be first applied to reduction of either principal or interest owing on the loan and then against other charges. This provision also appears in §177.37 with respect to supplemental reinsurance.

12. Sections 177.36(c)(5) and (d) reflect the new statutory provisions providing that guarantee agencies, in determining the "equitable share" amounts to be remitted to the Commissioner under both §177.36 and §177.36, may retain up to 30 percent of payments received from defaulted borrowers subsequent to the agency's discharge of its loan insurance obligations in order to cover administrative costs of loan collection and preclaims assistance. In order that the percentage retained bear a relationship to actual collection and preclaims assistance costs of the agency, the regulation prescribes a formula for determining an agency's retention percentage based on the average of such costs during the preceding fiscal year or 12-month period. An agency must spend amounts retained under this provision only for costs of collection and preclaim assistance. Funds retained but not expended for these purposes may be recalled by the Commissioner or used to offset payments due the agency from the Commissioner.

13. Section 177.37, *Supplemental Federal reinsurance*, embodies new statutory provisions included in the Education Amendments of 1976. There are several features of this new reinsurance option which are different from those of basic reinsurance (under §177.36). As set forth under §177.37(a), the Commissioner may enter into a supplemental reinsurance agreement with any guarantee agency having a basic reinsurance agreement. Under the supplemental Federal reinsurance agreement, the Commissioner will reimburse the agency in an amount equal to 100 percent of the amount of losses incurred by it in discharge of its insurance obligations. This amount reimbursed will be reduced to 90 percent of losses when claims paid to the guarantee agency in any fiscal year exceed 5 percent of the loan amount determined to be "in repayment" at the end of the preceding fiscal year, and reduced to 80 percent of losses when the amount paid for those claims exceeds 9 percent of that figure. Guarantee agencies which begin their programs or recommence program activity after October 1, 1976, are entitled to supplemental reinsurance at the rate of 100 percent of losses for five years regardless of their default experience. Since the Commissioner cannot calculate the appropriate reinsurance rate for an agency under this provision without knowing the amount of loan principal that was "in repayment" at the end of the last fiscal year, supplemental Federal reinsurance claims cannot be honored during a fiscal year until the guarantee agency has submitted a report of that amount calculated in accordance with §177.37(c). The Commissioner's entrance into a supplemental reinsurance agreement with an agency is contingent upon the agency meeting certain requirements. These requirements include: (1) Insuring loans of up to $2,500 for undergraduates and $5,000 for graduate and professional students, (2) insuring not less than 100 percent of the unpaid principal of the loan balance, (3) providing no restrictions on the insurance of loans to State residents who are attending schools outside the State, (4) providing no more onerous restrictions on school eligibility than those imposed under the Federal Insured Student Loan Program unless a school's eligibility has been limited, suspended, or terminated by either the Office of Education or the guarantee agency, or unless there is a State constitutional prohibition affecting the eligibility of the school, (5) approving school lenders under reasonable criteria (subject to approval of the Commissioner), and (6) making an annual report to the

Commissioner on criteria, procedures, and actions with respect to school lenders.

14. Section 177.38, *Adminstrative cost allowance for guarantee agencies,* reflects the new statutory provision authorizing the Commissioner to make payments of one-half of 1 percent of an agency's new insured loan principal to those agencies meeting prescribed conditions to promote lender participation and to meet loan collection costs, cost of preclaims assistance, and other administrative costs. An additonal "secondary allowance" of one-half of 1 percent of new loan volume may be made to any guarantee agency which has entered into a reinsurance agreement under §177.36, meets the conditions prescribed for supplemental reinsurance, and also agrees not to restrict loan insurance with respect to students who are not residents of the State who are attending residential schools within that State. The Commissioner proposes to pay these allowances on a reimbursement basis to meet cost incurred by an agency during the period upon which the calculation of new insured loan volume is based. Section 177.38(a)(2) provides a formula for the expenditure of the primary allowance among categories of administrative costs incurred by an agency. The secondary administrative allowance must be used to reimburse the same kinds of costs, but the costs reimbursed need not bear the formula relationship prescribed for the primary allowance. If an agency's cost are not sufficient with respect to commerical lender promotion or loan collection and preclaim assistance during a particular payment period to justify the entire primary allowanace amount based on new insured loan volume, the agency's primary allowances for that period will be reduced accordingly. Also, administrative costs of loan collection and preclaim assistance reimbursed under §177.38 must be over and above those costs for which funds were retained by the agency under §177.36(d) in any administrative allowance payment period. The administrative cost allowance require annual applications setting forth certain assurances and estimates.

15. Section 177.39, *Records, reports, and inspection requirements for guarantee agency programs,* has been modified to reflect the 1976 statutory provision which requires guarantee agencies to submit to the Commissioner annual loan volume and default reports according to specific lender categories. This section also now provides that the records of agencies and lenders under their programs may be stored in microform or computer format. Similar provisions appear in §177.66 with respect to records and reports by lenders under the Federal Insured Student Loan Program.

SUBPART F—FEDERAL INSURED STUDENT LOAN PROGRAM

In addition to provisions affecting the Federal Insured Student Loan Program (FISLP) which have been mentioned earlier (in the discussion of Subpart D), the following major changes have been made in Subpart F.

1. Section 177.51, *Circumstances under which and extent to which loans may be federally insured,* has been modified to reflect several new statutory provisions. The formula prescribed in paragraph (d)(1) for determining the Commissioner's insurance liability with respect to State agency (and State designated private agency) lenders based on their default experience is very similar to the formula described earlier in connection with guarantee agency supplemental reinsurance (§ 177.37). Note, however, that the reduction in the Commissioner's insurance liability applies only to that portion of default claims causing an excess (beyond the applicable percentage of loan amounts in repayment at the end of the preceding fiscal year) which represents defaults on loans insured after the date determined according to paragraph (d)(4) of § 177.51. Note also that the potential reduction in insurance liability provided for in this section does not apply to such a State lender for the first five fiscal years of its operation as a lender under the Federal Insured Student Loan Program. Section 177.51(b)(4) provides that if a student has previously received a federally insured loan made by a lender located in a State in which a guarantee agency is operating, further federally insured loans may be made to the student by that lender only insofar as they are approved under policies of the guarantee agency. Section 177.51(e) provides that Federal loan insurance will not be denied to a school lender unless the Commissioner determines that access to loans will be otherwise reasonably available to students at that school.

2. Section 177.52, *Agreements between eligible lenders and the Commissioner,* has been modified slightly to provide greater "due process" protection to lenders and potential lenders. Paragraph (b) provides that the Commissioner will respond within 30 days to an eligible lender's request to participate in the Federal Insured Student Loan Program. The November 5, 1976 proposed provision giving the Commissioner authority to change the terms of a lender's agreement during the life of the agreement on the basis of new adverse information about the lender has been dropped from the regulation. This kind of limitation will be imposed by the Commissioner only as the result of procedures set forth in Subpart H of this Part. Among the new factors which may be considered by the Commissioner in entering into and prescribing the terms of lender agreements are the following: whether the lender makes loans to borrowers residing in distant geographical areas, and whether a school lender's default experience exceeds a prescribed rate (§ 177.52(c) (vii) and (x)). School lenders will be closely reviewed because they are not subject to Federal or State bank examination. Section 177.52(e) provides that any limitations on the lending eligibility of a school lender which makes loans to students in attendance at other schools under the same ownership may be imposed on a school-by-school basis.

3. Section 177.53(a)(5) requires that the borrower of a federally insured loan must agree to notify the lender of any change in his or her address, enrollment status, or school or enrollment.

4. Section 177.57, *Disbursement of loans,* has been modified to reflect several provisions of the Education Amendments of 1976. Both commercial lenders and school lenders must make each loan disbursement by check payable to the student. If authorized in writing by the student, however, the check may be made payable jointly to the student and to the school. As provided for guarantee agency insured loans and for the same reasons, each check must carry the legend "GSLP—Payee Endorsement Required," which may be affixed by stamp or other means. In light of these new requirements, the earlier proposed requirement has been omitted which would have required the lender to notify the borrower in writing when any part of a loan is disbursed. The check itself will be sufficient notice to the borrower of loan disbursement.

5. The earlier proposed provision of § 177.57(c)(1) authorizing the Commissioner to require all lenders to disburse loans in multiple installments has been eliminated because the statutory provision discussed earlier, providing for special treatment of interest and special allowance in the case of multiple installment loans, was specifically limited to lenders meeting certain requirements.

6. Section 177.58(g), *Deferments,* has been modified to include two additional deferment categories created by the Education Amendments of 1976.

a. A student's loan repayment obligation may be deferred for any period during which he or she is pursuing a course of study under a graduate fellowship program approved by the Commissioner. In order to qualify for this deferment a student's program must meet several requirements, including the following: the student must hold at least a baccalaureate degree conferred by an eligible institution of higher education and must have been awarded a stipend by a program approved by the Commissioner

for this purpose; the program of study must involve periodic submission or reports, or other evidence of progress toward stated educational objectives; and the program must provide the student sufficient financial support to allow for at least six months of full-time study.

b. Under the second new deferment (§ 177.58(g)(1)(v)) a borrower may receive deferment from repayment during a single period which may not exceed 12 months during which he or she is seeking but unable to find full-time employment in the United States. "Full-time employment" is defined for purposes of this provision as employment providing 30 hours of work per week which is expected to last at least three months. Borrowers are entitled to deferment under this provision whether or not they have been previously employed on a full-time basis and, if previously employed, regardless of the circumstances under which their employment was terminated. Deferment of loan repayment because of unemployment is not justified if the borrower has sought employment only in kinds of positions or at salary and responsibility levels for which he or she feels qualified by virtue of education or previous experience. To be eligible for an unemployment deferment, a borrower must certify among other things that he or she is currently seeking and unable to find full-time employment, and that he or she has registered with a public or private employment agency (if available). These certifications must include a statement describing the borrower's active good faith effort to seek full-time employment. In addition, in order to continue to be eligible to receive an unemployment deferment, a borrower just update, at least every six months, the information and certifications initially provided to the holder of the loan note. A lender is obligated under § 177.58(g)(3)(iv) to approve or disapprove a borrower's request for an unemployment deferment within one month of such a request from a borrower. Paragraph (iii) of § 177.58(g)(3) stipulates the conditions under which the unemployment deferment may begin and end.

After this regulation becomes effective, no standards or requirements may be used in connection with these deferments other than those set forth in the regulation.

7. Section 177.59, *Due diligence,* has been modified in several respects. While the general concept and requirement of "due diligence" in the collection of loans has always appeared in the authorizing legislation and in the GSLP regulation, specific regulatory requirements were elaborated for the first time by the November 5, 1976 proposed rule. Public comments on this section were numerous, and some of the amendments now being proposed are based on those comments. At this time, the Commissioner expecially encourages additional public comment on this section of the proposed rule.

a. In response to public comment, the earlier requirement of § 177.59(a) has been deleted which would have required that a lender may not accept transfer or assignment of a loan without first determining that "due diligence" has been exercised by the previous holder. A related change has been made in § 177.61.

b. The requirement has been withdrawn from § 177.59(b)(2) that a loan may not be made unless the borrower is attending school within the "normal trade area" of the lender, or the borrower or one of his or her parents has a prior business relationship with the lender, or resides within the lender's "normal trade area". The Commissioner agrees with commenters that the term "normal trade area" is unacceptably vague, and that this requirement may have had the effect of unnecessarily curtailing loan accessibility and lender participation.

c. The "borrower interview" requirement under § 177.59(b)(3) has been changed in several ways. Limitations on the number of student borrowers who may be jointly interviewed have been eliminated. The circumstances under which a "hardship waiver" may be granted have been liberalized, and the granting of this waiver has been left to the discretion of the lender. Record-keeping requirements of this section have also been liberalized.

d. The earlier proposed requirement under § 177.59(c)(4) that a lender must make contact with the borrower at least once a year before the commencement of the repayment period has been dropped. The desired results of this potentially burdensome requirements on lenders are accomplished through requirements of the 1976 legislation that the borrower must keep the lender informed of his or her correct address (§ 177.53(a)(5)) and that the school must notify the lender or guarantor whenever a student borrower withdraws from at least half-time enrollment status (§ 177.77). In withdrawing this proposed requirement, the Commissioner notes that maintaining regular contacts with the borrower prior to the repayment period is a prudent business practice which continues to be strongly encouraged.

e. The requirements of "due diligence" is the collection of loans under § 177.59.(d) have been made less rigorous. The earlier proposed requirement that the lender must attempt to contact the borrower at no greater than 10-day intervals has been deleted. Instead, it is proposed that the lender be required to attempt contacting the borrower first within 10 working days of the date payment was due, and then at least three more times at regular appropriate intervals during the ensuing four months.

8. Section 177.60, *Forbearance,* contains several minor changes. As discussed earlier, in order to encourage the use of forbearance by lenders and to curtail defaults, it is proposed that forborne interest payments may be added to the principal balance obligation of the borrower, and that the special allowance may be based on that adjusted principal. This "capitalization" of forborne interest may take place only on the date repayment is expected to resume following the forbearance period. This section has been amended to clarify the fact that there are two types of authorized forbearance: (a) Forbearance for the benefit of the borrower which may be of any duration as long as its use would not violate the statutory repayment period limits and which does not require prior approval by the Commissioner, and (b) forbearance under the terms of an agreement between the lender and the Commissioner which is for prescribed periods and which is not subject to the statutory repayment limits.

9. Section 177.61, *Transfers of insured loans,* has been extensively revised. Certification requirements of the transferor regarding the absence of certain statutory and regulatory violations are no longer included in the proposed rule. The Commissioner agrees with commenters who felt that these certifications on forms prescribed by the Office of Education would have constituted excessive and unnecessary "red tape". Instead, the transferee must simply accept responsibility for all defects which may exist. Normal business prudence is encouraged in all loan transfer situations. The transferee is encouraged to carefully examine the loan document and to make inquiries regarding the loan's history. The transferee may require assurances from the transferor regarding the absence of defects.

10. Section 177.64, *Procedures for filing and payment of claims,* has been amended to clarify and emphasize the documentation necessary for payment of claims, and to clarify the timely filing requirements. Note that the time limit for filing claims has been increased from 60 to 90 days. At the same time, an earlier proposed section setting forth circumstances under which the time limit may be waived (§ 177.64(d) of the November 5, 1976 proposed rule) has been deleted.

11. Lenders under both the Federal Insured Student Loan Program and guarantee agency programs should be aware of the following facts regarding Wage Earner Plans established under Chapter 13 of the Bankruptcy Act.

The involvment of a borrower in such a plan does not constitute a bankruptcy for purposes of the filing or payment of bankruptcy claims under any section of the regulation. The lender may choose either to participate or not to participate as a creditor in such a plan. Lender participation in a Chapter 13 Wage Earner Plan is a form of forbearance for the benefit of the borrower, and is subject to the provisions of § 177.60 for a FISLP loan, or comparable policies of a guarantee agency for loans insured under guarantee agency programs. If a lender chooses not to grant forbearance in the case of a Chapter 13 Wage Earner Plan entered into a borrower, the lender may file a default claim, and assign its rights to the loan to the Commissioner or the guarantee agency, as appropriate.

12. Section 177.65, *Determination of amount of loss on default claims,* deletes much of paragraph (d), as earlier proposed, regarding the effects of various specific violations of the regulation on the disposition of default claims. The Commissioner agrees with commenters who felt that the earlier proposal's non-exhaustive list of "curable" and "noncurable," "excusable" and "non-excusable" violations served to confuse and intimidate lenders. Notice is simply given that claims may not be honored by the Commissioner if regulatory violations exist. In some cases, the violation may be excused, and the claim paid. In others, the payment of a claim may be conditioned upon correction of the violation.

SUBPART G—REQUIREMENTS AND STANDARDS FOR PARTICIPATING EDUCATIONAL INSTITUTIONS

This subpart contains five completely new sections, four of which are due to the Education Amendments of 1976. It also contains several amended sections now appearing in subpart F of the currently effective program regulation (proposed §§ 177.71, 177.73, 177.74, and 177.75). Two sections of currently effective subpart F, relating to standards for refunds to students and "additional standards" of school eligibility (§ 177.63 and § 177.66 of the existing program regulation), have not been included in this proposed rule because these provisions are being incorporated into part 168, which will apply to all student financial assistance programs under title IV of the Higher Education Act.

1. Section 177.71, *Agreements between eligible schools and the Commissioner* (existing § 177.61) has been amended to provide "due process" for schools requesting program participation agreements. Also, the requirement that school participation agreements be renewed every 2 years has been deleted. The agreements will be considered open-ended and will not be terminated or amended except as the result of procedures set forth in subpart H of part 168.

2. Section 177.72, *Agreements between the Commissioner and eligibile schools which make or originate loans,* is based on section 433 of the Higher Education Act, as amended, which requires agreements between the Commissioner and all schools which make or originate loans under the Guaranteed Student Loan Program. In connection with this section the reader should refer to the definition of loan "origination" in § 177.11. There are four basic terms of the agreement as proposed in this section. A 50 percent limitation is placed on the number of students enrolled at an institution to whom a school may make or originate guaranteed student loans at any one time. This provision may be waived by the Commissioner if potential hardship conditions described in § 177.72(f) are found to exist. Before a school may make or originate a loan for the first time to a student who is not a graduate or professional student, the school must be provided with either a written loan denial from a commercial lender or the student's sworn statement of such a denial. Any loan made or originated by the school for a student's first year of postsecondary education may not be in excess of $2,500 or one-half of the estimated cost of attendance, whichever is less. Finally, the school may not make or originate a loan in excess of $1,500 to such a student unless the loan is disbursed in multiple installments as described in § 177.21(b)(4)(ii). The first two terms of this agreement (§ 177.72(a) (1) and (2)) follow directly from section 433 of the Higher Education Act, while the latter two (§ 177.72(a) (3) and (4)) incorporate other new requirements of the law.

3. Under § 177.73, *Records, reports, and inspection requirements for participating schools,* schools will be required to keep records with respect to each loan application and each disbursement including, among other things, the name of the lender and the amount of the loan, the period for which the loan is intended, and, if applicable, the date the school receives the loan check, and the date it disburses it to the student. New school record-keeping and reporting requirements are also established relating to the enforcement of § 177.72 (a) and (b) and § 177.76. Additionally, this section requires each participating school to have an audit of matters relating to its participation in the Guaranteed Student Loan Program perform annually or biennially, as is currently required in the campus-based programs.

4. Section 177.74, *Student information,* is a slightly amended version of currently existing § 177.64. The requirements of this section should be distinguished from those of part 178 which reflect new "consumer information" provisions of the Higher Education Act. This section is similar to part 178 in requiring that general information about courses, faculty, and facilities be made available to prospective students. The unique aspect of § 177.74 is its requirements for the provision of placement and average starting salary data by all schools providing vocational or career preparatory programs. These requirements were promulgated several years ago in order to meet specific needs in the administration of the Guaranteed Student Loan Program relating to these kinds of programs. Unlike the requirements of part 178, the provisions of this section apply to all participating schools, whether or not they are in receipt of an administrative allowance under title IV of the Higher Education Act. Until funds are made available for payment of the newly authorized administrative allowance based on guaranteed student loan recipients (§ 177.27), only the student information requirements of § 177.74 will apply to schools participating in the Guaranteed Student Loan Program which do not participate in the campus-based student assistance programs. After the new allowance is funded, both the student information requirements of part 178 and those of § 177.74 will apply to all schools participating in the Guaranteed Student Loan Program which receive these funds.

5. Section 177.76, *Lending eligibility standard for participating schools,* implements section 435(g) (3) and (4) of the Higher Education Act, as amended. Under this section, a school lender's lending agreement with the Commissioner (§ 177.177.52) or with a guarantee agency is terminated for at least 1 fiscal year after the Commissioner determines that for two consecutive 12-month periods, the amount of loans on which student borrowers were in default was 15 percent or more of the total original amont loaned to students by the school on which payments were due during each period. If the default experience of a school lender remains at this level, or if other violations exist, the 1 year termination may be extended.

In the case of commonly owned schools whose students borrow from one of the schools, the Commissioner is authorized by § 177.76(b) to apply this default standard and its resulting sanction on new loans either to the chain as a whole or to each school individually. Any termination under this section must follow unique "due process" procedures provided in § 177.76(d). Also, provisions of this section may be waived if the Commissioner rules that their enforcement would work a substantial hardship on either the school or its students under the terms of § 177.76(c).

6. Section 177.77, *Notification to lender of change in student enrollment status,* reflects an important new requirement of the law. Schools must establish policies and procedures whereby whenever a student borrower graduates, formally withdraws, or fails to register on at least a half-time basis when expected, the school will within 60 days notify the lender and report the student's latest known address. In order to comply with this requirement, a school should keep close scrutiny of the enrollment status of student borrowers, and it should maintain a record of the name and address of each lender.

7. Section 177.78, *Certifications by a participating school in connection with a student loan application,* is a new section which sets forth in one place all of the certifications which must be made by a school either on the student loan application form or on associated forms. The section includes certain school certifications required under new provisions of the Higher Education Act. It also requires schools to make a number of statements relating to student eligibility which have been merely alluded to in various sections of the existing regulation and the earlier proposed regulation. A participating school may not refuse to make any of the determinations relating to the statements or certifications described in § 177.78 when requested to do so by a student at that school. Note that the school's determination of need and recommendation of loan amount pertain only to situations in which the student's adjusted family income is $25,000 or more and he or she is applying for Federal interest benefits.

8. Section 177.79, *Loan disbursement responsibilities of a participating school,* sets forth the basic responsibilities of schools in the handling of student loan checks. This section implements both statutory provisions and program policies. The Higher Education Act, as amended, requires that the school which certified a borrower's enrollment must be notified of the disbursement of the loan. The law provides that this notification may be accomplished either by letter from the lender or insurer, or else by having the loan disbursement check sent to the school which must then deliver it to the student. For loans insured under the Federal Insured Student Loan Program, the Commissioner has decided that all disbursement checks will be sent to the school for delivery to the student. (This requirement appeared in the November 5, 1976, proposed rule). Guarantee agencies may similarly require that all insured loan checks be sent to the school. Thus, a participating school may receive guarantee agency insured as well as federally insured loan checks for delivery to its students.

A participating school may not refuse to accept or to deliver a loan check insured under this part. Note that under §177.79(a) if the student fails to matriculate within a reasonable period (as judged by the school), the school must return the check within 30 days of the expiration of that reasonable period.

Under the Federal Insured Student Loan Program, checks are permitted to be payable jointly to the student and the school, provided that the student has given his or her written approval. Such student approved jointly payable checks may also be permitted under guarantee agency programs. Participating schools should therefore note especially the requirements of §177.79(b) regarding the handling of co-payee checks.

As a result of the Education Amendments of 1976, participating schools are being asked to play a major role in the disbursement of guaranteed student loans. Their cooperation and diligence in this area are especially encouraged by the Commissioner.

Subpart H—Procedures for the Limitation, Suspension, or Termination of the Eligibility of Lenders Under the Federal Insured Student Loan Program

Subpart G of the currently effective regulation sets forth "due process" procedures to be followed in limiting, suspending, or terminating the program participation of either a school or a federally insured lender. The Education Amendments of 1976 required that the Commissioner issue regulations establishing general procedures which would apply to the participation of educational institutions in all Title IV student financial assistance programs. These were published as subpart H, part 168, of title 45 of the Code of Federal Regulations on December 23, 1977 (Vol. 42, p. 64566). Thus, the "due process" requirements with respect to school participation have been dropped from the Guaranteed Student Loan Program regulation. Subpart H of this proposed rule applies only to the limitation, suspension, or termination of lender participation in the Federal Insured Student Loan Program. Individual guarantee agencies should establish and disseminate their own standards and procedures relating to the limitation, suspension, or termination of lender participation.

The most significant changes from current subpart G to proposed subpart H of this part are as follows. (1) The maximum duration of an emergency action withholding further commitments of insurance to a lender was extended from 7 days to 30 days. Experience has shown that the shorter period is often not sufficient either to assure that a lender is informed of the emergency action or to permit the lender and the Office of Education an opportunity to arrive at a voluntary agreement regarding corrective action. (2) With respect to a suspension hearing, current subpart G provides for an informal hearing. Proposed subpart H provides for a formal hearing before a presiding officer, and the Commissioner or a designee will review the initial decision of the presiding officer before issuing a final decision. (3) The consequences of a limitation, suspension, or termination are more specifically described. (4) A lender whose eligibility is terminated may not request a reinstatement of its eligibility as a lender for a period of 18 months after the effective date of the termination, and a lender whose eligibility is limited may not apply for removal of the limitation for a period of 12 months after the effective date of the limitation. The Commissioner is allowed 60 days to respond to either type of request.

Wherever appropriate, the procedures prescribed in this subpart are comparable to those prescribed for participating schools in subpart H, part 168. However, there are a few significant differences: (1) In part 168, the effective date of an emergency action is the date on which the Office of Education's notice is received by the participating school; in this subpart, the effective date of an emergency action is the date on which the Office of Education mails the notice to the lender. The reason for the difference is that the Office of Education does not consider it appropriate to continue to issue insurance commitments to a lender, pending the lender's receipt of the notice. (2) Similarly, in part 168, a suspension notice issued after a hearing is effective either when received by a participating school or on the original proposed effective date stated in the notice of intent, whichever is later, while a suspension notice mailed to a lender after a hearing under this subpart is effective either on the date mailed or on the original proposed effective date stated in the notice of intent, whichever is later. (3) A participating school whose eligibility is terminated under part 168 and which is also a school lender is prohibited, from the effective date of the termination, from making further disbursements on Guranteed Student Loans for which an insurance commitment has already been received. However, the Commissioner may determine whether to allow a lender whose lending eligibility is terminated under this Subpart to make further disbursements on loans for which an insurance commitment was received prior to the effective date of the termination.

Inflationary Impact

Note.—The Office of Education has determined that this document does not contain

a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.460, Guaranteed Student Loan Program.)

Dated: March 3, 1978.

ERNEST L. BOYER,
Commissioner of Education.

Approved: March 23, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Accordingly, 45 CFR Part 177 is proposed to be amended as set forth below.

PART 177—GUARANTEED STUDENT LOAN PROGRAM

Subpart A—Purpose and Scope

Sec.
177.1 Program purpose and statutory authority.
177.2 Guarantee agency programs.
177.3 Reserved.
177.4 Federal Insured Student Loan Program (FISLP).
177.5 Applicability of Subparts in Part 177.

Subpart B—General Provisions

177.11 Definitions.
177.12 Student eligibility.
177.13 Permissible charges to students.
177.14 Prohibited transactions.
177.15 Affidavit.
177.16 Forms.
177.17 Refunds.

Subpart C—Federal Payments

177.21 Interest benefits to lenders on behalf of eligible students.
177.22 Adjusted family income.
177.23 Special allowance payments to lenders.
177.24 Penalty interest payments to lenders.
177.25 Death, disability, and bankruptcy payments to lenders and guarantee agencies.
177.26 Administrative cost allowance to lenders.
177.27 Administrative cost allowance to participating schools.

Subpart D—Guarantee Agency Programs

177.31 Scope.
177.32 Agreements between guarantee agencies and the Commissioner.
177.33 Payment of Federal interest benefits.
177.34 Payment of Federal advances for reserve funds.
177.35 Payment of additional Federal advances for meeting guarantee agency insurance obligations.
177.36 Federal reinsurance.
177.37 Supplemental Federal reinsurance.
177.38 Administrative cost allowance for guarantee agencies.
177.39 Records, reports, and inspection requirements for guarantee agency programs.

Subpart E—Reserved

Subpart F—Federal insured Student Loan Program

Sec.
177.51 Circumstances under which and extent to which loans may be federally insured.
177.52 Agreements between eligible lenders and the Commissioner
177.53 Conditions for insurability of individual loans.
177.54 Limitations on maximum loan amounts.
177.55 Issuance of Federal loan insurance.
177.56 Insurance premiums.
177.57 Disbursement of loans.
177.58 Repayment of loans.
177.59 Due diligence.
177.60 Forbearance.
177.61 Transfers of insured loans.
177.62 Death, disability, and bankruptcy.
177.63 Cessation of lender collection activity in certain cases.
177.64 Procedures for filing and payment of claims.
177.65 Determination of amount of loss on claims.
177.66 Records, reports, and inspection requirements for the Federal Insured Student Loan Program.
177.67 Collection efforts by the Commissioner after payment of claims.

Subpart G—Requirements and Standards for Participating Educational Institutions

177.71 Agreements between eligible schools and the Commissioner.
177.72 Agreements between the Commissioner and eligible schools which make or originate loans.
177.73 Records, reports, and inspection requirements for participating schools.
177.74 Student information.
177.75 Admissions criteria for a vocational, trade, or career program.
177.76 Lending eligibility standard for participating schools.
177.77 Notification to lender of change in student enrollment status.
177.78 Certifications by a participating school in connection with a student loan application.
177.79 Loan disbursement responsibilities of a participating school

Subpart H—Procedures for the Limitation, Suspension, or Termination of the Eligibility of Lenders Under the Federal Insured Student Loan Program

177.81 Purpose and scope.
177.82 Definitions.
177.83 Effect on prior participation.
177.84 Informal compliance procedure.
177.85 Emergency action.
177.86 Suspension proceedings.
177.87 Limitation or termination proceeding.
177.88 Initial and final decisions.
177.89 Verification of mailing dates.
177.90 Effect of a suspension or termination proceeding.
177.91 Limitation.
177.92 Reimbursements, refunds, and offsets.
177.93 Reinstatement after termination.
177.94 Removal of limitation.

AUTHORITY: Secs. 421-440 of the Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1071-1087-4), unless otherwise noted.

Subpart A—Purpose and Scope

§ 177.1 Program purpose and statutory authority.

(a) The purpose of the Guaranteed Student Loan Program (GSLP) is to make low interest loans available to students for postsecondary educational expenses. The program provides benefits under loan guarantee programs of State and private nonprofit agencies and, in limited circumstances, under a program of Federal loan insurance. Information about the program that is written for students is available upon request from the U.S. Office of Education.

(b) The basic statutory authority for the program is title IV, part B of the Higher Education Act of 1965 (20 U.S.C. 1071 to 1087-4). Other applicable legislation includes the General Education Provisions Act (20 U.S.C. 1221-33h), and parts of title IV, part F of the Higher Education Act of 1965 (20 U.S.C. 1088-89).

(20 U.S.C. 1071 to 1087-4.)

§ 177.2 Guarantee agency programs.

(a) The Commissioner encourages States and nonprofit private agencies to establish adequate loan insurance programs for students in eligible educational institutions. (Subpart D of this part). To meet this objective, Federal advances have been made or are available to the agencies for the purpose of helping to establish or strengthen the reserve funds used by the agencies as a basis for guaranteeing loans made by participating lenders (§ 177.34). Additional Federal advances are available to guarantee agencies for the purpose of making payments under the insurance obligations of the agencies (§ 177.35).

(b) Under a basic reinsurance agreement, the Commissioner may reinsure loans made under a guarantee agency program to the extent of 80 percent of the amount of losses incurred by the agency in discharge of its insurance obligation on the unpaid balance of the principal and interest on covered loans (§ 177.36). Under a supplemental reinsurance agreement (available to agencies which have entered into the basic agreement and which meet additional requirements), the Commissioner may reinsure, depending on the default experience of the agency, up to 100 percent of those losses (§ 177.37).

(c) Loans made under guarantee agency programs may qualify the holder of the loans for payment of Federal interest benefits (§ 177.21) and special allowances (§ 177.23). The Commissioner will pay the lender the unpaid balance of a loan on which a borrower is adjudicated a bankrupt. The Commissioner will also pay a borrower's obligation on a loan in the event of the borrower's death or total and permanent disability.

(d) In order to qualify for the benefits set forth in this section, guarantee agency programs must meet certain Federal requirements, as set forth in the law and this part (particularly subpart D of this Part). However, within these limitations, guarantee agency programs may vary considerably, and there are numerous differences among agencies on such matters as the percentage of a loan guaranteed, annual and aggregate loan maximums for individual students, student eligibility, and lender and school eligibility.

(20 U.S.C. 1071, 1072, 1078, 1078-1, 1082, 1087, 1087-1.)

§ 177.3 [Reserved]

§ 177.4 Federal Insured Student Loan Program (FISLP)

(a) The Commissioner provides a program of Federal student loan insurance (FISLP) for certain circumstances in which students or lenders do not have reasonable access to a guarantee agency program. (Subpart F of this part). The specific conditions under which this program operates are set forth in § 177.51. In general, however, in a State where there is no guarantee agency program, the FISLP is available to all eligible lenders in that State for loans to all eligible students that those lenders are willing to assist, regardless of the residence of the students. In a State where there is a guarantee agency program, the FISLP is, in general, available to lenders in the State only for loans to students attending schools not having access to the guarantee agency program or to students who, on account of their residence, do not have access to the guarantee agency program. The FISLP is also available, as set forth in § 177.51, for all of the loans made by a lender who satisfies the Commissioner that, by reason of the residence of its intended borrowers, it will not have access to any single guarantee agency program which will insure substantially all of the loans it intends to make.

(b) Loans made under the FISLP may qualify the holder of the loans for payment of Federal interest benefits (§ 177.21) and special allowances (§ 177.23). The Commissioner will also pay a borrower's obligation on a loan in the event of a borrower's death or total and permanent disability. The Commissioner will pay the lender the unpaid balance of a loan on which a borrower has been adjudicated a bankrupt.

(c) In order to qualify for Federal insurance and the benefits described in paragraph (b) of this section, lenders must meet certain Federal requirements, as set forth in the law and this part (particularly subpart F of this part).

(20 U.S.C. 1071 to 1078-4.)

§ 177.5 Applicability of subparts in part 177.

Loans made under student loan insurance programs of State and private non-profit guarantee agencies are subject to the provisions of subparts A, B, C, D, and G of this part. Loans made under the Federal Insured Student Loan Progam are subject to the provisions of subparts A, B, C, F, G, and H of this part. Educational institutions whose students have received loans under any of these programs are also subject to the provisions of subpart G of this part and those of part 168. Lenders which make or hold loans under the Federal Insured Student Loan Program are also subject to the provisions of subpart H of this part.

(20 U.S.C. 1071 to 1087-4.)

Subpart B—General Provisions

§ 177.11 Definitions.

As used in this part:

"Academic year" means a period, typically 8 or 9 months, in which a full-time student would normally be expected to complete two semesters, two trimesters, three quarters, 900 clock hours of instruction, or its equivalent. Eighteen months shall be considered the equivalent of an academic year with regard to a program offered by correspondence. "Commissioner" means the United States Commissioner of Education or his or her designee.

"Default" means the failure of a student borrower to make an installment payment when due, or to comply with other terms of the note or other written agreement evidencing a loan under circumstances where the Commissioner (or the pertinent guarantee agency) finds it reasonable to conclude that the borrower no longer intends to honor his obligation to repay, where such failure persists (i.e., is not cured either by payment or other appropriate arrangements) in the case of a loan repayable in monthly installments for 120 days, or in the case of a loan repayable in less frequent installments for 180 days.

"Disbursement" of a loan means the transfer by a lender of funds to the student borrower by means of a check payable to the order and requiring the personal endorsement of the borrower.

"Eligible educational institution", "institution" or "school" means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part. In cases where the Commissioner does not determine the entire institution to be eligible, the term includes only those individual units or programs within an institution which have been determined by the Commissioner to meet all the requirements for institutional eligibility specified in this section. However, the term does not include any institution which employes or uses commissioned salemen to promote the availability of any student loan program under this part. For this purpose, "commissioned salesman" means any person who receives compensation in any form or amount which is related to, or calculated on the basis of, student applications for enrollment, student enrollments, or student acceptances for enrollment; and "promote the availability" means provide prospective or enrolled students with program information, application forms or names of eligible lenders.

"Eligible lender" or "lender" means (1) a National or State chartered bank, a mutal savings bank, a savings and loan association, or a credit union which: (i) Is subject to examination and supervision in its capacity as a lender by an agency of the United States or of the State in which its principal place of operation is established, and (ii) does not have more than one-half of its consumer credit loan dollar volume (including home mortgages) in the making or holding of loans made to students under this part unless it is a bank which is wholly owned by a State, (2) a pension fund as defined in the Employees Retirement Income Security Act, (3) an insurance company which is subject to examination and supervision by an agency of the United States or a State, (4) in any State, a single agency of the State or a single private nonprofit agency designated by the State, (5) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market, or (6) a participating educational institution which (i) is not a home study school (an eligible school which offers both home study and non-home study programs may be an eligible lender only for students enrolled in the non-home study programs), (ii) employs at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending the school, and (iii) is not terminated as a lender under the provisions of §177.76.

"Estimated cost of attendance" means, for the period for which a loan is sought, the tuition and fees applicable to a student together with the school's estimate of other expenses reasonably related to attendance at the institution, including, but not limited to, the cost of room and board, reasonable transportation and commuting costs, and costs for books and supplies.

"Estimated financial assistance" means, for the period for which a loan

is sought, the amount of assistance the student has been awarded under other federally supported financial aid programs plus other scholarship, grant, or loan assistance of which the school is aware. For purposes of this part, veterans' educational benefits, educational benefits under Social Security, and resources or financial support from the student or his or her family are not considered financial assistance.

"Full-time," with reference to a student's academic workload means that the student is carrying a sufficient number of credit hours, clock hours, or their equivalent to secure the degree or certificate toward which he or she is working in no more than the number of semesters, academic periods, or clock hours normally taken therefor at the school in which he or she is enrolled. The student's workload may include any combination of courses, work experience, research, or special studies (whether or not for credit, but not including study by correspondence) which the school considers sufficient to classify the student as a full-time student. However, in the case of a student enrolled in a vocational school, the student's workload must include not less than 25 clock hours per week or 14 semester or quarter hours of instruction, or its equivalent.

"Grace period" means that period during which loan repayment is not required and which may be from 9 to 12 months (at the discretion of the lender under subpart F, and of the guarantee agency under subpart D) following the date on which a student ceases to be at least a half-time student at an eligible educational institution, or, in the case of a correspondence student, the date specified in § 177.33(a)(1)(vii) (A), (B), or (C) or § 177.58(a) (1), (2), or (3).

"Graduate or professional student" means a student who is pursuing a program leading to a graduate or professional degree or certificate at an institution of higher education after successfully completing the equivalent of at least three years of full-time study at an institution of higher education, either prior to entrance into the program or as part of the program itself.

"Guarantee agency" means a State agency or private nonprofit institution or organization which adminsters a student loan insurance program.

"Half-time," with reference to a student's academic workload, means that the student is carrying at least one-half of the normal full-time workload as determined by the school in which he or she is enrolled, provided that any student enrolled in an eligible program of study by correspondence shall be considered a half-time student.

"Holder" means with reference to a loan covered by this part, an eligible lender or the Student Loan Marketing Association, but not a guarantee agency with respect to loans insured by it.

"Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having certificates of graduation from schools providing secondary education, or the recognized equivalent of such certificates, or who are beyond the age of compulsory school attendance in the State in which the institution is located, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of the agency or association within a reasonable time, or (ii) is a school whose credits are accepted on transfer by not less than three schools which are so accredited, for credit on the same basis as if transferred from a school so accredited. The term includes any public or other nonprofit colleagiate or associate degree school of nursing and any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5) of the preceding sentence. If the Commissioner determines that a particular category of schools does not meet the requirements of this paragraph because there is no nationally recognized accrediting agency or association qualified to accredit schools in that category, he or she shall, pending the establishment of an accrediting agency or association, appoint an advisory committee composed of persons specially qualified to evaluate training provided by schools in that category, which shall (A) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in that category to participate in the programs covered by this part, and (B) determine whether particular schools not meeting the requirements of clause (5) of this paragraph meet those standards. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he or she determines to be reliable authority as to the quality of training offered.

"Internal Revenue Code" means the Internal Revenue Code of 1954, as amended (title 26, United States Code).

"Line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"matriculate" means that a student has completed all the requisite steps in the enrollment and registration process and has commenced the attendance period. In the case of a program of study by correspondence, the student shall be deemed to have commenced attendance only by the submission of one lession, completed by him or her after acceptance for enrollment and without the assistance of sales or admissions personnel or agents of the eligible school.

"origination," with reference to determining whether a loan is "originated" by a school, refers to a special relationship between a school and a lender in which the lender delegates to the school a substantial portion of the functions and responsibilities normally performed by lenders before loans are made. If the relationship between a lender and a school meets this criterion, the school will be deemed to have originated a loan made by the lender. For the purposes of this determination, loan making functions and responsibilities include: (1) Interviewing the applicant for a loan (as described in § 177.59(b)(3)), (2) explaining the applicant's responsibilities under the loan (except as required of schools pursuant to section 493A(a)(1)(D) of the Higher Education Act of 1965, as amended), (3) obtaining completion of necessary forms (other than those required to be completed by schools under subpart F or under a guarantee agency program, or by a guarantee agency), (4) obtaining necessary documentation (e.g., additional information that a particular lender normally requires of loan applicants), (5) verifying that the student is eligible for a loan (e.g., verifying that the student is the person named on the application, is eligible for Federal interest benefits, and is eligible for the amount of the loan), (6) completing portions of the student loan application normally completed by the lender, and (7) deciding whether or not the particular student will receive a loan. A school's performance of either of the functions described in clauses (6) and (7) may be considered

by the Commissioner to constitute delegation of a substantial portion of the functions and responsibilities normally performed by lenders before loans are made.

"Participating educational institution", "participating institution" or "participating school" means a school which has entered into an agreement with the Commissioner under § 177.71.

"School lender" means any participating educational institution which has been approved as a lender and has entered into a contract of insurance under the Federal Insured Student Loan Program (see subpart F) or a guarantee agency student loan program (see subpart D).

"State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the government of the Northern Mariana Islands.

"Student" means a person who meets the conditions for loan eligibility set forth in § 177.12.

"Totally and permanently disabled" means unable to engage in any substantial gainful activity because of a medically determinable impairment, which is expected to continue for a long and indefinite period of time, or to result in death.

"Vocational school" means a business or trade school, technical institution or other technical or vocational school in any State which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have demonstrated the ability to benefit from the training offered by the school under the provisions of § 177.75; (2) as legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education which (i) is designed to provide occupational skills more advanced than those generally provided at the high school level and fit individuals for useful employment in recognized occupations, and (ii) provides no less than 300 clock hours of classroom instuction or its equivalent or, in the case of a program offered by correspondence, requires not less than an average of 12 hours of preparation per week over any 12 week period and completion in not less than 6 months; (3) has been in existence for 2 years or has been specially determined by the Commissioner to be an institution meeting the other requirements of this paragraph and to be eligible to participate in programs under this part; and (4)(i) is accredited by a nationally recognized accrediting agency or association recognized by the Commissioner for this purpose, or (ii) in the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Commissioner for this purpose, or (iii) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit institutions of the particular category encompassing that school is approved by a State approval agency recognized by the Commissioner for this purpose, or (iv) if the Commissioner determines that there is no nationally recognized accrediting agency or association of State approval agency qualified to accredit or approve institutions of the particular category encompassing that school, is approved by the Commissioner's Advisory Committee on Accreditation and Institutional Eligibility, in accordance with standards of content, scope, and quality prescribed by the committee for that purpose. A school which has been approved under this paragraph must, in order to remain an eligible school, become accredited within 3 years after the Commissioner has designated a nationally recognized accrediting or State approval agency for the particular category which encompasses that school. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State approval agencies which he or she has determined to be reliable authority as to the quality of education or training afforded.

(20 U.S.C. 1071-1087-4; 1088; 1088a; 1088f.)

§ 177.12 Student eligibility.

To be eligible to receive a loan insured under this part, a person must meet the following conditions:

(a) Her or she must (1) be a National or a permanent resident of the United States, (2) be a permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands, or (3) be in the United States for other than a temporary purpose and intend to become a permanent resident of the United States. A person attending a school outside the States must be a National of the United States.

(b) He or she must (1) have been accepted for enrollment in an eligible program at an eligible educational institution, or (2) be enrolled in such a program and be in good standing and maintaining satisfactory progress in his or her course of study, according to the standards and practices of the institution.

(c) If enrolled or accepted for enrollment in an vocational school, he or she must (1) be attending neither elementary nor secondary school and (2) have shown ability to benefit from the training offered by the school (under the requirements of § 177.75).

(d) He or she must be carrying or plan to carry, during the period for which the loan is intended, at least one-half the normal full-time workload as determined by the school.

(e) Except as provided in § 177.78(c), he or she must not owe a refund on a grant previously received under the Basic Educational Opportunity Grant Program (45 CFR part 190), the Supplemental Educational Opportunity Grant Program (45 CFR part 176), or the State Student Incentive Grant Program (45 CFR part 192) for attendance at that school.

(f) He or she must not be in default on any loan previously received under the National Direct Student Loan Program (45 CFR part 144) for attendance at that school, or on any loan previously received under this part (whether or not made for attendance at that school), unless the Commissioner (for a federally insured loan), a guarantee agency (for a loan insured by that agency), or the school (for a National Direct Student Loan made by that institution) has determined that the student has made satisfactory arrangements to repay the defaulted loan.

(20 U.S.C. 1077, 1078, 1085, 1088f.)

§ 177.13 Permissible charges to students.

(a) *Interest.* (1) (i) Except for the effects of compounding authorized under subparagraph (ii) of this paragraph and of special interest payments by the Commissioner under § 177.21(b)(4), the maximum rate of interest on the unpaid principal balance of any loan covered by this part may not exceed 6 percent interest per year with respect to loans made prior to August 3, 1968, and 7 percent interest per year on loans made thereafter, calculated from the date of disbursement of funds by the lender to the borrower, exclusive of any premium for insurance. A student borrower shall not be liable for any portion of the interest on a loan which is payable by the Commissioner.

(ii) *Compounding.* In determining the unpaid principal balance of a loan made under this part for purposes of the special allowance under § 177.23 and, when eligible, for purposes of Federal interest benefits under § 177.21, a lender may include interest which has accrued on the loan (and in the case of a loan made under subpart D of this part, unpaid insurance premiums) which has been added to the principal balance obligation of the borrower under § 177.58(h) and § 177.60 (for a loan made under subpart F), or under comparable policies of a guarantee agency (for a loan insured under subpart D). On a loan made under subpart F of the part, for purposes of the borrower's liability to a lender (and thus for purposes of determining the amount of the lender's loss on a default, death, bankruptcy, or total and permanent disability

claim under § 177.65), the lender may not charge interest on accrued interest except as authorized in § 177.58(h), and § 177.60. On a loan insured under subpart D of this part, for purposes of the borrower's liability to the lender, the lender may charge interest on accrued interest as authorized by comparable policies of the guarantee agency.

(2) In no event may a lender's method of computing interest result in an actual rate in excess of the allowable maximum rate of interest. The lender may use (i) the "Approximate Time-Ordinary Interest" method, or (ii) the "Exact Time-Exact Interest" method. Use of the "Banker's Rule" ("Exact Time-Ordinary Interest") is prohibited because this method results in an actual rate in excess of the allowable maximum rate of interest.

(b) *Insurance premiums.* (1) The maximum rate for insurance premiums which may be charged the lender and passed on to the borrower may not exceed, in the case of loans insured under State and private nonprofit loan insurance programs, the equivalent of 1 percent per year of the unpaid principal balance of the loan (excluding interest or other charges which may have been added to principal) or, in the case of federally insured loans, one-fourth percent per year of the unpaid principal balance of the loan (excluding interest or other charges which may have been added to principal). The term "insurance premium" covers only those charges made by the guarantee agency or the Commissioner to be used to underwrite loans and to cover costs incurred in the administration of the applicable loan insurance program. Premiums may not be retained by the lender to cover the costs of making a loan or for any other purpose.

(2) Insurance premiums on a federally insured loan shall be paid by the lender to the Commissioner, and may be collected by the lender from the borrower, when the loan is disbursed, in accordance with instructions issued by the Commissioner. The period to be covered by the premium shall begin on the date of disbursement of the loan. The period shall end 1 year after the date on which the borrower indicates, at the time he or she applies for the loan, he or she will be graduating from the school which he or she will be attending during the period for which the loan is sought. Premiums shall not be refundable by the Commissioner, and need not be refunded by the lender to the borrower, even if the borrower graduates or withdraws from the school, or defaults, dies, becomes totally and permanently disabled, or is adjudicated a bankrupt prior to the anticipated graduation date.

(3) If a guarantee agency program permits insurance premiums to be collected by the lender from the borrower of a loan guaranteed by the program for a period extending no later than 1 year after the borrower's anticipated graduation date, as defined in paragraph (b)(2) of this section, the premiums need not be refunded by the lender to the borrower, under the circumstances specified in paragraph (b)(2) of this section, if the State or private program does not require that refunds be made. However, if the State or private nonprofit loan insurance program permits insurance premiums to be collected by the lender from the borrower, in advance, for a period extending beyond 1 year after the anticipated graduation date, insurance premiums collected from the borrower must be refunded to the borrower as follows:

(i) In the event of the borrower's graduation or withdrawal from school before his or her anticipated graduation date, the amount of any insurance premiums attributable to the repayment period shall be re-computed to take into account the declining unpaid principal balance of the loan, and any refunds due the borrower as a result of this computation shall be treated as a prepayment of insurance premiums for later periods, if any premiums will be required, or as a repayment of principal.

(ii) In the event of the borrower's default, the amount of any insurance premiums attributable to subsequent periods shall be credited first against accrued interest and then against the unpaid principal balance of the loan.

(iii) In the event of the borrower's prepayment of the entire unpaid principal balance of the loan, the amount of any insurance premiums attributable to subsequent periods of 2 years or more shall be refunded to the borrower.

(c) *Late charges.* Notes evidencing loan covered by this part may provide for the assessment of a charge for failure of the borrower to pay all or any part of an installment within 10 days after its due date or, by that time, to file satisfactory evidence of entitlement to deferment of the installment under § 177.33 or § 177.58. The amount of the charge may not exceed 5 cents for each dollar of each installment due or $5 for each installment, whichever is less.

(d) *Other charges.* The note evidencing a loan covered by this part may also provide for the payment of reasonable attorney's fees. Other reasonable costs necessary for the collection of any amount not paid when due may be charge the borrower by the holder but may not include normal costs associated with preparing letters and local telephone calls to, and making personal contacts with, delinquent borrowers. Permissible collection charges to the delinquent borrower may include reasonable amounts expended by the holder for telegrams and long distance telephone calls. However, to the extent that it exceeds permissible charges, a commercial collection agency's fee for the collection of a loan or a service agency's fees for servicing loans, including collection activities, may not be passed on to a borrower, directly or indirectly. No charges other than those authorized by this section may be assessed or passed on to the borrower, directly or indirectly.

(e) In no event may the costs of making a loan under this part (except those specifically provided for in this section) be passed on (in the form of higher tuition charges or otherwise) to the borrower.

(20 U.S.C. 1077,1078,1079,1082,1087-1.)

§ 177.14 Prohibited transactions.

No points, premiums, payments additional interest of any kind may be paid or otherwise extended to any eligible lender or other party in order to secure funds for making loans under this part or to induce a lender to make loans to the students of a particular school or to any particular category of students. Except when purchased by the Student Loan Marketing Association and in other circumstances approved by the Commissioner, notes (or any interest in notes) evidencing loans made by school (or made to students at a school by a lender having common ownership with that school) shall not be sold or otherwise transferred at discount. A school may not pledge a loan covered by this Part as security for a loan bearing aggregate interest and other charges in excess of the sum of the maximum rate of interest authorized by § 177.13(a) plus the rate of the then most recently prescribed special allowance under § 177.23. These prohibitions apply to any shcool or lender which would be a party to the proscribed transactions. This section shall not preclude a purchaser of loans made by a school from obtaining a warranty from the seller of those loans. The warranty may cover future reductions by the Commissioner, in computing the amount of insurable loss, if any, on default claims filed on the loans, where the reductions are attributable to an act or failure to act of the seller or previous holder. However, the warranty shall not cover matters for which a purchaser is charged with responsibility under this part, such as due diligence in collecting loans under subpart F of this part.

(20 U.S.C. 1082.)

§ 177.15 Affidavit.

(a) No loan or loan guarantee may be made under this part unless the student to whom it is made his filed with the lender an affidavit, on a form provided or approved by the Commissioner, stating that the money attrib-

utable to the loan or loan guarantee will be used solely for expenses related to attendance at the eligible school which the student intends to attend or is attending.

(b) The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at the school which the student intends to attend or is attending. The notary or other person must enter on the affidavit form his or her signature and, as applicable, a seal or stamp.

(c) The affidavit must be filed with the lender before the lender may apply for Federal insurance or insurance from a guarantee agency. The lender must retain a copy of the affidavit in accordance with § 177.39 or § 177.66. A copy of the affidavit or a statement that the affidavit has been filed must accompany the lender's application for Federal insurance or insurance from a guarantee agency.

(20 U.S.C. 1082, 1088g.)

§ 177.16 Forms.

The Commissioner may prescribe or approve the forms on which transactions involving loans covered by this part must be carried out. He or she may also prescribe the parties by whom the forms must be completed, the parties to whom they must be transmitted, and the times at which they must be transmitted. A school or lender, or an agent of either, may not ask or permit a borrower to sign in blank any forms used in connection with loans covered by this part, nor may a school or lender itself sign any forms in blank. Any form submitted to the Commissioner, or used in connection with loans covered by subpart F, must identify and be signed by any agent acting on behalf of a principal. Any form used in connection with a transfer of loans covered by subpart F must, in addition, identify and be signed by any third party which completes the form or otherwise facilities the transfer.

(20 U.S.C. 1082.)

§ 177.17 Refunds.

(a) *Treatment by schools.* A participating school must pay that portion of a refund (determined under part 168) that is allocable to a loan under this part directly to the original lender (or to a subsequent holder of the loan note, if the school has knowledge of its identity). The school must also provide contemporaneous written notice to the borrower that it is doing so. By applying for a loan under this part a student shall be deemed to authorize the participating school to make such a payment.

(b) *Treatment by lenders.* (1) A holder of a loan made under this part shall treat a payment received from a participating school under this section and part 168 (representing that portion of a refund from the school to a student borrower which is allocable to the loan) as a downward adjustment in the amount of the principal amount of the loan.

(2) If a lender receives a payment from a participating school which represents the portion of a refund from the school to a student borrower which is allocable to a loan made or previously held by the lender, but no longer held by that lender, the lender shall transmit the amount of that payment to the party to whom it transferred or assigned the loan, together with an explanation as to its source. The lender must provide contemporaneous written notice to the borrower of the transmission of this amount.

(20 U.S.C. 1082; 1088f-1(a)(2).)

Subpart C—Federal Payments

§ 177.21 Interest benefits to lenders on behalf of eligible students.

(a) *Student eligibility.* (1) A student is eligible for payment on his or her behalf by the Commissioner, to the holder of his or her loan, of a portion of the interest on the loan (interest benefits) as determined under paragraph (b) of this section if:

(i) The student has received a loan from an eligible lender under:

(A) A State or nonprofit private guarantee agency program meeting the requirements of subpart D, or

(B) The program of Federal loan insurance provided for in subpart F;

(ii) The student has had made on his or her behalf the statements provided for in paragraph (a)(4) of this section; and

(iii) The student's adjusted family income is:

(A) Less than $25,000; or

(B) Equal to or greater than $25,000 and the student has had made on his or her behalf a determination of need provided for in paragraphs (a) (3) or (5) of this section which includes a recommendation for a subsidized loan in the amount of such need.

(2) In order for a student whose adjusted family income is equal to or greater than $25,000 to be eligible for payment on his or her behalf by the Commissioner of interest benefits on his or her entire loan, the loan amount must not exceed the recommendation provided under paragraphs (a) (3) or (5) of this section unless the basis for the lender's making a larger subsidized loan has been put in writing and made a part of the lender's records. However, in no case may a lender which is also the participating school make a loan qualifying for interest benefits in an amount in excess of its own recommendation.

(3) (i) The determination of need and subsidized loan recommendation made by a participating school under paragraph (a)(1)(iii)(B) of this section shall be made prior to the making of a loan. The determination and recommendation shall be made by a responsible officer of the participating school which the student would be attending during the period of the loan, by subtracting from the amount determined by the school to be the estimated cost of attendance at that school for the period for which the loan is to be made, the expected family contribution with respect to the student plus the estimated financial assistance (as defined in § 177.11) that the school determines to be reasonably available to the student during that period.

(ii) For the purpose of this paragraph the "expected family contribution" shall mean the amount which a student, his or her parents, and his or her spouse may be realistically expected to contribute toward his or her postsecondary education for that academic period to be covered by the loan. The determination of the expected family contribution must be made by a participating educational institution through the use of a method, embodying uniformly applicable standards and criteria, which takes into account the income, assets and resources of the student, and, except where the conditions set forth in § 177.22(c) are met, the income, assets and resources of the student's parents and spouse. For the purpose of determining a student's expected family contribution under this paragraph, a participating institution may use any method approved for use in determining a student's expected family contribution for the National Direct Student Loan Program (45 CFR 144.13), except the method used to calculate a student's expected family contribution for the Basic Educational Opportunity Grant Program (45 CFR part 190).

(4) To have interest payments made on his or her behalf, a student shall submit to the lender a statement, in such form as the Commissioner may prescribe, which shall include:

(i) Certifications by a participating school as set forth in § 177.78;

(ii) Information necessary to determine, under § 177.22, his or her adjusted family income;

(iii) If required under paragraph (a)(1)(iii)(B), a statement from the participating school (or the Commissioner or guarantee agency under paragraph (a)(5)) containing the appropriate determination and recommendation; and

(iv) Information concerning other loans which have been made to him or her under programs covered by this part.

(5) In the case of a student enrolled at or accepted for enrollment at a participating educational institution which is not located in a State (i.e., a

foreign school), the determination of need and the recommendation of subsidized loan amount required by paragraph (4)(iv) of this section shall be made by the Commissioner (for loans insured by the Commissioner), or by the guarantee agency (for loans insured by the agency), rather than by the institution. Whenever a determination of need and recommendation of subidized loan amount is required under this paragraph, the Commissioner or the guarantee agency shall follow the procedures set forth in paragraph (3) of this section.

(6) A lender making a loan under this Part may, if acting in good faith and in the absence of information to the contrary, rely upon statements submitted by the borrower, his or her family, or a participating educational institution under paragraph (a)(4) of this section, except that a lender making a loan under the Federal Insured Student Loan Program is precluded to the extent set forth in § 177.53(b) from relying upon certain certifications by a school.

(7) Nothing in this section requires determination of need for a loan or of an expected daily contribution or of adjusted family income with respect to the making or insuring of any loan covered by this part if no application for Federal interest benefits is made.

(b) *Payment of interest benefits.* (1) After a loan is disbursed to a student eligible for interest benefits under paragraph (a) of this section, periodic reports shall be submitted to the Commissioner by the holder in such form as the Commissioner may require. On the basis of these reports, the Commissioner will make payments of interest to the holder of the loan note on behalf of the student.

(2) Payment of interest benefits on behalf of eligible students shall be limited to:

(i) The total amount of the interest on the unpaid principal amount of each loan which accrues, under § 177.13(a), prior to the beginning of the repayment period of that loan. The repayment period is considered to begin on the date that the first installment payment is due, whether or not that date is scheduled by mutual agreement of lender and borrower and whether or not repayment actually begins at that time;

(ii) The total amount of the interest which accrues, under § 177.13(a), on the unpaid principal amount during periods in which repayment of principal is deferred on account of the borrower's service to the Nation, unemployment, or participation in approved graduate or fellowship programs, attendance at educational institutions, as provided for in § 177.33(a)(1)(xvii) or § 177.58(g); and

(iii) With respect to a loan made prior to, or made under a binding commitment made prior to, December 15, 1968, an amount equivalent to 3 percent per year of the unpaid principal amount of such loan which accrues, under § 177.13(a), during the remainder of the repayment period.

(3) Except as authorized by § 177.13(a)(1)(ii), payments under paragraph (b)(2) of this section shall not include any interest on interest added to principal or exceed the interest payable by the student, after taking into consideration the amount of any interest on a loan which the student is entitled to have paid to the holder on his behalf by a party other than the Commissioner under a guarantee agency program.

(4) *Special interest payment for approved multiple installment loans.* (i) Any lender (other than an educational institution or an agency or instrumentality of a State), which is approved by the Commissioner in accordance with paragraph (4)(ii) of this section and which enters into a binding commitment with a student to make a loan, may be paid interest (as well as special allowance) on a loan that qualifies for Federal interest benefits based on the entire approved loan amount even though only a portion of it is disbursed. The interest and special allowance will begin to accrue on the date of disbursement of the first installment of the loan.

(ii) In order to be approved by the Commissioner for the purposes of this paragraph, a lender must:

(A) Submit an application on a form provided by the Commissioner including such information as he or she may require;

(B) Agree to disburse the proceeds of any such loan for which this payment is to be made in installments in accordance with the provisions of subparagraph (iii) of this paragraph over the period of enrollment for which the loan is made (not to exceed 12 months);

(C) Have made, or expect to have made within a 12 month period including the date on which the lender makes application under this section, loans guaranteed under this part which qualify for Federal interest benefits and amounting to at least 1 percent or more of its total consumer loan portfolio (excluding commercial loans and home mortgages) or $100,000, whichever is less;

(D) Have been making loans insured under this part for at least one year; and

(E) Have not had its eligibility to lend under this part limited, suspended or terminated by the Commissioner under the provisions of subpart H or by a guarantee agency during the preceding 3-year period.

(iii) Payment of Federal interest and special allowance may be made in accordance with this paragraph only in the case of a loan which is disbursed in two or more installments none of which exceeds one-half of the loan, and the interval between the first and second of which is not less than one-third of the period of enrollment for which the loan is made.

(5) The Commissioner's obligation to pay interest benefits under this section shall terminate upon default by the borrower (as defined in § 177.11). This obligation shall also terminate upon a determination of the death or total and permanent disability of the borrower, under § 177.25, and upon the borrower's adjudication as a bankrupt. However, in cases of death or total and permanent disability in which the repayment period has not commenced, the obligation shall terminate not later than 120 days following the holder's receipt of a request for loan cancellation on account of those causes.

(20 U.S.C. 1078; 1082; 1088f.)

§ 177.22 Adjusted family income.

(a) *Computation.* In general, for purposes of § 177.21, adjusted family income will be computed by adding together 90 percent of the adjusted gross incomes (as defined in section 62 of the Internal Revenue Code, or in the case of residents of Puerto Rico, as defined in section 22(n) of the Commonwealth Tax Act of 1954) of the student borrower, his or her spouse, and his or her parents for the tax year immediately preceding the tax year of execution of the note or written agreement evidencing the loan, and deducting from the sum:

(1) An amount equal to the amount allowable on account of exemptions for these individuals for that year (under section 151 of the Internal Revenue Code or, in the case of residents of Puerto Rico, under section 25 of the Commonwealth Tax Act of 1954); plus

(2) An amount equal to the loss incurred by those individuals on account of a disaster occurring during the preceding tax year or the current tax year in an area which has been declared to have suffered a "major disaster" as defined in section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)). The amount of loss shall be determined in accordance with instructions issued by the Commissioner.

(b) *Computation of income from foreign sources.* In cases in which any of the income of the borrower, the borrower's spouse or the borrower's parents is not subject to taxation under the Internal Revenue Code or the Commonwealth Tax Act of 1954 due to the fact that the individual is (1) residing abroad, or (2) a nonresident alien, that income shall be included in the borrower's adjusted family income. Income described in paragraph (b)(1) of this section shall be treated as if subject to taxation under

the Internal Revenue Code and computed (together with any income which is subject to taxation) in accordance with paragraph (a) of this section. Income described in paragraph (b)(2) of this section shall be computed in accordance with instructions issued by the Commissioner.

(c) *Exclusion of income of parents or spouse in certain circumstances.* The income of a parent shall be excluded from consideration under paragraph (a) or (b) of this section if the parent has died prior to the determination, or if the borrower is not, and has not been at any time during the 12 months preceding the determination, either (1) residing with (whether or not the borrower paid room and board or otherwise compensated his or her parents for such residency), (2) claimed as a dependent for Federal income tax purposes by, or (3) the recipient of an amount in excess of $600 from, the parent. If the student's parents have lived together at any time during the 12 month period, in order to meet the restrictions of paragraphs (c)(2) and (3) of this section the borrower must meet the restrictions as to both parents. The borrower need not, however, meet the restrictions of paragraphs (c)(1) and (3) of this section, in order to have his or her parents' income excluded from his or her adjusted family income, if the borrower has during the 12 month period, filed a Federal income tax return claiming his or her parents as dependents. The income of the borrower's spouse shall also be excluded from consideration under paragraph (a) or (b) of this section where, prior to the determination, the spouse has died, the borrower and spouse have been divorced, or there has been a legal separation approved by a court or a separation which has, in fact, existed for 12 months or more. Persons whose income is excluded under this paragraph shall not be required to complete or sign any forms designed for the purpose of computing adjusted family income.

(d) *Method of determination.* The determination of the adjusted family income of a student borrower shall be made in such manner and on the basis of information submitted on such forms as may be supplied or approved by the Commissioner. The determination shall be made each time funds are advanced, except that no new determination need be made with respect to funds advanced (1) within the same tax year as that in which a determination was last made or (2) on a line of credit extended where a determination has been made during the preceding 12 month period in connection with funds advanced on that line of credit.

(20 U.S.C. 1078, 1082.)

§177.23 Special allowance payments to lenders.

(a) In order to assure that the limitation on interest payments or other conditions on loans made or insured under this part do not impede or threaten to impede program purposes or cause the return to holders of loan notes to be less than equitable, a special allowance shall be paid by the Commissioner in accordance with the following provisions to each holder of a loan which is insure by the Commissioner (under subpart F of this part) or by a guarantee agency under a program covered by an agreement with the Commissioner (under subpart D of this part).

(b) The special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year, and the amount of the allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held during that period. The special allowance shall be determined, at the election of the holder, either (1) by adding the unpaid balance of principal of all eligible loans outstanding on the first day of the 3-month period and the unpaid balance of principal of all loans outstanding on the last day of the period and dividing by 2, or (2) by adding the unpaid balance of principal on all eligible loans outstanding on each day of the 3-month period and dividing by the number of days in that period (average daily balance method). For purposes of this paragraph a loan shall be considered "outstanding" if it has not been repaid by the borrower and a claim for loss on the loan has not been approved or finally refused by the Commissioner or a guarantee agency. The holder may not change its method of determining the average unpaid balance of principal without the prior approval of the Commissioner. The amount of unpaid principal on individual loans for purposes of special allowance billings may include interest added to principal under §177.58(h) or under similar policies of guarantee agency programs (for loans insured under subpart D). Principal may also include interest accruing during periods of authorized lender forbearance when added to principal under § 177.60, or under similar policies of a guarantee agency (for loans insured under subpart D).

(c) The percentage rate used to calculate the special allowance to be paid quarterly under paragraph (b) of this section shall be determined by subtracting 3.5 percent from the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the 3-month period, rounding the resulting percent upward to the nearest one-eighth of 1 percent, and then dividing that resulting amount percent by four.

(d) If the special allowance rate computed according to paragraph (c) for any 3-month period would cause the special allowance rate for the previous 12-month period (including that 3-month period and the preceding three periods) to exceed 5 percent, the rate determining the special allowance to be paid for that period will be reduced to the highest one-eighth of 1 percent which would not cause an excess.

(e) After the close of each 3-month period, the Commissioner will announce the rate to be used in determining the special allowance for the period. The holder of a loan with respect to which any allowance is entitled to be paid shall be deemed to have a contractual right, as against the United States, to the special allowance from the Commissioner.

(f) *Special allowance payment for approved multiple installment loans.* An eligible lender (other than an educational institution or an agency or instrumentality of a State) which is approved by the Commissioner under section 177.21(b)(4) and which enters into a binding commitment with a student to make a loan which qualifies for Federal interest benefits may be paid the special allowance based on the entire loan amount even though only a portion of the loan is disbursed if that lender disburses the loan in multiple installments in accordance with that section.

(20 U.S.C. 1082, 1087-1.)

§ 177.24 Penalty interest payments to lenders.

If payment of the special allowance payable under § 177.23 or of interest payable under § 177.21 with respect to a loan is not authorized by the Commissioner within 30 days of his or her receipt of an accurate, timely, and complete request for payment thereof, the special allowance payable to the holder of the loan will be increased by an amount equal to the daily interest accruing on the special allowance and interest benefit payments due the lender. This daily interest shall be computed at the daily equivalent rate of 7 percent plus the annual rate of special allowance for the 3-month period most recently ended. Penalty interest shall be paid: (a) For the later of the 31st day after the receipt of the lender's request for payment, or the 31st day after the final day of the period (or periods) covered by the request; and (b) for each succeeding day until, and including, the day the Commissioner authorizes payment.

(20 U.S.C. 1087-1.)

§ 177.25 Death, disability, and bankruptcy payments to lenders and guarantee agencies.

(a) In the event that a borrower of a loan insured by the Commissioner under Subpart F dies, becomes totally and permanently disabled or is adjudi-

cated a bankrupt, the Commissioner shall reimburse the holder of the loan in accordance with the provisions of §§ 177.62, 177.64, and 177.65.

(b) In the event that a borrower of a loan made on or after December 15, 1968, and insured under a loan insurance program covered by an agreement between a guarantee agency and the Commissioner under § 177.33 dies or becomes totally and permanently disabled, the Commissioner shall pay the borrower's obligation in accordance with subparagraphs (1) and (2) of this paragraph. The Commissioner shall also pay the borrower's obligation in accordance with the following provisions in the event that a borrower of a loan made on any date and insured under a program covered by such an agreement is adjudicated a bankrupt:

(1) The Commissioner shall pay the borrower's obligation for unpaid principal. In addition, the Commissioner shall pay the borrower's obligation for unpaid interest on the loan which accrues during the periods described in § 177.64(e), (f) or (g), except that the references in paragraphs (e) (4) and (5), and (f) (4) and (5), and (g)(5) and (6) of § 177.64 to the Commissioner shall be understood to be references to the guarantee agency if the loan is held by an eligible lender. Further, the period referred to in paragraph (e)(3) shall be understood to be a period ending 30 days after the party filing the claims determines that the borrower has been adjudicated a bankrupt, and the periods referred to in paragraphs (f)(3) and (g)(4) of § 177.64 shall be understood to be periods ending 60 days after the party filing the claim determines that the borrower is dead or is notified that the Commissioner has determined the borrower to be totally and permanently disabled.

(2) A determination as to whether or not a borrower has died, become totally and permanently disabled or has been adjudicated a bankrupt shall be made in accordance with the provisions of § 177.62, except that the references to the Commissioner in § 177.62 (a) and (c) shall be understood to be references to the guarantee agency if the loan is held by an eligible lender.

(3) A lender shall submit evidence that a borrower has died, become totally and permanently disabled, or been adjudicated a bankrupt to the guarantee agency. The guarantee agency shall return to the lender any submission which is not accurate and complete. When the evidence is that of a borrower's death or adjudication as a bankrupt, the agency may pay to the holder the amount authorized by this section, and the Commissioner shall periodically reimburse the guarantee agency for these payments. When the evidence is that of a borrower's total and permanent disability the submission shall, if in proper form, be promptly forwarded to the Commissioner by the guarantee agency. The Commissioner shall advise the holder or the guarantee agency, or both, as to whether or not the holder's determination that the borrower has become totally and permanently disabled is approved. A payment for an approved determination will be made directly to the holder or through the guarantee agency.

(4) In no case shall a claim be paid under this paragraph (b) of this section if the loan is no longer considered insurable by the guarantee agency. A claim on a loan held by a guarantee agency after payment of a default claim to a lender shall be paid under this section, *Provided* That: (i) The borrower dies, becomes totally and permanently disabled, or is adjudicated a bankrupt within 15 years of the date the loan was made, (ii) the guarantee agency has not written off the loan as uncollectible, and (iii) the guarantee agency exercised due diligence in the collection of the loan until the borrower died, became totally and permanently disabled, or was adjudicated a bankrupt. The amount of the payment shall be reduced by the amount of a reinsurance claim paid by the Commissioner under an agreement with the guarantee agency under §§ 177.36 or 177.37, less any subsequent reimbursement to the Commissioner from amounts collected by the guarantee agency from, or on behalf of, the borrower.

(5) If the guarantee agency receives any payments from, or on behalf of, a borrower of a loan on which the Commissioner paid a claim under paragraph (b) because the borrower was adjudicated a bankrupt, the guarantee agency shall submit 100 percent of these payments to the Commissioner.

(6) In the event that a guarantee agency determines that a loan obligation which the Commissioner paid under paragraph (b) because the borrower was adjudicated a bankrupt is not likely to be discharged in bankruptcy, then the guarantee agency shall submit to the Commissioner an amount equal to the difference between the amount the Commissioner paid the guarantee agency on account of the borrower's adjudication and the amount the Commissioner would have paid the guarantee agency if the claim had been originally submitted on a default basis. In addition, from any amounts which the guarantee agency paid the Commissioner under paragraph (b)(5), the Commissioner shall pay the guarantee agency an amount which the guarantee agency would have been permitted to keep in accordance with § 177.36(d) and § 177.37(f)(7) if the claim had been originally submitted on a default basis.

(20 U.S.C. 1082, 1087)

§ 177.26 Administrative cost allowance to lenders.

(a) An administrative cost allowance may be paid to holders by the Commissioner with respect to loans insured by the Commissioner (under Subpart F of this Part) or by a guarantee agency (under a program covered by an agreement with the Commissioner under Subpart D of this Part) provided that the loans were made in a State (1) during the period August 3, 1968, through the 120th day after adjournment of the State's first legislative session, adjourning after January 1, 1969, and (2) at a time when under the State law applicable to these loans, interest charges were limited to less than 7 percent.

(b) The amount of the administrative cost allowance may not exceed the lesser of 1 percent per year of unpaid principal of eligible loans (not including interest or other charges added to principal) or the percentage of unpaid principal which, when added to the maximum interest rate that may be charged to the borrower under State law, equals 7 percent per year.

(c), Administrative cost allowances may not be paid with respect to any loan made or contracted for prior to August 3, 1968, whether or not consolidated with or converted to a loan made on or after August 3, 1968.

(d) Payment of the administrative cost allowance with respect to eligible loans shall be made in accordance with the rules applicable to payment of interest benefits under § 177.21(b).

(20 U.S.C. 1078, 1082.)

§ 177.27 Administrative cost allowance to participating schools.

(a) Any participating educational institution is eligible to receive (when, and to the extent that, funds are appropriated) an annual payment equal to ten dollars per student enrolled at that institution during the preceding award period who received a loan insured under this Part to meet costs of education for a period of enrollment beginning during that award period. No individual can be counted more than once for this purpose in any award period by a single educational institution. The amount a school receives under this section must be used first to provide consumer information services in accordance with Part 178 and then for additional costs of administering student financial aid programs under Title IV of the Higher Education Act. In order to receive this payment, a participating school must: (1) Submit an application on such form, at such time, and containing such information as the Commissioner may require; (2) state in the application the number of students enrolled at the institution during the preceding award

period on at least a half-time basis who received loans insured under this Part to cover the costs of education for periods of enrollment beginning during that award period (such report will be subject to audit by the Commissioner or a designee); and (3) assure that it will comply with the provisions of Part 178.

(b) For purposes of this section, "award period" means a 12 month period beginning on July 1 of each calendar year.

(c) If the funds appropriated for any fiscal year for making payments under this section are not sufficient to provide the full amounts prescribed under paragraph (a) of this section, then payments will be proportionately reduced. If additional funds become available for making payments for any fiscal year for which payments have been reduced, the reduced amounts will be increased on the same basis as they were reduced.

(20 U.S.C. 1078, 1082)

Subpart D—Guarantee Agency Programs

§ 177.31 Scope.

The Commissioner may enter into agreements with guarantee agencies whereby eligible student borrowers whose loans are guaranteed may qualify for Federal interest benefits, participating lenders may receive special allowances, penalty interest, and death, disability and bankruptcy payments through the guarantee agencies, and the guarantee agencies may receive administrative allowance payments, reinsurance payments, and advances to strengthen their reserve funds and to make payments of insurance obligations. Before these agreements can be executed, certain requirements must be met by guarantee agency programs.

(20 U.S.C. 1072, 1078, 1082, 1087, 1087-1.)

§ 177.32 Agreements between guarantee agencies and the Commissioner.

(a) The Commissioner may enter into agreements with a guarantee agency under §§ 177.33–.38, inclusive, if he or she determines that the loan insurance program of the guarantee agency meets the respective requirements of those sections. Each agreement shall be subject to all subsequent changes in legislation and regulations applicable to the Guaranteed Student Loan Program.

(b) Any agreement made under this Subpart may be terminated by either party upon not less than 60 days written notice to the other party, except that the Commissioner may terminate an agreement only for cause. Termination shall not affect obligations incurred under the agreement by either party before the effective date of termination. If termination is effected by the Commissioner, it will not become final until the guarantee agency has been afforded reasonable notice and an opportunity for a hearing except that the Commissioner may suspend the agreement pending the outcome of the hearing if he or she determines that such action is necessary in order to prevent substantial harm to Federal interests.

(c) If the Commissioner finds that any of the assurances or representations made by the guarantee agency in connection with an agreement are incomplete or incorrect in any material respect or that there has been a failure by the guarantee agency to comply with any of the provisions of the agreement or applicable Federal law or regulations, he or she may take action short of termination as may be necessary to protect the interests of the United States. This action may include withholding payments to be made to the guarantee agency until adequate documentation therefor is provided or requiring that the guarantee agency reimburse the Commissioner for any payments made, or any payments which the Commissioner has become obligated to make, as a result of the guarantee agency's making incomplete or incorrect statements or violating provisions of the agreement or applicable Federal law or regulations.

(20 U.S.C. 1072, 1078, 1078-1, 1082.)

§ 177.33 Payment of Federal interest benefits.

(a)(1) Payment of interest benefits by the Commissioner under § 177.21 for loans insured by a guarantee agency shall be available only insofar as the loans for which the interest benefits are paid are covered under an agreement between the guarantee agency and the Commissioner. The Commissioner may enter into this agreement if he or she determines that the guarantee agency program:

(i) Except as provided in subparagraphs (iii) and (iv) of this paragraph, authorizes the insurance in any academic year of loans in amounts up to at least $1,000 but not to exceed $2,500 to any student who has not successfully completed a program of undergraduate education, and not to exceed $5,000 to any graduate or professional student (as defined in § 177.11), in any academic year, after taking into account, with respect to the maximum loan amount, other loans covered by this Part which the student has received in the same academic year.

(ii) Provides that the aggregate insured unpaid principal amount of all loans made to any student under programs covered under this Part shall not at any time exceed $7,500 in the case of a student in attendance at a vocational school or as other than a graduate or professional student at an institution of higher education, or $15,000 in the case of a graduate or professional student, including loans which were made to that person before he or she became a graduate or professional student;

(iii) Does not authorize the insurance of loans made by a State agency, by a private nonprofit lending agency designated by a State, or made or originated by an educational institution to any student who is in his or her first academic year of a program of postsecondary education and who has not previously enrolled in such a program in an amount in excess of the lesser of $2,500 or 50 percent of the estimated cost of the student's attendance;

(iv) Does not authorize the insurance of any loans in excess of $1,500 for any academic year which are made or originated by an eligible institution to such a student as described in subparagraph (iii) unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and the second installments being not less than one-third of the period of enrollment for which the loan is made. However, a loan which is made to cover the expenses of a single academic period of less than five months is not subject to these requirements. For the purposes of this paragraph, all loans made within any period of 90 days will be considered a single loan;

(v) Authorizes the insurance of loans to an individual student for at least 6 academic years of study or their equivalent;

(vi) Provides that (A) the student borrower shall be entitled to accelerate without penalty the repayment of the whole or any part of an unsured loan and (B) the insured loan shall be repaid within 15 years from the date of execution of the initial note or other evidence of the loan, excluding periods after December 14, 1968, described in paragraph (a)(1)(xvii) of this section and periods of forbearance as described in § 177.36(c)(8);

(vii) Provides that, excluding periods after December 14, 1968, described in paragraph (a)(1)(xvii) of this section and periods of forbearance and subject to the provisions of paragraphs (a)(1)(vi)(B) and (xiii) of this section, repayment of loans shall be in installments over a period of not less than 5 years nor more than 10 years beginning not earlier than nine months nor later than one year after the student ceases to pursue a full-time course of study at a participating school. However, if during the 9 to 12 month grace period the borrower requests that his or her repayment schedule begin earlier or be of shorter duration than otherwise required by this paragraph, the lender may agree to the request. In the event that a borrower has request-

ed and been granted a repayent period of less than five years, he or she may at any time, prior to the total repayment of the loan, have the repayment period extended (without the necessity of lender agreement) so that the total repayment period is not less than five years. In the event that a student requests and receives a repayment period which begins earlier than nine months after ceasing to be at least a half-time student at a participating school, he or she may not further utilize the 9 to 12 month grace period. Also, if the program provides for the insurance of loans for part-time (less than full-time but not less than half-time) study, the program shall provide that the repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at a participating school at least one-half the normal full-time academic workload as determined by the school. In the case of a correspondence student, the repayment period shall begin not earlier than nine months nor later than one year after (A) the student's completion of his or her program, or (B) the expiration of a 60-day period during which the student submits no assignments (unless the student, by submitting assignments in advance of the schedule required by Part 168 for the purpose of computing the amount of a refund owed to a student by the school, has not fallen more than 60 days behind the schedule), or (C) the expiration of a 60-day period following the normal time established by the school for the completion of the program and communicated to the student under Part 168, whichever comes first. The submission of one or more assignments more than 60 days after the previous submission (or, if applicable, more than 60 days after the due date for a scheduled assignment) shall not restore the in-school status of a correspondence student with respect to his or her loan. However, the institution may permit one restoration if the student acknowledges in writing, within the 60-day period, that he or she wishes to continue the course of study and that he or she fully understands his or her responsibilities to submit lessons on a timely basis;

(viii) Authorizes interest on the unpaid principal balance of the loan at a rate not in excess of 7 percent per year, with the exceptions described in § 177.13(a), and exclusive of any premium for insurance which may be passed on to the borrower under § 177.13(b);

(ix) Insures not less than 80 percent of the unpaid principal of loans insured under the program;

(x) Provides that it will not deny the benefits of its loan insurance program to any student who is eligible for interest benefits as determined under § 177.21, except in the case of loans made by an instrumentality of a State or a participating institution;

(xi) Provides that a student may obtain insurance under the program for a loan for any year of study at a participating school;

(xii) In the case of a State loan insurance program, provides that the program is administered by a single State agency, or by one or more private nonprofit institutions or organizations under the supervision of a single State agency. (For purposes of this paragraph, "supervision" includes setting policies and procedures for, and having full responsibility for, the operation of the program);

(xiii) Provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are made under programs covered under this Part shall not be less than $360 or the balance of all such loans (together with interest thereon), whichever amount is less, with the following exceptions: (A) if the borrower and the lender agree at any time before or during the repayment period, repayment may be at a lesser rate; or (B) in the case of a husband and wife both having loans outstanding, repayment by either or both parties may be at lesser rate as long as the total of the combined payments for the couple during any year is not less than $360 or the balance of all loans, whichever amount is less. In all cases, the provisions of this paragraph may not result in any extention of the maximum 10 and 15 year periods described in paragraphs (a) (vi) and (vii), except where forbearance has been approved by the guarantee agency;

(xiv) Provides that a lender will as a condition of its insurance disburse loan proceeds in accordance with the requirements of § 177.57(c)(1), (d), and (e);

(xv) Provides that the student borrower shall not be liable for any portion of the interest on a loan which is payable by the Commissioner, and that the lender will not collect or attempt to collect that portion of the interest;

(xvi) Makes adequate provision in its agreements with lenders to ensure that the provisions of Subparts B and C of this Part, this section, and § 177.39 will be carried out;

(xvii) Provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the borrower (unless the borrower originally was eligible to have interest paid by the Commissioner under § 177.21), during any period (A) during which the borrower is pursuing a full-time course of study at a participating school, or is pursuing a course of study under a graduate fellowship program approved by the Commissioner in accordance with the requirements set forth in §177.58(g)(2), (B) not in excess of three years during which the borrower is a member of the Armed Forces of the United States on active duty, (C) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, or (D) not in excess of three years during which the borrower is in service as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973 or (E) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment, in accordance with the requirements set forth in § 177.58(g)(3);

(xviii) Provides that the amount of a loan may not exceed the student's estimated cost of attendance for the period of the loan less the student's estimated financial assistance (as defined in § 177.11);

(xix) Requires that, for each loan insured by the agency, the borrower shall promptly notify the lender as to any change in his or her address;

(xx) Has established such administrative and fiscal procedures and standards as the Commissioner finds necessary to ensure proper and efficient administration of the agency's loan insurance program, including the following. The guarantee agency shall establish, and disseminate to concerned parties, its standards and procedures: for school participation in the agency's loan program, for lender particpation in the program, for school lender participation in the program (if different from those for schools and lenders generally), for the limitation, suspension, or termination of the participation of schools and lenders, for the approval of lender forbearance (under § 177.36(c)(8)), for the timely filing of insurance claims by lenders (comparable to those set forth in § 177.64(c)), and for lender due diligence in making, servicing, and collecting loans. The agency shall ensure that due diligence (as described in § 177.59, unless the agency has established its own comparable standards which have been approved by the Commissioner) will be exercised by lenders in making, servicing, and collecting loans insured under the program and by the guarantee agency in collecting loans which it holds (including resort to litigation as appropriate). The Commissioner's execution of an agreement under this section shall not be construed as indicating acceptance of any standards or procedures as may currently be or previously have been employed by the agency;

(xxi) Provides that funds borrowed by a student are disbursed by check (as defined in § 177.57(e)) payable to the order of the student (or, if authorized by the student in writing, jointly

to the student and the educational institution which he or she is to attend) and requiring the personal endorsement of the payee by containing the statement "GSLP—Payee Endorsement Required";

(xxii) Provides that, in connection with a loan application, the student must provide the lender with an affidavit in accordance with § 177.15, a statement that he or she meets the requirements of § 177.12(a), and the statements from a participating school required under § 177.78;

(xxiii) Provides that, for each loan insured by the agency, the school which certified the borrower's enrollment will be notified of the existence of the insurance, the amount of the loan, and the name of the lender. This notification may be made either: (A) By the lender or the guarantee agency itself informing the school of these facts within 30 days of the initial disbursement of loan proceeds, or (B) by the lender sending all checks for the proceeds of any loan to the school for delivery to the borrower. Either a guarantee agency must require as a condition of its insurance that lenders inform schools of these facts or disburse checks in this manner, or else the agency itself must inform schools. In the case of a student attending a school not located in a State, this notification must be in accordance with clause (A) and the loan check must be disburse direcly to the borrower.

(2) The conditions of paragraph (a)(1)(i) of this section will be met if the student loan insurance program (i) authorizes advances of not more than $2,500 to a student who has not successfully completed a program of undergraduate education and not more than $5,000 to a graduate or professional student during any 12-month school period, after taking into account other loans covered by this Part which the student has received during the period, or authorizes advances to any student during the 12-month period of not more than an amount which bears the same ratio to the number of credit hours for which a full-time or half-time student borrower is registered during any such 12-month period as $2,500 (or $5,000 in the case of a graduate or professional student) minus other loans covered by this Part which the student has received during the period multiplied by the sum of the academic years or their equivalent leading to the degree or certificate bears to the total sum of credit hours required to earn such a degree or certificate; and (ii) authorizes advances up to at least $1,000 to a full-time student and (if the program includes half-time students) up to at least $500 to a half-time student during any 12-month school period.

(b) An agreement provided for in paragraph (a) of this section shall contain such provisions and assurances and be supported by such information as the Commissioner may require under paragraph (a) of this section, § 177.25, § 177.32 and § 177.39, and shall include such other terms and conditions as are agreed to by the Commissioner and the guarantee agency, including the following:

The Commission shall pay to the holder of loans insured by the guarantee agency interest benefits, special allowances, penalty interest, and administrative cost allowances on eligible loans in accordance with §§ 177.21, 177.23, 177.24, and 177.26.

(2) The Commissioner's obligation to make the payments described in paragraph (b)(1) of this section shall extend to any consolidated or renegotiated insured loan which is approved by the guarantee agency, as long as the terms and conditions of the loan are such that it is otherwise insurable.

(3) The guarantee agency shall permit notes representing insured loans to be transferred or assigned, including assignment as security, only to eligible lenders, the Student Loan Marketing Association, or, in cases of the borrower's default, death, or total and permanent disability, or adjudication as a bankrupt, to the guarantee agency.

(20 U.S.C. 1078, 1082; 42 U.S.C. 5055(e))

§ 177.34 Payment of Federal advances for reserve funds.

(a) *In general.* (1) The Commissioner may make advances to any State with which he or she has entered into an agreement under § 177.33 for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by the agreement.

(2) If for any fiscal year a State does not have a student loan insurance program which is covered by an agreement under § 177.33, and the Commissioner determines, after consultation with the chief executive officer of that State, that there is no reasonable likelihood that the State will have a student loan insurance program for the fiscal year, the Commissioner may make advances to one or more nonprofit private institutions or organizations with which he or she has entered into an agreement under § 177.33.

(3) The Commissioner may make advances under this section both to a State guarantee agency program and to one or more nonprofit private institutions or organizations with which he or she has an agreement under § 177.33 in that State if the Commissioner determines that the advances are necessary in order that students in each participating school have access through that institution to a student loan insurance program which meets the requirements of § 177.33.

(b) *Applications.* Applications for funds made available under paragraph (a) of this section shall be submitted at such time and in such manner and contain such information as the Commissioner may require.

(c) *Allocation and payment of State's allotment*—(1) *Payments.* The total of the advances under paragraph (a) of this section to a State program and to one or more nonprofit private institutions or organizations within that State may not exceed an amount which bears the same ratio to those advances for all the States as the population of that State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22, inclusive. The Commissioner shall determine these populations on the basis of the most recent satisfactory data available. However, the total amount available under this formula for any State shall not be less than $25,000. Advances may otherwise be in such lesser amounts as the Commissioner determines to be appropriate on the basis of the expected demand for loans from lenders in a State and other relevant factors. Except for an initial advance of up to $50,000 to an agency which became active in the program on or after October 1, 1976, advances will be made under this section only if an agency has encumbered at least 75 percent of the capacity of its reserve fund.

(2) Any amount advanced by the Commissioner must be matched by an equal amount from non-Federal sources. This amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined from the Guarantee Agency Monthly Report (OE Form 1130) for the month immediately preceding the making of the advance) of the reserve fund less the greater of the following:

(i) The sum of (A) advances made by the Commissioner prior to July 1, 1968, (B) an amount equal to twice the amount of advances made by the Commissioner after June 30, 1968, and before the advance for purposes of which the determination is made, and (C) the proceeds of earnings on advances made by the Commissioner; or

(ii) Any amount which is required to be maintained in the reserve fund under State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

(d) *Terms and conditions of advance.* Advances of funds to a guarantee agency shall be upon such terms and conditions (including conditions relating to the time or times of payment) as the Commissioner may require under this section, § 177.32, and § 177.39, and shall be made under an agreement which shall include such other terms and conditions as are

agreed to by the Commissioner and the guarantee agency, including the following:

(1) The guarantee agency shall maintain a separate fund or account into which it shall deposit or credit all advances (and required matching funds) made under this section together with other sums which are (i) appropriated by a State for loan insurance purposes, (ii) received by the guarantee agency as loan insurance premiums, (iii) received by the guarantee agency through gift, grant, or by other means from other sources for loan insurance purposes, (iv) collected on defaulted loans, including payments in accordance with § 177.36, or (v) in the nature of interest or other earnings derived from the investment of these funds.

(2) The fund into which advances are deposited or credited may be used only to guarantee loans to students covered by the guarantee agency's program, to refund overpayment of insurance premiums, and to repay advances made by the Commissioner. The fund may only be invested in a manner first approved by the Commissioner.

(3) Loan insurance premiums, if any (referred to in § 177.13(b)), and interest or other earnings derived from funds advanced may be used only for the purposes described in paragraph (d)(2) of this section and for expenditures necessary for the proper and efficient administration of the guarantee agency's program. Loan insurance premiums may not be used to provide lenders with a greater yield or for making incentive payments to lenders.

(4) The Commissioner may require the guarantee agency to repay part or all of any sums advanced to the agency at such times and to the extent that the Commissioner determines, in the light of the maturity and solvency of the guarantee agency's reserve fund and after taking into account the guarantee agency's requirements for insurance commitments based on its prior experience, that the funds are no longer required for the guarantee agency to maintain an adequate reserve.

(20 U.S.C. 1072, 1082)

§ 177.35 Payment of additional Federal advances for meeting guarantee agency insurance obligations.

(a) *In general.* To the extent that funds are available, the Commissioner shall make advances in accordance with this section to State or private nonprofit guarantee agencies which have entered into reinsurance agreements with the Commissioner under § 177.36. These advances must be used for the purpose of making payments to lenders of student loan insurance obligations incurred by the agencies under their programs.

(b) *Private nonprofit agencies.* In order to enable students to participate in a program of student loan insurance in a State, the Commissioner may make advances to one or more private nonprofit guarantee agencies which have entered into agreements under paragraph (f) of this section, § 177.33, and § 177.36. The Commissioner may make advances under this section to a private nonprofit guarantee agency in a fiscal year only if for that fiscal year a particular State to be served by that private nonprofit agency does not have a State student loan insurance program covered by an agreements under § 177.33 and the Commissioner determines after consultation with the chief executive officer of the State that there is no reasonable likelihood that the State will have such a program for that year.

(c) *Dates of payments.* (1) In the case of a guarantee agency which on October 1, 1977, was actively carrying on a loan program under an agreement under § 177.33 entered into before that date, advances under this section shall be made upon a date requested by the agency, but not before October 1, 1977. Advances under this section shall also be made to the agency in each of the two succeeding calendar years following the year of the initial advance under this section. The Commissioner shall authorize additional advances for payment on the same day of the year as he or she authorized the initial advance. Additional advances may be made to a private nonprofit agency only if the conditions of paragraph (b) are met.

(2) In the case of a guarantee agency which enters into an agreement under § 177.33 on or after October 1, 1977, or where the agreement was entered into prior to October 1, 1977, but the agency is not actively carrying on a program under the agreement on October 1, 1977, advances under this section shall be made upon a date requested by the agency, but not before October 1, 1977. Advances under this section shall also be made to the agency in each of the four succeeding calendar years following the year of the initial advance. The Commissioner shall authorize additional advances for payment on the same day of the year as he or she authorized the initial advance. Additional advances may be made to a private nonprofit agency only if the conditions of paragraph (b) are met.

(d) *Determination of advance payment amounts.* (1) Except as provided in subparagraphs (2), (4) and (5) of this paragraph, the amount to be advanced to each guarantee agency shall be equal to 10 percent of the principal amount of loans made by lenders (i) which are insured by the agency in the State and which are subject to the agency's agreement under § 177.36, and (ii) for which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is to be made.

(2) The amount of any advance determined according to subparagraph (1) of this paragraph shall be reduced by (i) the amount of any earlier advance or advances made to the agency under this section and by (ii) the amount of the unspent balance of any advance or advances made to the agency under § 177.34.

(3) For the purpose of subparagraph (2) of this paragraph, the unspent balance of the advances made to a guarantee agency under § 177.34 shall be that portion of the balance of the agency's reserve fund (remaining at the time of the agency's first application for an advance under this section) which bears the same ratio to the balance as the Federal advances made and not returned by the agency under § 177.34 bears to the total of all past contributions to the reserve fund from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date that the agency executed an agreement under § 177.33. Furthermore, for the purposes of subparagraphs (1) and (2) of this paragraph, the amount of the advance to a private nonprofit guarantee agency will be separately determined on the basis of the agency's operations in each State in which it operates.

(4) Notwithstanding subparagraphs (1) and (2), but subject to subparagraph (5) of this paragraph, the amount of any advance to all guarantee agencies in a State whose agencies are described in paragraph (c)(1) of this section shall not be less than $50,000 for the first year described in paragraph (c)(1); and the amount of any advance to all guarantee agencies in a State whose agencies are described in paragraph (c)(2) of this section shall not be less than $50,000 for each year described in paragraph (c)(2).

(5) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (1), (2), and (4) of this paragraph are not sufficient to pay those amounts in full, then the amounts shall be reduced: (i) By proportionately reducing that portion of the amount allocated to each State which exceeds $50,000; and (ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State. If additional sums become available for making these payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(e) *Applications.* Applications for funds made available under this section shall be submitted in such a manner and contain such information

as the Commissioner may require. An agency's application must be made prior to January 1 of the fiscal year in which it requests the first advance to be made. The initial application must request the date upon which the Commissioner shall authorize the advance for payment. Subsequent advances do not require additional applications by the agency, but shall be made in accordance with the provisions of paragraphs (b), (c), and (d) of this section.

(f) *Terms and conditions of advances.* Advances of funds to a guarantee agency under this section shall be made under an agreement which shall include the following terms and conditions in addition to other terms and conditions which are agreed to by the Commissioner and the guarantee agency. The agreement must provide that:

(1) The guarantee agency shall maintain a separate fund or account into which there shall be deposited or credited all advances made under this section.

(2) The earnings, if any, on any investments of advances received under this section shall be used only for making payments under the agency's insurance obligations.

(3) Repayment of advances made under this section shall not be required until the sum of the advances made under this section exceeds 20 percent of the guarantee agency's outstanding insurance obligation. At that time, the amount of the excess shall be paid over to the Commissioner in a lump sum at the beginning of the next fiscal year. For purposes of this paragraph, a guarantee agency's outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the agency since it entered into an agreement under § 177.33, the total principal amount of loans insured by it which have been fully repaid by the borrower, the guarantee agency, or the Commissioner, and loans which have been canceled. In the case of a private nonprofit guarantee agency, these amounts will be determined separately for each State in which it operates and for which it has received an advance under this section.

(4) A private nonprofit agency must (i) agree to establish within the State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major lenders within the State, (ii) agree that its insurance will not be denied any student because of his or her choice of schools or lack of need, and (iii) certify that it is not an eligible educational institution and that it does not have substantial affiliation with an eligible educational institution.

(20 U.S.C. 1072, 1082)

§ 177.36 Federal reinsurance.

(a) The Commissioner may enter into an agreement with a guarantee agency with which he or she has an agreement under § 177.33, whereby the Commissioner undertakes to reimburse the guarantee agency (except as provided in § 177.37) in amounts equal to 80 percent of the amounts of losses incurred by it in discharge of its insurance obligations under its loan insurance program resulting from the default of student borrowers on the unpaid balance of principal and accrued interest on loans covered by its agreement under § 177.33, or which would be covered but for the requirements of § 177.21(a)(1) (ii) and (iii). For purposes of this section, the term "losses" means the amount of payments made by an agency to a lender in discharge of the agency's insurance obligation minus the amount of any payments made by, or on behalf of, a borrower to the agency after the payment of that insurance obligation, but before the Commissioner's payment to the guarantee agency; "losses" shall not include any payments by the guarantee agency on loans on which the borrower's obligation has been discharged in bankruptcy or on loans made on or after December 15, 1968, in cases where the borrower dies or becomes totally and permanently disabled. The guarantee agency shall be compensated for the latter type of payments under the provisions of § 177.25.

(b) The Commissioner will not enter into a reinsurance agreement unless he or she is satisfied that the credit that would be extended to the guarantee agency under the agreement would satisfy any applicable State laws or regulations, or of provisions in agreements between lenders and the guarantee agency, regarding the maintenance of the guarantee agency's reserve funds. In considering whether to enter into an agreement, the Commissioner may also review other aspects of the guarantee agency's operations concerning which the Commissioner determines that there is a Federal interest.

(c) A reinsurance agreement shall contain such provisions as the Commissioner finds necessary to promote the purposes of this Part, including particularly the provisions of this section, § 177.32, and § 177.39, and to protect the United States from the risk of unreasonable loss. The agreement shall be effective with respect to loans made only during periods set forth in the agreement. The agreement may, among these provisions, include the following terms and conditions:

(1) The guarantee agency shall establish and maintain such administrative and fiscal procedures and standards as the Commissioner finds necessary to ensure proper and efficient administration of its loan insurance program. These shall include the establishment and dissemination of standards and procedures described in § 177.33(a)(1)(xx). The Commissioner's execution of an agreement under this section shall not be construed as indicating his acceptance of any procedures as may currently be or previously have been employed by the guarantee agency.

(2) In connection with any claim for payment on a loan reinsured under the agreement, the guarantee agency shall assure the Commissioner that:

(i) The terms of the underlying loan comply with all Federal requirements;

(ii) All reasonable efforts by the original and any subsequent holder have been made to collect that loan;

(iii) The loan was in default before the date the lender was reimbursed for the loss; and

(iv) the agency will exert all reasonable efforts to collect the loan after the Commissioner has made a reinsurance payment.

(3) The Commissioner shall make payments under the agreement at such times, in such manner, and on the basis of such documentation as he or she may from time to time prescribe. The Commissioner may set off amounts payable by the guarantee agency against amounts payable to the guarantee agency.

(4) The agreement shall contain adequate assurance that an amount equal to each payment made under this section will be promptly deposited in the reserve fund maintained for the purposes of § 177.35 or, if there is no fund maintained for this purpose, another reserve fund of the agency.

(5) If, after the Commissioner has made payment under this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to that loan (including any payments of interest accruing on the loan after payment by the Commissioner), there shall be paid over to the Commissioner that portion of the amount of the payments determined in accordance with paragraph D) of this section to represent the Commissioner's equitable share thereof. The agreement shall not otherwise provide for subrogation of the United States to the rights of any guarantee agency. Amounts paid by a borrower to a guarantee agency after it pays a default claim may be first applied in reduction of either principal or interest owing on the loan and may be applied in reduction of other charges (e.g., late charges, attorney's fees) only after the repayment of all principal and interest owing on the loan. When a borrower's repayment schedule requires (or actual pay-

ments result in) payments that are insufficient to pay the accruing interest on a current basis, the guarantee agency shall periodically review (at least every six months), the borrower's financial situation and, where feasible, shall adjust the distribution of each payment between principal and accruing interest so as to repay the principal owing on the loan within a reasonable period.

(6) A guarantee agency shall submit payments due to the Commissioner under paragraph (c)(5) of this section within 60 days of its receipt of the payments.

(7) A guarantee agency is prohibited from and shall prohibit lenders under its program from collecting any loan amount from the estate of a deceased borrower, from a borrower found to be totally and permanently disabled (as determined in accordance with § 177.25), or from a borrower whose loan obligation has been discharged in bankruptcy and who has not reaffirmed that obligation.

(8) Nothing in an agreement made under this section shall be construed to preclude a lender from agreeing with a student to forbearance for the benefit of the student borrower if approved by the guarantee agency under criteria comparable to those described in § 177.60.

(9) Loans insured by the guarantee agency after the termination date of an agreement or of an extension of the agreement may be reinsured only under a new agreement or under an extension of the agreement. In considering whether to enter into a subsequent agreement or to extend an existing one, the Commissioner may take into account, among other matters concerning which he or she determines that there is a Federal interest, the adequacy of efforts made by lenders under the guarantee agency's program and by the guarantee agency to effect collection of loans which have gone into default, and the steps taken by the guarantee agency to make interest benefits provided for under § 177.21 available to all eligible borrowers.

(d) *Allocation of loan payments made after the payment of reinsurance obligations.* (1) For purposes of this section and those of § 177.37, the Commissioner's equitable share of any payments made to a guarantee agency by or on behalf of a borrower in full or partial discharge of a loan obligation after the Commissioner's reinsurance payment on that loan shall be that portion of the payments remaining after the agency has deducted:

(i) A percentage of the payments equal to the complement of the reinsurance percentage in effect when payment under the aggrement was made with respect to the loan, and

(ii) An amount representing administrative costs of loan collection and of preclaim assistance for default prevention that are not reimbursed under § 177.38. This amount shall be a percentage, not to exceed 30 percent, of payments received from or on behalf of the borrower, to be determined from the ratio that these costs (as defined in paragraph (d)(2) of this section) incurred by the agency during the preceding 12-month period or fiscal year (as agreed to by the Commissioner and the agency) bear to the total of loan repayments made to the agency by or on behalf of student borrowers during that period. The guarantee agency shall inform the Commissioner whether it wishes to calculate its percentage entitlement to collected funds under this section based upon administrative costs incurred during the preceding fiscal year or during the 12-month period immediately preceding its submission of the Commissioner's share of loan collections. The agency may not change its method of calculating this retention percentage without prior approval of the Commissioner.

(2) For the purposes of this paragraph, the following terms are defined:

(i) "Administrative costs of loan collection" means any administrative costs incurred by a guarantee agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the attributable compensation of collection personnel (and, in the case of personnel who perform several functions for the agency, only the portion of compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar directly related charges, but does not include any overhead (such as space or utilities) costs of the agency whether or not attributable to collection activity, and

(ii) "Administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guarantee agency which are directly related to providing collection assistance to lenders prior to loans entering legal default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for the agency, only that portion of compensation attributable to the collection activity), fees paid to locate borrowers, postage, equipment, supplies, telephone and similar directly related charges, but does not include any overhead (such as space or utilities) costs of the agency whether or not attributable to preclaim assistance.

(20 U.S.C. 1078, 1082).

§ 177.37 Supplemental Federal reinsurance.

(a) The Commissioner may enter into a supplemental reinsurance agreement with any guarantee agency having a reinsurance agreement under § 177.36 whereby the Commissioner shall undertake to reimburse the agency in accordance with paragraph (b) of this section, provided the agency meets the conditions set forth in paragraph (d) of this section. This agreement is subject to annual renegotiation.

(b) A guarantee agency which has a supplemental reinsurance agreement under this section shall be reimbursed with respect to losses on the unpaid balance of the principal and accrued interest of any insured loan which is covered by an agreement under § 177.33, or which would have been covered but for the requirements of § 177.21(a)(1) (ii) and (iii), in an amount equal to 100 percent of the amount of loss incurred by it in discharge of its insurance obligation, with the following exceptions:

(1) If, for any fiscal year, the amount of payments made by the Commissioner under § 177.36 or this section for losses subject to reinsurance exceeds 5 percent of the original principal amount (not including any interest added to principal) of loans made by lenders which are insured by the guarantee agency and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this section for the excess shall be equal to 90 percent of the amount of such excess.

(2) If, for any fiscal year, the amount of payments made by the Commissioner under § 177.36 or this section for losses subject to reinsurance exceeds 9 percent of the principal amount (not including any interest added to principal) of loans made by lenders which are insured by the agency and which were to repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this section for the excess shall be equal to 80 percent of the amount of such excess.

(c) For purposes of this section, the term "losses" means the amount of payments made by an agency to a lender in discharge of the agency's insurance obligation minus the amount of any payments made by, or on behalf of, a borrower after the payment of the insurance obligation but before the Commissioner's payment to the guarantee agency. The amount of loans of a guarantee agency which are "in repayment at the end of the preceding fiscal year" shall be the original principal amount of all loans made by lenders which have ever been insured by the agency before the end of the preceding fiscal year reduced by:

(1) The amount the agency has been required to pay before the end of the

preceding fiscal year to discharge its insurance obligations, and to pay death, disability and bankruptcy claims (under § 177.25(b)),

(2) The original principal amount of loans insured by it which were fully repaid before the end of the preceding fiscal year, and

(3) The original principal amount insured on those loans for which payment of the first installment of principal had not become due before the end of the preceding fiscal year in accordance with § 177.33(a)(1)(vii) (loans not yet having reached the repayment period) or for which the first installment did not need to be paid before the end of the preceding fiscal year in accordance with § 177.33(a)(1)(xvii) (loans in deferment status at the time repayment was scheduled to begin).

(d) In order for a guarantee agency to qualify for supplemental reinsurance under this section, the Commissioner must determine that the agency:

(1) Authorizes the insurance of loans of $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student, to any individual student who is carrying at a participating school at least a half-time academic workload in any academic year. These limits shall not be considered to be exceeded by a line of credit covering more than one academic year under which actual payments by the lender to the borrower will not be made in excess of the academic year limits. The agency must, if requested, insure otherwise eligible loans that are of lesser amounts than those maximums. The agency must provide that the aggregate insured unpaid principal amount of all loans made under this Part to any student shall not exceed $7,500 in the case of a student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined in § 177.11). In the case of a graduate or professional student the aggregate insured unpaid principal amount includes loans made to the borrower before he or she became a graduate or professional student;

(2) Insures not less than 100 percent of the unpaid principal of the loans insured under the program, whether or not the loans are eligible for interest subsidies under § 177.21;

(3) With respect to lenders which are eligible educational institutions, provides for the insurance of loans made only by educational institutions which are located within the geographic area served by the guarantee agency;

(4) Provides no restrictions with respect to the insurance of loans for any student who is a legal resident of the State in which the agency is operating and who is otherwise eligible for a loan under the program on account of the student being accepted for enrollment in or attending an eligible institution outside that State;

(5) Provides no restrictions with respect to eligible educational institutions (other than home study schools) which are more onerous than the eligibility requirements contained in the definition of "eligible institution" in § 177.11 or in the eligibility requirements of Part 168, unless (i) a particular school is limited, suspended, or terminated under the provisions of Part 168, or (ii) a particular school is limited, suspended, or terminated by the guarantee agency in accordance with the agency's own criteria which are substantially the same as the provisions of Part 168 or (iii) there is a State constitutional prohibition affecting the eligibility of a school;

(6) Provides for the eligibility of participating educational institutions as lenders under reasonable criteria unless (i) a participating institution's lending eligibility is limited, suspended, or terminated under the provisions of Subpart H of this Part or under criteria of the agency which are substantially the same as those of Subpart H, or (ii) there is a State constitutional prohibition affecting the eligibility of the institution as a lender; and

(7) Provides assurances that it will make a report to the Commissioner not later than July 1 of any year in which it has an effective supplemental reinsurance agreement concerning the criteria it has established for approving educational institutions as lenders, procedures in effect under that agency's program to limit, suspend, or terminate the lending eligibility of those institutions (these criteria and procedures are subject to the Commissioner's approval under § 177.39(b)(3)), a list of all educational institutions which applied to become eligible lenders during the preceding 12 months, a summary of actions taken on their applications, and a list of all educational institutions which are currently eligible lenders within the State under the agency's program.

(e) The conditions of paragraph (d)(1) of this section will be met if the student loan insurance program (i) authorizes advances of up to and including $2,500 to a student who has not successfully completed a program of undergraduate education and advances of up to and including $5,000 to a graduate or professional student during any 12-month school period, after taking into account other loans covered by this Part which the student has received during the period, or authorizes advances to any student during the 12-month period of up to and including an amount which bears the same ratio to the number of credit hours for which a full-time or half-time student borrower is registered during any 12-month period as $2,500 (or $5,000 in the case of a graduate or professional student) minus other loans covered by this Part which the student has received during such period multiplied by the sum of the academic years or their equivalent leading to the degree or certificate, bears to the total sum of credit hours required to earn that degree or certificate.

(f) A supplemental reinsurance agreement may contain such terms and conditions as the Commissioner finds necessary to promote the purposes of this section, § 177.32, and § 177.39. It shall be effective only with respect to reinsurance claims described in the agreement. The agreement shall include the following terms and conditions:

(1) The guarantee agency shall establish such administrative procedures and standards as the Commissioner finds necessary to protect the United States from the risk of unreasonable loss and to ensure proper and efficient administration of the agency's loan insurance program; and it shall meet the requirements of § 177.33(a)(1)(xx). The Commissioner's execution of an agreement under this section shall not be construed as indicating acceptance of any procedures as may currently be or previously have been employed by the guarentee agency.

(2) The guarantee agency shall set forth adequate assurances that the requirements of paragraph (d) of this section have been and will continue to be met.

(3) The guarantee agency shall make such reports, in such form, and containing such information as the Commissioner may reasonably require, and it shall keep such records and afford access thereto as the Commissioner may find necessary to assure the correctness of these reports.

(4) The guarantee agency shall set forth adequate assurance that, with respect to that portion of any loan insured under the agency's program reinsured by the Commissioner under this section, the reinsurance satisfies any State law or regulation requiring the maintenance of a reserve.

(5) In connection with any claim for reinsurance under this section, the guarantee agency shall warrant that:

(i) The terms of the underlying loan comply with all Federal requirements;

(ii) All reasonable efforts by the original lender and any subsequent holder have been made to collect that loan;

(iii) The loan was in default prior to the date the lender was reimbursed for the loss; and

(iv) The agency will exert all reasonable efforts to collect the loan after the Commissioner has made a reinsurance payment.

(6) The Commissioner shall make payments under the agreement at such times, in such manner, and on the basis of such documentation as he or she may from time to time prescribe. The Commissioner may offset amounts payable by the guarantee agency against amounts payable to the guarantee agency.

(7)(i) If, after the Commissioner has made payment under this section with respect to any loan, any payments are made in discharge of the obligations incurred by the borrower with respect to that loan (including any payments of interest accruing on the loan after payment by the Commissioner), there shall be paid over to the Commissioner that portion of the amount of the payments determined (in accordance with paragraph (d) of § 177.36) to represent his or her equitable share. The supplemental agreement shall not otherwise provide for subrogation of the United States to the rights of any guarantee agency.

(ii) Amounts so paid by a borrower to a guarantee agency may be first applied in reduction of either principal or interest owing on the loan, and may be applied in reduction of other charges (e.g., late charges, attorney's fees) only after the full repayment of outstanding principal and interest on the loan. When a borrower's repayment schedule requires (or actual payments result in) payments that are insufficient to pay the accruing interest on a current basis, the guaratee agency shall periodically review (at least every six months) the borrower's financial situation and, where feasible, shall distribute each payment between principal and accruing interest so as to repay the principal within a reasonable period.

(8) A guarantee agency shall submit payments due the Commissioner under paragraph (f)(7) of this section within 60 days of its receipt of the payments from the borrower.

(9) A guarantee agency is prohibited from and shall prohibit lenders under its program from collecting from the estate of a deceased borrower, from a borrower found to be totally and permanently disabled (as determined in accordance with § 177.25), or from a borrower whose loan obligation has been discharged in bankruptcy and who has not reaffirmed his or her loan obligation.

(10) Nothing in an agreement made under this section shall be construed to preclude a lender from agreeing with a student to forbearance if approved by the guarantee agency under criteria comparable to those described in § 177.60.

(11) The agreement shall only cover reinsurance payments made before its expiration date. An agreement will not be renewed unless the agency's program is in compliance with all terms of the agreement and all provisions of this subpart. In considering whether to renew an agreement, the Commissioner may take into account, among other matters concerning which he or she determines that there is a Federal interest, the adequacy of efforts made by lenders under the guarantee agency's program and by the guarantee agency to effect collection of loans which have gone into default, and the steps taken by the agency to make its program available to all residents of the State attending participating residential educational institutions and to make interest benefits provided for under § 177.21 available to all eligible borrowers.

(g)(1) Notwithstanding the provisions of paragraph (b) of this section, the amount to be paid to a guarantee agency under the section for any fiscal year which is either the fiscal year in which the agency begins on or after October 1, 1976, to actively carry on a student loan insurance program subject to an agreement under § 177.33, or is one of the four succeeding years, shall be 100 percent of the amount of losses incurred by that agency in discharge of insurance obligations under its programs.

(2) The Commissioner shall continuously monitor the operations of those guarantee agencies to which the provisions of paragraph (g)(1) are applicable and shall revoke the application of its provisions to any agency which he or she determines has not exercised reasonable prudence in the administration of its student loan insurance program, including compliance with the provisions of § 177.33(a)(1)(xx).

(h) Before a reinsurance claim will be paid by the Commissioner under this section, the agency must submit to the Commissioner a statement of the amount of loans insured by it which were "in repayment at the end of the preceding fiscal year," determined in accordance with paragraph (c) of this section.

(20 U.S.C. 1078, 1078-1.)

§ 177.38 Administrative cost allowance for guarantee agencies.

(a) *Primary allowance.* To the extent that funds are available in any fiscal year, the Commissioner may make payments in accordance with this paragraph, at such times as he or she may prescribe, to any guarantee agency with which he or she has an agreement under § 177.33 for the purpose of meeting administrative costs which have not been taken into account under § 177.36(d) and § 177.37(f)(7).

(1) Total payments for any fiscal year made to an agency under this paragraph shall not exceed one-half of 1 percent of the total principal amount of loans for which the agency issued insurance during that fiscal year. If the sum appropriated for any fiscal year for making payments under this paragraph is not sufficient to pay all guarantee agencies the full amounts for which they would otherwise be eligible under this paragraph, then payments to all guarantee agencies will be proportionately reduced. In such a case, if additional funds become available for making payments for the same fiscal year, then payments to all guarantee agencies will be increased on the same basis as they were reduced.

(2) Except as provided in paragraph (a)(3), each guarantee agency which receives payments under this paragraph shall apply not less than one-fourth of the total amount received in any fiscal year toward the administrative costs of promotion of commercial lender participation, not less than one-half of the total amount toward the administrative costs of collection of loans and of preclaim assistance for default prevention, and the remaining amount toward other administrative costs related to the student loan insurance program of the guarantee agency.

(3) For any guarantee agency eligible to receive an advance under § 177.35(c)(2):

(i) The spending minimum with respect to the administrative costs of collection of loans and preclaim assistance for default prevention set forth in paragraph (a)(2) shall not apply during the first fiscal year in which the agency is eligible to receive the advance, and

(ii) The spending minimum with respect to these costs shall be 20 percent during the following two fiscal years of the agreement.

(4) No payment may be made under this paragraph unless the guarantee agency has submitted an application to the Commissioner by January 1 of the fiscal year for which an allowance is requested. The application shall be made in such a manner and shall provide such information as the Commissioner may reasonably require, and it shall contain:

(i) Information demonstrating the agency's capability of carrying out a successful program of loan collection and preclaim assistance, including descriptions of numbers of program staff and their activities in these areas;

(ii) An estimate of the costs which will be eligible for payment under this section (itemized by categories of costs corresponding to the definitions contained in paragraph (c));

(iii) Assurances that sufficient administrative and fiscal procedures, including an annual audit, will be used to ensure that the administrative allowance will be used in accordance with the provisions of this section;

(iv) Assurances that the guarantee agency will furnish any further infor-

mation, including estimates, that the Commissioner may reasonably require to carry out the provisions of this section:

(v) An estimate of the total principal amount of new loan volume expected to be insured during that fiscal year.

(b) *Secondary allowance.* To the extent that funds are available in any fiscal year, the Commissioner may make payments in accordance with this paragraph at such times as he or she may prescribe to any guarantee agency with which he or she has a reinsurance agreement under § 177.36. These payments may only be used for the purposes of meeting administrative costs of promotion of commercial lender participation, administrative costs of collection of loans, administrative costs of preclaim assistance for default prevention, and other administrative costs related to the student loan insurance program of the guarantee agency.

(1) Total payments for any fiscal year made under this paragraph shall not exceed one-half of 1 percent of the total principal amount of loans for which the guarantee agency issued insurance during the fiscal year (and may be made in addition to payments under paragraph (a) of this section). If the sum appropriated for any fiscal year for making payments under this paragraph is not sufficient to pay all guarantee agencies the full amounts for which they would otherwise be eligible, then payments to all gurarantee agencies will be proportionately reduced. In such a case, if additional funds become available for making payments for the same fiscal year, then payments to all guarantee agencies will be increased on the same basis as they were reduced.

(2) No payment may be made under this paragraph unless the guarantee agency has submitted an application to the Commissioner by January 1 of the fiscal year for which an allowance is requested. The Commissioner's payment of an administrative allowance under this paragraph on the basis of such an application will be considered to establish an agreement between the Commissioner and the agency with respect to the assurances contained in the application. The application shall contain such information as the Commissioner may reasonably require, including:

(i) Assurances that the agency's student loan insurance program complies with all the requirements of § 177.37(d); and provides no restrictions with respect to the insurance of loans for students who are not residents of the State but who are accepted for enrollment or are attending eligible residential educational institutions within the State;

(ii) Information demonstrating the guarantee agency's capability of carrying out a successful program of loan collection and preclaim assistance, including descriptions of numbers of program staff and their activities in these areas;

(iii) An estimate of administrative costs eligible for payment under this section (itemized by categories of costs corresponding to the definitions contained in paragraph (c));

(iv) Assurances that sufficient administrative and fiscal procedures, including an annual audit, will be used to ensure that any administrative allowance received will be used in accordance with the provisions of this section;

(v) Assurances that the guarantee agency will furnish any further information, including estimates, that the Commissioner may reasonably require to carry out the provisions of this section.

(c) For the purposes of this section, the following definitions shall apply.

(1) "Administrative costs of promotion of commercial lender participation" means administrative costs incurred by a guarantee agency which are directly related to supervising, training, or disseminating information to participating or prospective lenders or to inducing these lenders to participate, or it initiate, improve, or expand their participation in making student loans in the agency's program. These costs may include: (i) The costs of planning and executing instructional and promotional seminars and the costs of attending other similar meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to or use with lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) long distance telephone costs attributable to the promotion of commercial lender participation, (v) the share of the initial year costs of establishing branch offices attributable to service to lenders (rather than schools or students) geographically distant from the agency's primary business location (these costs may include attributable space, utilities, and other overhead costs), and (vi) an appropriate share of the compensation of personnel whose primary responsibility is training, supervising, or recruiting lenders. These costs may not include any portion of the compensation of personnel whose primary responsibilities involve either the performance or supervision of duties that relate to the routine processing of borrower applications for loans or the maintenance or supporting records. In no case shall any such costs include costs of space, utilities, or other overhead expenses associated with the agency's primary business location.

(2) "Administrative costs of collection of loans" means any administrative costs incurred by a guarantee agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the compensation of collection personnel (and, in the case of personnel who perform several functions for the agency, only the portion of compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone, and similar directly related costs, but does not include any overhead (such as space or utilities) costs of the agency.

(3) "Administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guarantee agency which are directly related to providing collection assistance to lenders on delinquent loans before those loans enter into default status, including the compensation of appropriate collections personnel (and, in the case of personnel who perform several functions for the agency, only the portion of compensation attributable to the collection activity), fees paid to locate borrowers, postage, equipment, supplies, telephone, and similar directly related costs, but does not include any overhead (such as space or utilities) costs of the agency whether or not attributable to preclaim assistance.

(20 U.S.C. 1078, 1078-1, 1082)

§ 177.39 Records, reports, and inspection requirements for guarantee agency programs.

(a) *Records.* (1) A guarantee agency must keep records as specifically required by this Part and as may be necessary to make reports required by this Part and must retain records for each loan for at least 5 years after the loan is paid in full or has been determined to be uncollectible. These records must be as complete and accurate as is necessary to document fully the agency's reports.

(2) A guarantee agency must require participating lenders (including subsequent holders) to keep records in connection with loans guaranteed by that agency as the Commissioner shall require. These must include complete and accurate records of each loan account (including loan disbursement checks presented for payment) reflecting each transaction so as to afford ready identification of the borrower's account and status and containing full and proper documentation to support a claim for loss. A lender (or subsequent holder) must retain records for a loan for not less than 5 years from the date the loan has been repaid in full by the borrower or the lender has been reimbursed for a loss on the loan by the agency. The Commissioner may, in particular cases, require the retention of records beyond this five year minimum period.

(3) Records retained by either a guarantee agency or a lender under a guarantee agency program may be stored in microform or computer format. However, the holder of a promissory note (whether a lender or a guarantee agency) must retain the actual note until returned to the borrower upon completion of repayment, after which it must retain a copy of the note for the prescribed period.

(b) *Reports.* (1) The agency must submit reports to the Commissioner at such times and in such manner as he or she shall prescribe concerning the status of its reserve funds and the operation of its loan insurance program, including periodic reports on:

(i) The use of sums advanced by the Commissioner for its reserve funds;

(ii) The collection and disbursement of loan insurance premiums and earnings of the reserve funds, and the payment of interest to lenders;

(iii) Loans insured, loans repaid in full, loans defaulted, other claims paid, and total loans in repayment;

(iv) Total insured loan volume and default volume and rate on all loans insured after December 31, 1976, and on loans insured earlier if data is available, for each of the following categories of lenders:

(A) Eligible schools

(B) State or private, nonprofit direct lenders

(C) Commercial financial institutions which are banks, savings and loan associations, or credit unions, and

(D) All other types of institutions or agencies.

Loan volume and default data shall be reported according to the category of original lender, not subsequent holder or designee. If a guarantee agency operates in more than one State, a separate report shall be submitted for each State of operation;

(v) Procedures which the agency has developed for the diligent pursuit of borrowers from whom payments are due to the agency or its lenders; and

(vi) The extent to which loans are available to students at all the eligible institutions in the State.

(2) The agency must submit to the Commissioner or require that lenders (including subsequent holders) submit to the Commissioner at such times and in such manner as he or she may prescribe, statements containing such information as may be required for the purpose of enabling the Commissioner to determine the amount of interest and special allowances which he or she must pay with respect to insured loans.

(3) The guarantee agency must submit to the Commissioner for his or her approval, and before their adoption, its forms, statements of procedure and standards (such as those required under § 177.33(a)(1)(xx)), and other materials which the guarantee agency proposes to adopt or revise, and which affect the operation of its loan insurance program.

(4) Lenders (including subsequent holders) must submit to the agency the information necessary for the agency to complete its reports to the Commissioner.

(c) *Inspections.* (1) A guarantee agency must afford the Commissioner (or other agencies of the Government designated by the Commissioner) access to its records upon request in order to assure the correctness of the reports described in paragraph (b) of this section.

(2) A guarantee agency must provide in its agreement with a lender that the lender (including a subsequent holder) must afford the Commissioner (or other agencies of the Government designated by the Commissioner) or the agency access to the lender's records upon request in order to assure the correctness of the reports required under paragraphs (b)(2) and (b)(4) of this section.

(20 U.S.C. 1072, 1078, 1082)

Subpart E [Reserved]

Subpart F—Federal Insured Student Loan Program

§ 177.51 Circumstances under which and extent to which loans may be federally insured.

(a) The Commissioner may insure all the loans made to students by a lender located in a State (1) in which no State or private nonprofit guarantee agency operates a student loan insurance program, pursuant to an agreement with the Commissioner under § 177.33, or (2) in which such a program is in operation but is not reasonably accessible, on the whole, to students who meet the residency requirements of the program.

(b) The Commissioner may insure loans made by a lender located in a State in which a State or private nonprofit guarantee agency, in accordance with an agreement with the Commissioner under § 177.33, operates a student loan insurance program which is reasonably accessible, on the whole, to students who meet the residency requirements of the program, only to the following extent:

(1) If the Commissioner finds that (i) no guarantee agency program in operation in the State is reasonably accessible to students at a participating school, as compared with students at other participating schools over a comparable period of time, and (ii) the access of students at that school to loans made under this Part would be significantly increased if the Commissioner insured loans made in the State to students attending that school, then the Commissioner may insure loans made by lenders located in the State to students attending that school. This paragraph would apply, for example, if a participating school within the definition of "eligible educational institution" in § 177.11 was not recognized as an eligible school under any such State or private nonprofit program or if a majority of the persons enrolled at the school met the conditions of student eligibility set forth in § 177.12 but were not recognized as eligible students under the State or private nonprofit program.

(2) If no guarantee agency program in operation in the State is accessible to students, because they do not meet the residency requirements of any such program, the Commissioner may insure loans to those students.

(3) If the Commissioner finds that no single guarantee agency program in the State is accessible to at least 80 percent of the students to whom the lender intends to make loans (over a 12 month period) because of the agency's residency requirements, the Commissioner may insure all the loans made to students by that lender. Thus, if over 20 percent of the students to whom a lender intends to make loans are ineligible for loan insurance by a single guarantee agency in the State because of their residence, the Commissioner may insure all loans made by that lender under this Part.

(4) If the Commissioner has previously insured a loan to a student and that loan has not been repaid, further loans to that student by the same lender may be insured by the Commissioner under circumstances approved by the guarantee agency.

(c)(1) For the purposes of paragraphs (a) and (b) of this section, a lender shall be considered to be located in the State of an educational institution if the lender: (i) Has a relationship with the school such that the school will be considered to have originated a loan; (ii) has a majority of its voting stock held by the school; or (iii) has common ownership or management with the school and more than 50 percent of the loans made under this Part by the lender are made to students at that school.

(2) The Commissioner may require, as a condition for insuring loans under this Subpart, the submission by the lender of such materials as are necessary to satisfy the Commissioner that a condition described in paragraph (b)(1), (2), or (3) of this section exists.

(d)(1) Except as provided in paragraph (d)(2) of this section, the insurance liability on any loan insured by the Commissioner under this Part shall be 100 percent of the unpaid balance of principal and, to the extent permitted under § 177.64 and § 177.65, accrued interest, except that:

(A) If, for any fiscal year, the total amount of insurance claims paid by the Commissioner under this Subpart

to any eligible lender which is a State agency or private nonprofit agency designated by a State (for purposes of lending eligibility under § 177.11) reaches 5 percent of the sum of original principal amount of loans made by the lender which are insured by the Commissioner and in repayment (as defined in paragraph (d)(3) of this section) at the end of the preceding fiscal year, the insurance liability of the Commissioner on a claim subsequently paid (unless it is subject to paragraph (d)(1)(B) under this Subpart shall be 90 percent of the amount of the unpaid balance of principal plus accrued interest if the loan was insured after the applicable date described in paragraph (d)(4).

(B) If, for any fiscal year, the total amount of insurance claims paid to a lender reaches 9 percent of that sum, the insurance liability of the Commissioner on a claim subsequently paid under this Subpart shall be 80 percent of the amount of the unpaid balance of principal plus accrued interest if the loan was insured after the applicable date described in paragraph (d)(4).

(2) The provisions of clauses (A) and (B) of Paragraph (d)(1) of this section shall not apply to a lender which is a State agency or private nonprofit agency designated by a State (for purposes of lending eligibility under § 177.11) during the fiscal year in which that lender begins to carry on a loan program insured by the Commissioner, and during each of the four succeeding fiscal years.

(3) For purposes of this section, the original principal amount of loans made by a lender which are insured by the Commissioner and which are in repayment at the end of the preceding fiscal year shall be the original principal amount of all loans made by the lender which are insured by the Commissioner before the end of that fiscal year reduced by:

(i) The amount the Commissioner has been required to pay the lender in discharge of insurance obligations under this Subpart,

(ii) The original principal amount of those loans which have been fully repaid,

(iii) The original principal amount insured on those loans for which payment of the first installment of principal has not yet become due under § 177.58(a) or the first installment need not be paid under § 177.58(g), and

(iv) The original principal amount of loans repaid by the Commissioner under § 177.25.

(4) The applicable date for the purposes of paragraphs (d)(1) (A) and (B) shall be: (i) The 90th day after the adjournment of the next regular session of the legislature of the State in which the lender is designated to operate which convenes after October 12, 1976, or,

(ii) the date which is one year from that 90th day if the primary source of lending capital for the lender is the sale of bonds and the constitution of the State in which the lender is designated to operate prohibits a pledge of the State's credit as security against the bonds.

(5) For purposes of this paragraph, payments by the Commissioner to an assignee of the original lender with respect to a loan, or payments to a subsequent holder, shall be considered payments made to the original lender.

(e) The Commissioner shall not, because of any provision of this section, deny loan insurance to any school lender which has previously entered an Agreement with the Commissioner under § 177.72 unless the Commissioner has determined, based on studies and surveys satisfactory to him or her, that access to loans will be reasonably available to students at that school who make an active and diligent effort to obtain loans from other eligible lenders.

(20 U.S.C. 1071, 1073, 1075)

§ 177.52 Agreements between eligible lenders and the Commissioner.

(a) The Commissioner may enter into an agreement with an eligible lender under which losses resulting from the failure of borrowers to make repayment on the principal amount, or interest, on loans made by the lender under this Subpart will be covered by Federal loan insurance to the extent provided in § 177.51(d). No loans shall be insured unless covered by such an agreement. The agreement shall contain such provisions and be supported by such information as the Commissioner may require.

(b) If an eligible lender requests an agreement under this section, the Commissioner shall respond within 30 days and, if he or she has decided not to approve the request, shall state reasons for that decision. An eligible lender which has been denied an agreement shall be given the opportunity to meet with a designated Office of Education official to show cause why the agreement should not be denied. However, the Commissioner need not give reasons for a denial or grant an opportunity to show cause if a request is submitted within six months of a previous denial.

(c) An agreement under this section between the Commissioner and an eligible lender may include (1) a limit on the dollar amount of loans made by the lender which will be covered by Federal loan insurance or (2) a limit on the period during which the lender may continue to make loans which the Commissioner will insure, or (3) both of these types of limits. In determining whether and to what extent to include limits in, and whether to enter into, an agreement with an eligible lender, the Commissioner shall consider the following criteria (and may require submission by the lender of such materials as are necessary for the application of the criteria):

(i) Whether the eligible lender has proposed or established adequate procedures for making, servicing, and collecting loans;

(ii) Whether the eligible lender is capable of implementing, or is implementing, such adequate procedures for making, servicing and collecting loans;

(iii) The prior experience of the eligible lender in other types of lending;

(iv) The financial condition of the eligible lender;

(v) In the case of an institution of higher education seeking approval as a school lender, its accreditation status, with the preferred condition being either accreditation as described in § 177.11 or approval by an advisory committee appointed by the Commissioner as described in § 177.11;

(vi) Whether the original principal dollar amount of loans made under this Part to students by the eligible lender which are in default represents 10 percent or more of the original principal dollar amount of all such loans which have reached the repayment period;

(vii) In the case of a school lender, whether the original principal amount of loans made by that school which went into default during a 12-month period represented 15 percent or more of the original principal amount of all loans in repayment status (including those in deferment) at the beginning of that period plus that of all loans coming into repayment during that period.

(viii) Whether the dollar amount of loans made under this Part to students by the lender which are 30 or more days delinquent represents more than 20 percent of the dollar amount of all such loans which have reached the repayment period;

(ix) The prior record of the eligible lender in complying with the provisions of this Part;

(x) Whether the eligible lender makes loans to students who reside in a geographical area other than that of the lender's principal place of operation; and

(xi) Whether the prospective lender is an educational institution. Close scrutiny will be given to school lenders because they are not subject to review in their capacity as lenders by other Federal or State agencies.

(d) Except as otherwise approved by the Commissioner, an agreement under this section with a school lender shall limit the loans made by that school lender which will be covered by Federal loan insurance to those made to students who are in attendance at that school or, if considered appropriate by the Commissioner, who are in

attendance at other schools under the same ownership or who are employees (or dependents of employees) of that school lender.

(e) Limitations on the lending eligibility of a school lender which makes loans to students in attendance at other schools under the same ownership may be imposed on a school-by-school basis.

(20 U.S.C. 1079, 1082.)

§ 177.53 Conditions for insurability of individual loans.

(a) A loan by an eligible lender which has in effect an agreement with the Commissioner under § 177.52 shall be insurable under ths Subpart only if made to a person who:

(1) Provides the lender with a statement that he or she meets the requirements of § 177.12(a) and with such other information as may be specified on a form provided by the Commissioner;

(2) Provides the lender with statements from a participating school meeting requirements of § 177.78;

(3) Provides the lender with a statement listing the dates, lenders, and amounts of other outstanding loans to him or her, including those which have been made under programs covered by this Part;

(4) Files with the lender an affidavit in accordance with § 177.15; and

(5) Has agreed to promptly notify the holder of the loan note concerning any change in his or her address, enrollment status, or school of enrollment.

(b) In making a loan under this Subpart, a lender which is not an institution of higher education or a vocational school, acting in good faith and in the absence of information to the contrary, may rely upon the certifications provided by an educational institution and upon the assurances and other information provided by a borrower under paragraph (a) of this section. A lender which by transfer or assignment in accordance with § 177.61, obtains possession of a loan which has been made by a school lender may, acting in good faith and in the absence of information to the contrary, rely upon the assurances and information provided by a borrower to that school under paragraph (a) of this section, but the transferee or assignee shall not be entitled to rely upon the certifications provided by a school lender under paragraph (a) of this section in the making of the loan. In making a loan under this Subpart, a lender which is not an educational institution, but for which the conditions set forth in paragraph (c) of § 177.65 exist, acting in good faith and in the absence of information to the contrary, may rely upon the assurances and information provided by a borrower under paragraph (a) of this section, but shall not be entitled to rely upon the certifications of the school provided thereunder.

(20 U.S.C. 1077, 1078, 1079, 1082, 1085, 1088f, 1088g.)

§ 177.54 Limitations on maximum loan amounts.

(a) *Academic year loans limits.* (1) Except as provided in paragraphs (a) (2) and (3), the Commissioner will not insure a loan which, when added to the amount of other loans covered by this Part which the student has already received for the same academic year, would cause the sum to exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education or $5,000 in the case of a graduate or professional student (as defined in § 177.11).

(2) The Commissioner will not insure a loan which is made by a lending agency of a State or by a private nonprofit lending agency designated by a State, or which is made or originated (as defined in § 177.11) by a school to a student for his or her first academic year of a program of postsecondary education who has not previously enrolled in such a program, in an amount in excess of the lesser of $2,500 or 50 percent of the student's estimated cost of attendance.

(3) The Commissioner will not insure loans in excess of $1,500 which are made or originated by a school to any student for his or her first academic year of a program of postsecondary education who has not previously enrolled in such a program unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and the second installments being not less than one-third of the period of enrollment for which the loan is made. However, a loan which is made to cover the expenses of a single academic period of less than 5 months is not subject to these requirements. For the purposes of this paragraph, all loans made within a period of 90 days will be considered a single loan.

(b) *Additional limitation on loans to correspondence students.* In the case of a student pursuing a correspondence course, the Commissioner will not insure a loan exceeding the amount of the contract price of the course. In the case of a correspondence course which includes a period of required resident training, the Commissioner will insure additional loan amounts to cover the estimated cost of attendance for that portion of the course.

(c) *Aggregate loan limits.* The Commissioner will not insure a loan in an amount which, together with the unpaid principal amount of all other loans to the student covered under this Part, would result in an aggregate loan amount in excess of $7,500 in the case of a student who has not successfully completed a program of undergraduate education or $15,000 in the case of a graduate or professional student, including loans made to that person before he or she became a graduate or professional student (as defined in § 177.11).

(20 U.S.C. 1075, 1078, 1079, 1082.)

§ 177.55 Issuance of Federal loan insurance.

(a) *Individual application for insurance.* Each lender with whom the Commissioner has entered into an agreement under § 177.52 may make application to the Commissioner for Federal loan insurance in connection with each application for a loan which that lender has determined to be eligible for insurance coverage. Upon receipt of an application, which shall be filed on such form and in such manner as may be prescribed by the Commissioner, the Commissioner shall determine whether or not to insure the loan. If the loan appears to be insurable, the Commissioner shall, by affixing to the application or otherwise providing evidence thereof, advise the lender of the finding and of the amount of insurance. Subject to the provisions of § 177.53(b), the insurance shall be understood to be issued in reliance on the lender's implied representation that all requirements for the initial insurability of the loan, including those set forth in § 177.51, have been met. No disbursement shall be made on a loan to which this paragraph applies prior to the issuance of insurance.

(b) *Comprehensive certificate of insurance.* The Commissioner may issue a certificate of comprehensive insurance to a lender applying therefor (and with whom the Commissioner has entered into an agreement under § 177.52) which shall, without further action by the Commissioner, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Insurance coverage with respect to any loan covered shall be conditioned upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Commissioner's judgment will best achieve the purpose of this paragraph while protecting the financial interest of the United States and promoting the objectives of this Part.

(20 U.S.C. 1073, 1075, 1077, 1079, 1080, 1082.)

§ 177.56 Insurance premiums.

(a) Insurance of loans under this Subpart is conditioned on payment to the Commissioner by the lender of in-

surance premiums in an amount equal to one-fourth of one percent per year of the unpaid principal balance of each loan covered (excluding interest or other charges which may have been added to the principal). The cost of insurance premiums may be passed on to borrowers in accordance with § 177.13(b).

(b) *Computation and time of payment of premiums.* Premiums shall be payable in the amounts and at the time specified in § 177.13(b).

(c) *Method of payment of premiums.* The Commissioner may bill the lender for insurance premiums due or may offset insurance premiums payable to the Commissioner by the lender against amount payable by the Commissioner to the lender. When the Commissioner bills the lender for the premium on a loan, the insurance on that loan shall cease to be effective if that premium is not paid within 60 days. The Commissioner may accept late payment of a premium due, and thereby reinstate the insurance on a loan, if:

(1) The loan is not in default and the borrower is not delinquent in making installment payments, or

(2) The loan is in default, or the borrower is delinquent, under circumstances where the borrower has entered into the repayment period and the lender could not reasonably have been expected to be aware of this event when it happened.

(20 U.S.C. 1077, 1079, 1082.)

§ 177.57 Disbursement of loans.

(a) *Evidence of indebtedness.* (1) Each insurable loan must be evidenced by a promissory note and by a disclosure statement that meets the requirements of 12 CFR Part 226 (Truth in Lending). The Commissioner shall, from time to time, make available an approved promissory note form. Any substantive deviation from the provisions of the most current promissory note form make available by the Commissioner must be approved by the Commissioner prior to the making of any loans evidenced by promissory notes containing such deviations. A copy of each executed note and the required disclosure statement shall be supplied to the student borrower by the lender.

(2) The Commissioner may, in accordance with Subpart H of this Part, require a school that is a lender to use a special promissory note which provides that the student's obligation with regard to the loan amount is dependent upon the student's continued enrollment during the academic period for which the loan was made and is proportionate to the percentage of that period which he or she has completed.

(b) *Security and endorsement.* A loan shall be made without security and without endorsement, except that if the borrower is a minor and his or her note would not, under applicable local law, constitute a valid and enforceable obigation, endorsement may be required.

(c) *Disbursement to the borrower by a lender which is not a school.* A lender which is not a school must make its disbursements in the following manner:

(1) A lender which is not a school may not make a disbursement of any loan proceeds earlier than is reasonably necessary to meet the purposes for which the loan is being made and in no case, except as approved by the Commissioner, earlier than 30 days prior to the date on which the student is scheduled to matriculate. If the loan is covered by § 177.55(a), no disbursement may be made on it prior to the issuance of insurance by the Commissioner. Each disbursement must be made by a check payable to the student (or, if authorized by the student in writing, jointly to the student and the school which he or she is to attend) and carrying the legend "GSLP—Payee Endorsement Required." The check, after being presented for payment, must be retained by the lender in accordance with § 177.66.

(a) Neither a lender nor a school may obtain a student's authorization to endorse a disbursement check on behalf of a borrower.

(2) The lender must disburse the proceeds of the loan by transmitting each check representing a disbursement to the school to be attended by the borrower (unless the school is not located in a State, in which case the check must be transmitted directly to the borrower and the lender must notify the school within 30 days of the disbursement of the existence of loan insurance under this Part, the amount of the loan so insured, and the name of the lender making the loan). The school must then transmit each check to the borrower in accordance with the requirements of § 177.79(a) and (b). The school must also keep records relating to loan disbursements and student borrowers as set forth in § 177.73(b).

(d) *Disbursement of a loan made by a school lender.* A lender which is an educational institution may not make a disbursement of any loan proceeds to a student earlier than is reasonably necessary to meet the purposes for which the loan is being made. For purposes of paying subsequent insurance, interest benefit, or special allowance claims, the Commissioner shall not recognize a disbursement for an amount greater than that reasonably necessary to enable the student to travel from his or her residence to the school, to a student who failed to matriculate at that institution during the academic period for which the loan was made. If the loan is covered by § 177.55(a), no disbursement may be made on it prior to the issuance of insurance by the Commissioner. Each disbursement must be made by a check payable to the student (or, if authorized by the student in writing, jointly to the student and the educational institution which he or she is to attend) and carrying the legend "GSLP—Payee Endorsement Required." The check, after being presented for payment, must be retained by the institution in accordance with § 177.66(a). A school lender may not obtain a student's authorization to endorse an instrument of disbursement on his or her behalf.

(e) For purposes of this Part, a check is a draft drawn on a bank and payable on demand. The borrower must personnaly endorse the check and may not authorize anyone else to endorse it on his or her behalf.

(20 U.S.C. 1077, 1079, 1082.)

§ 177.58 Repayment of loans.

(a) *Commencement and installments.* Except in the case of a correspondence student, the note evidencing a loan shall provide for repayment of the principal amount together with interest thereon, in periodic installments beginning not earlier than nine months nor later than one year after the date on which the student ceases to carry at an eligible school at least one-half the normal full-time academic workload as determined by that school. If, during the 9 to 12 month grace period, the borrower requests that his or her repayment schedule begin earlier or be of shorter duration than otherwise required by this paragraph, the lender may agree to the request. In the case of a correspondence student, the note evidencing a loan shall provide that the repayment period shall begin not earlier than nine months nor later than one year after (1) the student's completion of his or her program, or (2) the expiration of a 60-day period during which the student submits no assignments (unless the student, by submitting assignments in advance of the schedule required by Part 168 for the purpose of computing the amount of a refund owed to the student by the school, has not fallen more than 60 days behind that schedule) or (3) the expiration of a 60-day period following the normal time established by the school for the completion of the program and communicated to the student under Part 168, whichever comes first. The submission of one or more assignments more than 60 days after the previous submission (or, if applicable, more than 60 days after the due date for a scheduled assignment) shall not restore the in-school status of a corre-

spondence student with respect to his or her loan. However, the school may permit one restoration if the student acknowledges in writing, within the 60-day period, that he or she wishes to continue his or her course of study and that he or she fully understands his or her responsibilities to submit lessons on a timely basis. All scheduled repayment installments must be of equal amounts except:

(i) Where paragraph (e) or (f) of this section applies;

(ii) Where the last installment is to be of a slightly different amount for computational purposes; or

(iii) Where the total amount of loans made under this Subpart to the borrower by the lender does not exceed $1,500 and the installments are to be for equal amounts of principal, plus interest.

(b) *Repayment period.* (1) Except as provided in paragraph (b)(2) and in paragraph (c), the note evidencing a loan shall provide for repayment of the principal amount of the loan over a period of not less than 5 years nor more than 10 years from the commencement of the repayment period, and over a period of not more than 15 years from the date of execution of the original promissory note evidencing the disbursement of the loan.

(2)(i) Periods of activity specified in paragraph (g) of this section shall be excluded from determinations of the 5, 10, and 15 year periods; and (ii) In the event that a borrower has requested and been granted a repayment period of less than five years, he or she may at any time before the total repayment of the loan have the repayment period extended (without the necessity of lender agreement) so that the total repayment period is not less than five years. In the event that a student begins repayment earlier than nine months after ceasing to be at least a half-time student, he or she may not further utilize the 9 to 12 month grace period.

(c) *Minimum payment.* The total of payments by a borrower during any one year period in which repayment of principal is required shall be, with respect to the aggregate amount outstanding of all loans to that borrower under programs coverd by this Part, at least $360 or the balance of all such loans (together with interest thereon), whichever amount is less with the following exceptions:

(1) The borrower and the lender may agree at any time before or during the repayment period that repayment may be at a lesser rate, and

(2) In the case of a husband and wife both having loans outstanding, repayment by either or both parties may be at a lesser rate as long as the total of the combined payments for such a couple during any year is not less than $360 or the balance of all of those loans, whichever is less.

The provisions of subparagraphs (1) and (2) may not result in an extension of the 10 and 15 year repayment period maximums.

(d) *Consequences of failure of borrower to attend school.* If, after disbursement of a loan, the lender learns that the borrower will not be, or has not been a student at an eligible school during the period for which the loan was intended, the lender must at once declare the loan immediately due and payable, although repayment may be made in installments if necessary. If the borrower was otherwise eligible for interest benefits under § 177.21, no further interest benefits on that loan shall be payable. In addition, the lender must attempt to collect from the borrower the amount of any interest benefits already paid on the borrower's behalf which are attributable to principal already disbursed, and must transmit to the Commissioner any amounts collected.

(e) *Repayment schedule with increasing installment amounts.* A lender and a borrower with at least $4,000 outstanding in loans held under this Subpart by that lender may enter into an agreement for a repayment schedule, for all those loans, providing for installments which increase in amount over the course of the repayment period. The schedule must provide (1) for payments of principal and interest totaling at least $360 during each year of the repayment period (subject to the exceptions specified in paragraph (c) of this section), (2) for a total of payments of principal and interest during each year of the repayment period which does not exceed the total of those payments during the preceding year by a percentage in excess of the percentage increase in repayment of principal and interest between the first and second years of the repayment period (for example, if total payments of $400 and $440 are scheduled for the first 2 years, respectively, the total of payments for any subsequent year may not exceed the total of payments of the year preceding it by more than 10 percent), (3) for no single installment in an amount greater than three times that of any other installment, and (4) for conformity with paragraphs (a), (b), (g), (h), and (i) of this section as to each loan to which the repayment schedule applies. Neither the borrower nor the lender may require the establishment of a repayment schedule authorized under this paragraph.

(f) *Supplemental repayment agreements.* For a loan made by a school lender, and for which a repayment schedule is not to be entered into under paragraph (e) of this section, the lender and the borrower may enter into an agreement supplementing the equal installment repayment schedule required by this section whereby the lender agrees that (as between both the lender and borrower and the lender and the Commissioner) the borrower will be considered to meet the terms of that repayment schedule so long as the borrower makes payments in accordance with a separate schedule. This agreement and separate schedule must provide for terms which satisfy the Commissioner that the borrower will not be unduly burdened and that the Commissioner will not be subject to undue liability. No supplemental repayment agreement may be entered into unless the lender has obtained the Commissioner's prior approval of its terms. Neither the borrower not the lender may require the establishment of a supplemental repayment agreement under this paragraph, except that the lender may make the borrower's written consent to the ultimate establishment of the agreement a condition of making the loan. Neither a loan note subject to a supplemental repayment agreement nor the agreement itself may be transferred or assigned, and the note and the agreement must provide by their terms that they may not be transferred or assigned.

(g) *Deferment.* (1) The note evidencing a loan shall provide that periodic installments of principal need not be paid, but interest shall accrue and be paid by the borrower (unless the borrower originally was eligible to have interest paid by the Commissioner under § 177.21), during any period:

(i) In which the borrower is pursuing a full-time course of study at a participating school (unless the borrower is a National of a country other than the United States and is pursuing a course of study at a school not located in a State) or, in accordance with paragraph (g)(2), is pursuing a course of study under a graduate fellowship program approved by the Commissioner,

(ii) Not more than three years in which the borrower is on active duty as a member of the Armed Forces of the United States,

(iii) Not more than three years in which the borrower is in service as a volunteer under the Peace Corps Act,

(iv) Not more than three years in which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or

(v) Not more than 12 months, during which the borrower is seeking and unable to find full-time employment in the United States. A borrower is entitled to only one period of deferment on account of unemployment.

When repayment of a loan is deferred under this paragraph, the period of deferment shall not be included in the minimum and maximum periods allowed for repayment of the loan under paragraph (b) of this section. Notwithstanding the other provisions of this paragraph, a borrower

whose loan is in default and who has not made satisfactory arrangement to bring the account up to date is not eligible for deferment of repayment.

(2) In order for a borrower not enrolled full-time at a participating school to have his or her loan repayment deferred because he or she is pursuing a course of study under a graduate fellowship program, the borrower must hold at least a baccalaureate degree conferred by an institution of higher education and must have been awarded a stipend by an organization or program which has been approved by the Commissioner for the purpose of full-time study in an academic or professional subject area for which he or she has demonstrated interest and ability and for which he or she has been recommended by an institution of higher education. Such study need not utilize the resources of an educational or cultural institution, but it must involve study pursuant to clearly stated objectives submitted in writing to the organization or program prior to the award of the stipend, and it must involve the periodic submission to that organization or program of reports, projects, or other evidence of the individual's study. In order to be approved by the Commissioner for these purposes, an organization or program must provide sufficient financial support to the study to allow for full-time study for at least six months.

(3)(i) For purposes of paragraph (g)(1)(v) of this section, full-time employment means employment of any kind which the borrower is physically able to perform, which involves at least 30 hours of work per week, and which is expected to be of at least three months in duration. The borrower is entitled to deferment under the terms of paragraph (g)(1)(v) of this section whether or not he or she has been previously employed on a full-time basis. If the borrower was previously employed, he or she is entitled to a deferment without regard to the circumstances under which the employment was terminated.

(ii) In order to be eligible for an unemployment deferment under paragraph (g)(1)(v) of this section, a borrower must request the deferment in writing and address the request to the original lender, or (if known) to the subsequent holder of his or her loan note. This request must:

(A) Certify that the borrower is currently seeking and unable to find full-time employment;

(B) Certify that he or she has registered with a public or private employment agency, specifying the name and address of that agency (this requirement may be waived by the lender if such an employment agency is not reasonably accessible to the borrower);

(C) Contain a statement from the borrower describing his or her active, good faith search for full-time employment; and

(D) Contain the borrower's agreement that as soon as he or she becomes employed full-time he or she will notify the lender of the date he or she became so employed. In order to receive continued deferment due to unemployment, the borrower must also submit to the lender at least one additional certification of eligibility for the deferment six months after the initial request. The lender must disapprove the request for a deferment or, if applicable, discontinue the deferment if the initial request or any subsequent certification from the borrower does not conform to these requirements or if, in the lender's judgment, the borrower's description of his or her search for employment does not reflect an active, good faith effort. Both the initial request and subsequent certifications must be signed and dated by the borrower and must indicate his or her latest permanent residential address (and, where applicable, his or her latest temporary address). All documents pertaining to this deferment must be retained by the lender for the period required by § 177.66(a). In approving a request for deferment under paragraph (g)(1)(v) of this section, a lender acting in good faith and in the absence of information to the contrary may rely upon the assurances and information provided by a borrower.

(iii) The period of deferment of loan repayment granted under paragraph (g)(1)(v) of this section shall be deemed to commence on the date that the borrower's request for the deferment is approved by the lender or, if the borrower and lender agree, an earlier date (not in excess of 60 days prior to the lender's approval) if the unemployment which is the basis for the deferment existed at the earlier date. The deferment shall end and the borrower's loan repayment obligation shall resume:

(A) On the date the lender learns that the borrower has become employed full-time,

(B) One month after the date (established by the lender), when a certification of eligibility for the deferment is due from the borrower and has not been submitted, or

(C) 12 months after the commencement of the deferment period, whichever occurs first.

(iv) The lender must approve or disapprove a borrower's request for deferment under paragraph (g)(1)(v) of this section within one month after receipt of the request. If an unemployed borrower's request for deferment of repayment does not meet the standards prescribed in paragraph (g)(3)(ii), the lender may grant forbearance in accordance with § 177.60.

(h) *Student's liability for interest.* The student borrower shall not be liable for any portion of the interest on the loan note which is payable by the Commissioner, and the lender may not collect or attempt to collect that portion of the interest from the borrower. Interest not payable by the Commissioner shall be payable in installments over the period of the loan with the following exceptions. (i) If provided in the note, interest payable by the student may be deferred until not later than the date upon which payment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal.

(ii) In the case of a loan for which the first repayment installment is not paid when due in accordance with paragraph (a) of this section, interest accruing during the period between the date repayment was required to begin and the date repayment actually begins may be added to the principal on the date repayment begins.

(iii) Interest which accrues during a period of deferment described in paragraph (g) may be deferred until not later than the date the next payment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal.

(i) *Prepayment.* The note evidencing a loan shall provide that the student borrower may at any time prepay the whole or any part of the loan without interest penalty.

(20 U.S.C. 1077, 1078, 1079, 1082; 42 U.S.C. 5055(e).)

§ 177.59 Due diligence.

(1) *General.* A lender must exercise reasonable care and diligence in the making, servicing, and collection of loans insured under the Subpart. A lender will be considered to have exercised due diligence only if it utilizes loan procedures comparable to those generally in use by commercial lenders for loans of comparable amounts which are not covered by loan insurance and, in addition, complies with the specific requirements of this section. The delegation of functions to a servicing agency or other party does not relieve the lender or subsequent holder of a loan of its responsiblities under this section.

(b) *Loan making.* The loan making process includes such functions as the processing of necessary forms, the approval of a borrower for a loan, the determination of a loan amount, the explanation to the borrower of his or her responsiblities under the loan, and the disbursement of loan proceeds. A lender's normal loan making functions may not be delegated to a servicing agency or other party except in cases where the relationship between a lender and a participating school constitutes a loan origination relationship

and the school involved enters into an agreement with the Commissioner under § 177.72.

(1) *Processing of necessary forms.* Before considering a prospective borrower for a loan, the lender must (subject to § 177.53(b)) determine that all required forms have been accurately completed by the lender itself, the borrower (and, where applicable, his or her parents and spouse), and the educational institution. The lender must not ask the borrower to sign any form before all information requested of the borrower on that form has been supplied.

(2) *Approval of borrower and determination of loan amount.* A loan may be made only to an eligible student (under the provisions of § 177.12), except that in determining whether a person is a student a lender may rely on statements of the borrower and the school to the extent provided in § 177.53(b). Except as otherwise approved by the Commissioner, a school lender may make loans only to students described in § 177.52(d). In determining the amount of the loan to be made (within the limitations of § 177.54), the lender should review the data on cost of education, and on other amounts of financial aid that have been awarded to the student, for the intended loan period, which is provided by the school on the loan application form. In no case may the loan amount exceed the student's estimated cost of attendance for the period of the loan less estimated financial assistance.

(3) *Borrower interview.* (i) *General rule.* Before making an initial loan to a student under this Subpart, a lender must have one of its employees meet personally with that student in order to ensure that the borrower understands his or her obligations under the loan, including the obligation to apply the proceeds only to educational expenses and the obligation to repay the loan. The interview may be conducted by an employee of the school at which the student is enrolled if the relationship between the lender and the school is such that the educational institution will be considered to have originated the loan (as defined in § 177.11). The interview may be held individually with each borrower, or with groups of borrowers.

(ii) *Exception for cases of borrower hardship.* If a personal interview would be a hardship to the borrower because of the location of his or her residence or other unusual circumstances, the lender need not conduct the interview. In such a case, the lender must retain in its files a statement describing the borrower hardship and also must obtain from the borrower a signed statement describing the borrower's rights and responsibilities. This statement must be retained by the lender in accordance with § 177.66.

(4) *Disbursement of loan proceeds.* Disbursement of the loan proceeds must be made in accordance with the provisions of § 177.54, § 177.55 and § 177.57. The lender must ensure that the borrower is familiar with the manner in which the interest that accrues prior to the beginning of the repayment period is to be paid.

(c) *Loan servicing*—(1) *Student liability for interest.* The student borrower shall not be charged for any portion of the interest on the loan note in a manner not authorized under § 177.58(h).

(2) A lender must maintain records of events affecting a loan that occur while it is the holder of the loan, including change of the borrower's addresss or status as at least a half-time student, eligibility of the borrower for deferment of repayment of principal, payments and prepayments, and transfers of the loan.

(3) A lender must file on a timely basis such reports as the Commissioner may require concerning a loan insured under this Subpart, including but not limited to, the Lender's Manifest for Federally Insured Loans (OE Form 1151), Lender's Request for Payment of Interest on Student loans (OE Form 1166), Lender's Annual Report on Guaranteed Student Loans Outstanding (OE Form 1166-2), Loan Transfer Statement (OE Form 1074) and the Loan Transaction Statement (OE Form 1199).

(4) A lender must respond on a timely basis to written inquiries and other communications of the borrower and any proper endorser.

(5) When a lender has been informed by a school or otherwise determines that a borrower is no longer enrolled at an eligible school on at least a half-time basis, the lender must promptly contact the borrower in order to establish the terms of repayment. Terms of repayment must be established by using OE Form 1171 (Promissory Note-Installment) or a similar instrument, either of which must be signed by the borrower and be made a part of, and subject to the terms of, the borrower's original promissory note (OE Form 1164 or a similar instrument) for the loan. The original promissory note must not be surrendered to the borrower until the loan is paid in full, at which time both the promissory note and the repayment instrument must be surrendered to the borrower. In establishing repayment terms, the current and potential income and financial obligations of the borrower should be taken into consideration, with the schedule of payments designed to retire the loan obligation as soon as possible (within the limitations of § 177.58), without leading to default by the borrower due to his inability to make payments. Borrowers should be encouraged (although they must be made aware that they are not required) to make such payments as are possible during the period before payment is legally required, so as to reduce their overall indebtedness and subsequent interest charges.

(d) *Collection of loans.* (1) A lender must exercise reasonable care and diligence in the collection of loans insured under this Subpart, not only with regard to borrowers but with regard to endorsers whose signatures were obtained in accordance with § 177.57(b). A lender must utilize collection practices no less extensive and forceful than those generally in use by commercial lenders for loans of comparable amounts which are not covered by loan insurance, except that litigation for collection purposes is not required (although it is authorized under paragraph (d)(10) of this section) and except in cases of the borrower's death, permanent and total disability, or adjudication as a bankrupt.

(2) When a borrower is delinquent in making a payment, the lender must remind him of his repayment obligation within 10 working days of the date of the payment was due by means of letters, telephone or personal contact. If payments do not resume, at least three additional attempts at contacting the borrower and each endorser must be made at regular appropriate intervals during the ensuing four-month period. These contacts should become progressively more firm in tone. If such efforts are unsuccessful, they must be repeated with respect to any proper endorser on the loan.

(3) The continued mailing of a series of notices or letters to the same address when it becomes clear that the borrower (or endorser) no longer resides there is not due diligence. Whenever it becomes apparent that the correct address of the borrower is not known, a lender must attempt to ascertain the correct address through the use of Office of Education pre-claim collections assistance and normal commercial collection techniques, including contacting any endorser or other individual named on the borrower's loan application or on any other loan documents in the lender's possession. If the lender obtains knowledge of the borrower's address prior to filing a default claim, the lender must attempt to contact the borrower.

(4) If a loan becomes 60 days delinquent, the lender must request, by submitting OE Form 1249-1 (Request for Collection Assistance under Federal Insured Student Loan Program), pre-claim assistance from the Office of Education. If a loan ultimately goes into default, a default claim will not be honored unless pre-claim assistance

had been requested. A request for such assistance will result in attempts to locate the borrower (if his or her address is unknown) and in a series of letters being sent to the borrower and other sources in order to persuade the borrower to contact the lender. A lender will be advised in writing of these efforts and must notify the Office of Education, in a manner approved by the Commissioner, of the success or lack of success of pre-claim assistance for a loan.

(5) A lender is encouraged to grant forbearance, under § 177.60, for the benefit of the borrower where unemployment, health, or other personal problems affect the borrower's ability to make current payments.

(6) The lender must send a final demand letter to the borrower at least 30 days before the lender files a default claim. The same rule applies as to a proper endorser. The lender must allow the borrower or endorser at least 30 days to respond to the final demand letter. Where the lender has no information as to the borrower's (or endorser's) current address, a final demand letter is not required.

(7) A lender must maintain a payment history for each borrower, showing the date and amount of each payment received from or on behalf of the borrower (or a proper endorser) over the life of his or her loan or loans. This payment history must also indicate the amount of each payment which is attributable to principal and interest, respectively.

(8) A lender must also maintain a collection history for each borrower, showing the date, nature, and results of each contact made with the borrower (and any proper endorser) for collection of a delinquent loan. Copies of all correspondence addressed to or received from the borrower and endorser must be included.

(9) Paragraphs (d)(1) through (6) of this section shall not apply:

(i) after it has been determined, or while a lender is seeking to have a determination made, in accordance with § 177.62, that a borrower has died or become totally and permanently disabled; or

(ii) after it has been determined, in accordance with § 177.62, that the borrower has been adjudicated a bankrupt; or

(iii) after it has been determined that any of the conditions for filing a default claim without previous collection efforts, as set forth in § 177.63 and § 177.65(b), exist.

(10) Upon default (as defined in § 177.11 by a borrower and upon a determination by the lender that the borrower has the ability to repay his or her loan, even though the collection efforts required by paragraphs (d)(1) through (4) and (d)(6) of this section have been unsuccessful, the lender may bring suit against the borrower (and against any proper endorser) to recover the amount of the unpaid principal and interest together with reasonable attorney's fees, provided that prior to bringing suit the lender has:

(i) Obtained the prior approval of the Commissioner (which may be sought in anticipation that the collection efforts required by paragraphs (d)(1) through (4) and (d)(6) of this section will be unsuccessful), and

(ii) Provided notice to the borrower that this approval has been obtained, that suit will be brought unless the borrower cures the default (or, if the lender so demands, repays his or her loan in full), and that the lender will seek a judgment under which the borrower will be legally liable for payment of reasonable attorney's fees in addition to the unpaid principal and interest. The notice must be mailed to the borrower by certified mail, return receipt requested. The lender may bring suit if the borrower does not meet the terms of the lender's demand for payment within 10 days following the date of delivery to the borrower indicated on the receipt. Payments received by a lender in satisfaction of a judgment may first be applied to reasonable attorney's fees, whether or not the judgment makes provision for them. The Commissioner will normally approve a request of a lender for authorization to bring suit under this paragraph if he or she is satisfied that the borrower has the ability to repay his or her loan, and that the collection efforts required by paragraphs (d)(1) through (4) and (d)(6) of this section have been, or will be, made prior to the bringing of suit.

(20 U.S.C. 1079, 1080,, 1082, 1083, 1087)

§ 177.60 Forbearance.

(a) Nothing in this subpart shall be construed to preclude any forbearance for the benefit of the student borrower, as to the terms of repayment of a loan insured under this subpart, which may be agreed upon in writing by the borrower and lender, provided that such forbearance is approved by the Commissioner. The Commissioner hereby approves any forbearance for the benefit of the borrower which may be agreed upon in writing by the borrower and lender and which results in repayment terms consistent with the provisions of § 177.58. If payments of interest are forborne, they may be added to the principal amount of the loan obligation on the date that repayment is expected to resume.

(b) The Commissioner may also enter into an agreement with a lender to permit the lender, without further approval by the Commissioner, to exercise forbearance in accordance with the following terms:

(1) The lender must reasonably believe that the borrower intends to, and will, repay his or her loan but is currently unable to make payments in accordance with the terms of the loan note. The basis for this belief must be put in writing and maintained in the lender's records.

(2) The agreement between the borrower and the lender must be made on a form provided or approved by the Commissioner and must bear the borrower's signature as well as that of an authorized official of the lender.

(3) The borrower may be permitted to defer either principal or interest payments or both or to make payments at a rate less than that required by § 177.58(c) for a period of not more than six months if the holder of the note is a participating school, an insurance company, a pension fund, or an agency or instrumentality of a State, or for a period of not more than one year in the case of other holders.

(4) If the agreement between the borrower and the lender provides for deferment of all payments for a period of more than two months, the lender must contact the borrower at regular appropriate intervals during the period of forbearance in order to remind the borrower of his or her outstanding obligation to repay.

(5) The agreement between the lender and the Commissioner may be terminated by the Commissioner upon a finding that the lender has failed to comply with the provisions of this section.

(c) If a lender having an agreement with the Commissioner under paragraph (b) of this section determines that a borrower intends to, and will, repay his or her loan but is financially unable to make payments, in accordance with the terms of the loan note, at the conclusion of the period of forbearance authorized in paragraph (b)(3), the lender may request approval from the Commissioner of an extension of the period of forbearance. An extention of a period of forbearance will not be approved for a period in excess of six months, but subsequent extensions may be applied for in the same manner as the first extension.

(20 U.S.C. 1080, 1082)

§ 177.61 Transfers of insured loans.

(a) A note evidencing a loan insured under this Subpart may not be transferred or assigned, including assignment as security, except to another eligible lender or the Student Loan Marketing Association and in a manner not prohibited by § 177.14, § 177.58(f), or this section. (The words "transfer" and "assign" are used interchangeably herein.) A transferee or assignee filing a default or other claim must provide the same documentation, under § 177.64, that would be required if the original lender were filing the claim.

(b) A loan note transferred or assigned from one lender to another

must bear effective words of assignment from the transferor to the transferee, and must be signed and dated clearly by an authorized official of the transferor, an authorized official of the transferee and any third party involved in arranging the transfer. In accepting the transfer of a loan note insured under this Part, the new holder of the loan assumes responsibility for the consequences of any violations of applicable statutes, regulations, or terms of the loan note which may have occurred prior to the transfer, for example, failure of the previous holder to exercise due diligence. Any valid legal defense which could have been asserted by the borrower against the previous holder can be asserted against the new holder.

(c) In the case of any assignment of a loan note insured under this Subpart, the assignee must ensure that the Commissioner is notified of the assignment if the right to receive payments has also been assigned. The assignee must also ensure that the borrower is notified of the assignment of any note insured under this Subpart if the assignment results in his or her being required to make installment payments or to direct other matters connected with the loan to another party. The notice to the borrower shall contain a clear statement of all of the borrower's rights and obligations, both as to the assignor and the assignee, including a statement regarding the consequences of any payments made to the assignor, or any prior holder of the loan, subsequent to receipt of the notice and, if applicable, the effect of the assignment on any authorization previously signed by the borrower with respect to payment of refunds due under Part 168.

(d) The approval of the Commissioner is required prior to transfer or assignment of a note to any eligible lender which has not entered into an agreement with the Commissioner under this Subpart. The Commissioner shall approved such a transfer or assignment only if he or she is satisfied that one or more of the parties to the transfer or assignment will comply with all of the requirements applicable to lenders under this Part. Any arrangement whereby a loan is transferred to an eligible lender which would hold the loan in trust or similar capacity must receive prior approval of the Commissioner. A lender which holds a loan as a trustee assumes responsibility for complying with all applicable statutory and regulatory requirements imposed on a holder of a loan.

(e) The insurance coverage on a loan note will not be otherwise impaired by reason of a transfer or assignment if the transfer or assignment is made in accordance with this section.

(f) Except as limited by § 177.14, this section shall not preclude a transferee of a loan note insured under this Subpart from obtaining a warrantly from the transferor of the note covering future reductions by the Commissioner, in computing the amount of insurable loss, if any, on a default claim filed on the loan.

(20 U.S.C. 1079, 1080, 1082)

§ 177.62 Death, disability, and bankruptcy.

(a) *Death.* If a borrower dies, his or her obligation to make any further payments of principal and interest on a loan insured under this Subpart is cancelled. The holder of the loan may not attempt to collect on the loan from an endorser or the borrower's estate. The holder may make a determination that a borrower has died on the basis of a death certificate or such other official proof as prima facie evidence under applicable State law. If a death certificate or such other official proof is not available, the borrower's obligation on the loan may be cancelled on account of death only upon a determination by the Commissioner on the basis of such other evidence of death as the Commissioner may find conclusive. The holder shall return any payments received from the estate of the borrower or paid on behalf of the borrower after the date of death.

(b) *Disability.* If a borrower becomes totally and permanently disabled, as defined in § 177.11, his or her obligation to make any further payments of principal and interest on a loan insured under this Subpart is cancelled. The holder of the loan should not attempt to collect on the loan from the borrower or an endorser if there is reason to believe that a borrower has become totally and permanently disabled. The Commissioner shall determine whether a borrower has become totally and permanently disabled on the basis of current medical evidence (i.e., no older than four months prior to the date of submission of the request for cancellation) supplied by the lender (obtained from the borrower or his or her representative) on forms provided or approved by the Commissioner. Any payments received by the holder of the loan after the holder has reason to believe that the borrower is totally and permanently disabled, but before the Commissioner had made a determination, must be retained by the holder and later returned to the borrower if the Commissioner determines that the borrower is totally and permanently disabled. Any payments received by the holder from the borrower or on behalf of the borrower after the Commissioner's determination that the borrower is totally and permanently disabled must also be returned.

(c) *Bankruptcy.* If a borrower of a loan has been adjudicated a bankrupt, the Commissioner will assume the borrower's liability for unpaid principal and interest. Once a holder determines that a borrower has been adjudicated a bankrupt, the holder may not attempt to collect on the loan from the borrower and must file a bankruptcy claim with the Commissioner in accordance with § 177.64. The holder may make a determination that a borrower has been adjudicated a bankrupt upon receipt of notice of the first meeting of creditors from the bankruptcy court. In the event that the loan obligation of a borrower who has been adjudicated a bankrupt is not discharged in bankruptcy, the claim shall be considered to be a default claim.

(20 U.S.C. 1082, 1087)

§ 177.63 Cessation of lender collection activity in certain cases.

(a) If a lender holding a loan insured under this Subpart determines that any of the following conditions exist with respect to the loan, the lender must cease, or refrain from, collection activity on the loan, and must file a default claim with the Commissioner, in accordance with § 177.64, within 60 days of making the determination (whether or not the loan has entered the repayment period and whether or not the borrower is eligible for deferment of repayment of principal under § 177.58(g)):

(1) The school in which the student borrower enrolled for the academic period covered by the loan has terminated its teaching activities with respect to that borrower during that period;

(2) The Commissioner (i) has instituted an action under Part 168 for the limitation, suspension, or termination of the eligibility of the school in which the borrower was enrolled for the period covered by the loan, or has instituted an action under Subpart H of this Part for the limitation, suspension or termination of the eligibility of any lender which has held the loan, and (ii) has directed that a default claim be filed on the loan; or

(3) The borrower, or a State or local government agency acting on his or her behalf, has filed, in a court of competent jurisdiction, an action against a school or lender, or a Federal agency other than the Office of Education has instituted an administrative proceeding against a school or a lender, alleging facts regarding the provision of educational services or making of the loan which if proven, would in the judgment of the holder of the loan entitle the borrower to refuse to repay all or a portion of the loan, or to obtain a judgment for recovery of payments already made on the loan.

(b) If the Commissioner finds that a determination made by a lender under paragraph (a) of this section is correct, the Commissioner shall pay the default claim filed on the loan in the

amount otherwise provided for under applicable law and regulations. If the Commissioner finds that the lender's determination is not correct, he or she shall refuse payment on the claim, and the lender's responsiblities for collection activity on the loan shall be the same as if it had not made a determination under paragraph (a) of this section.

(c) A lender shall not, as a result of a default claim filed with the Commissioner under paragraph (a) of this section, make a report to any credit bureau or other third party concerning the borrower's failure to repay his or her loan.

(20 U.S.C. 1080, 1082)

§ 177.64 Procedures for filing and payment of claims.

(a) *Filing of claim application.* A claim for reimbursement for loss on an insured loan must be filed on a form provided by the Commissioner. The claim may be filed at such time as the holder (1) determines that the loan is in default, as defined in § 177.11(2) determines that any of the conditions for filing a default claim without collection efforts, as set forth in § 177.63 and § 177.65(b), exist, (3) determines, under § 177.62, that the borrower has died, (4) is notified that the Commissioner has determined the borrower to be totally and permanently disabled, or (5) determines that the borrower has been adjudicated a bankrupt. The claim must be accompanied by such documentation as is required by this Part or which the Commissioner may otherwise require, including but not limited to the loan note, the loan application, a chronology of loan disbursements, payment and collection histories required under § 177.59(d) (7) and (8), the original or copies of all relevant correspondence pertaining to the amount owed by the borrower (whether initiated or received by the original lender, an independent servicing agency, or any subsequent holder) and, in the case of a loan in-default, an affidavit, on a form to be supplied by the Commissioner, to the effect that to the best of the holder's knowledge and belief, the borrower is not entitled to deferment of the repayment of the principal of the loan as provided for in § 177.58(g). Failure to provide this documentation may result in the claim not being honored by the Commissioner. In cases of loss due to cancellation for death or total and permanent disability, the claim must also be accompanied by the documents forming the basis for the determination. In cases of bankruptcy, the claim must be accompanied by copies of a proof of claim filed by the holder with the bankruptcy referee and any other pertinent correspondence directed to or recieved from the referee in bankruptcy by the holder or a previous holder, and by a statement as to any objections to the discharge in bankruptcy of which the holder may be aware. If, after the holder has filed a default claim which has been paid or is pending, the holder determines that the borrower has been adjudicated a bankrupt, it shall not file a proof of claim with the bankruptcy referee but shall promptly forward the notice of the first meeting of creditors to the Office of Education.

(b) *Assignment of notes.* Payment of a claim shall be contingent upon receipt of an assignment to the United States of America of all right, title and interest of the holder in the note as to which the claim is filed (and, in a case of bankruptcy, of a copy of an assignment of the proof of claim to the United States, filed with the bankruptcy referee). The lender shall warrant that the note qualifies for insurance under this Subpart and shall agree to repay to the Commissioner any overpayments of interest or special allowance which the Commissioner may have made on account of the loan.

(c) *Timely filing of default, bankruptcy, death, and total and permanent disability claims.* Unless the lender has filed suit against a borrower under § 177.59(d)(10), the lender must file a claim with the Commissioner within 90 days after a loan has been determined to be in default (as defined in § 177.11) or the lender has determined that any of the conditions for filing a default claim without collection efforts as set forth in § 177.63 or § 177.65(b) exist, within 30 days after the receipt by the lender of the notice of the first meeting of creditors from the bankruptcy referee, or within 60 days after the lender determines that the borrower is dead or after the lender is notified that the Commissioner has determined the borrower to be totally and permanently disabled. The Commissioner may determine claims filed after these periods to be ineligible for payment.

(d) *Payment of insured interest on defaulted loans.* Where it is determined, under § 177.65, that a loan in default is eligible for the insurance of unpaid interest, the payment on the claim shall cover unpaid interest that accrues:

(1) Before the beginning of the repayment period in the case of a loan that does not qualify for Federal interest benefits, whether or not the accrued interest was added to the principal amount of the loan by the date upon which repayment of the first installment of principal fell due,

(2) Through the date of default,

(3) During the period permitted under paragraph (c) of this section for filing the claim,

(4) During a period not to exceed 30 days following the return of the default claim to the lender by the Commissioner for additional documentation necessary for the claim to be approved by the Commissioner, and

(5) During the period required by the Commissioner to approve the claim and to authorize payment.

(e) *Payment of insured interest on bankruptcy claims.* Where a borrower is adjudicated a bankrupt, the payment on the claim shall cover unpaid interest that accrues:

(1) Before the beginning of the repayment period in the case of a loan that does not qualify for Federal interest benefits, whether or not the accrued interest was added to the principal amount of the loan by the date upon which repayment of the first installment of principal fell due,

(2) During any subsequent period before the receipt by the lender of the notice of the first meeting of creditors from the bankruptcy referee,

(3) During the period permitted under paragraph (c) of this section for filing the claim,

(4) During a period not to exceed 30 days following the return of the bankruptcy claim to the lender by the Commissioner for additional documentation necessary for the claim to be approved by the Commissioner, and

(5) During the period required by the Commissioner to approve the claim and to authorize payment.

(f) *Payment of insured interest on death claims.* In cases in which it is determined, under § 177.65, that a loan is eligible for the insurance of unpaid interest on a death claim, the payment shall cover unpaid interest that accrues:

(1) Before the beginning of the repayment period in the case of a loan that does not qualify for Federal interest benefits, whether or not the accrued interest was added to the principal amount of the loan by the date upon which repayment of the first installment of principal fell due,

(2) During any subsequent period before the lender determines that the borrower is dead,

(3) During the period permitted under paragraph (c) for filing the claim,

(4) During a period not to exceed 30 days following the return of the death claim to the lender by the Commissioner for additional documentation necessary for the claim to be approved by the Commissioner, and

(5) During the period required by the Commissioner to approve the claim and to authorize payment.

(g) *Payment of insured interest on total and permanent disability claims.* Where it is determined, under § 177.65, that a loan is eligible for the insurance of unpaid interest on a total and permanent disability claim, the payment shall cover unpaid interest that accrues:

(1) Before the beginning of the repayment period in the case of a loan that does not qualify for Federal interest benefits, whether or not the accrued interest was added to the principal amount of the loan on the date upon which the repayment of the first installment of principal fell due;

(2) During any subsequent period prior to the filing by the lender with the Commissioner of medical evidence as to the borrower's total and permanent disability, under § 177.62(b), requesting a determination of total and permanent disability;

(3) During the period required for the Commissioner to review the submission to determine whether the borrower is totally and permanently disabled;

(4) During the period permitted under paragraph (c) of this section for filing the claim;

(5) During a period not to exceed 30 days following the return of the total and permanent disability claim to the lender by the Commissioner for additional documentation necessary for the claim to be approved by the Commissioner, and

(6) During the period required by the Commissioner to approve the claim and to authorize payment.

(20 U.S.C. 1080, 1082, 1087.)

§ 177.65 Determination of amount of loss on claims.

Unless a borrower has been adjudicated a bankrupt, the amount of loss to be paid on claims filed in accordance with § 177.64, for loans for which the application for insurance commitment was received by the U.S. Office of Education prior to July 1, 1972, or between August 19, 1972, and February 28, 1973, (or, with respect to claims based on the borrower's death or total and permanent disability, for loans made prior to December 15, 1968), shall be equal to the unpaid balance of the principal amount of the loan other than any interest or other charges which may have been added to, and become part of, the principal amount of the loan. For loans for which the borrower has been adjudicated a bankrupt, or for which applications were received between July 1 and August 18, 1972, or after February 28, 1973 (and, with respect to claims based on the borrower's death or total and permanent disability, for loans made on or after December 15, 1968), the amount of the loss to be paid on claims filed in accordance with § 177.64 shall be equal to the unpaid balance of the principal and interest. In determining what amount of that balance is unpaid, the Commissioner shall consider legal defects affecting the initial validity or insurability of the loan which arise under Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071 to 1087-4), the regulations set forth in this Part, or other applicable State or Federal law. Subject to the provisions of § 177.53(b), the Commissioner shall deduct from the claim any amounts included therein which are attributable to legal defects deriving from fraud, forgery or intentional misrepresentations on the part of the borrower, the educational institution or the lender or deriving from noncompliance with the statutory conditions and elements set forth in sections 425 and 427 of the Higher Education Act of 1965 (20 U.S.C. 1075, 1077). In determining whether deductions should be made because of other defects, the Commissioner shall consider whether there is any evidence of an intention to mislead or defraud and whether the lender, in making the loan, failed to exercise care and deligence commensurate with prudent business practices. In addition, the Commissioner will determine the amount of the unpaid balance in accordance with the following rules:

(a) *Loans made by lenders which are not schools.* If the loan for which a claim has been filed was originally made by a lender which was not an institution of higher education or a vocational school, the unpaid balance shall be the amount of the loan, minus any payments which have been properly made to the holder of the loan by the borrower or on the borrower's behalf. However, if the borrower authorized the school to pay directly to the lender any refund from that school to which the borrower becomes entitled, the lender must make a diligent effort to collect that refund prior to filing the claim; if the lender fails to make such efforts or is responsible for such amount under State law or Federal law, the Commissioner will deduct from the claim any amount included therein which is attributable to the refund. If the claim has been filed by a lender which did not make the loan, but has obtained it by transfer or assignment, the transferee or assignee shall not be entitled to any payment under this section greater than that to which the transferor or assignor would be entitled under this section. In particular, the Commissioner shall deduct from the claim any amounts included therein which are attributable to payments made by the borrower to a prior holder of the loan prior to, or in the absence of, proper notice of the transfer or assignment to the borrower. If the loan for which a claim has been filed was made by a lender which is not an educational institution, but for which the conditions set forth in paragraph (c) of this section exist, the Commissioner will determine the amount of the loss on that claim in accordance with the rules set forth in paragraph (b)(1) of this section.

(b) *Loans made by school lenders.* (1) If the loan for which a claim has been filed was originally made by an eligible institution of higher education or vocational school, and the claim has been filed by that lender, the Commissioner shall deduct from the claim any amounts included therein which are attributable to either (i) a refund (in the amount calculated under Part 168) which the institution is obligated to make under Part 168, but has not made; or (ii) any portion of the program of study which the student was unable to complete due to the school's termination of its teaching activities during the period of time for which the student obtained a loan under this Part. If the situation described in paragraph (b)(1)(ii) of this section arises, the lender shall not make any effort to collect on the loan from the student, shall not hold the loan during the 9 to 12 month grace period provided for in § 177.58(a), and shall promptly file a claim in accordance with § 177.64. The Commissioner shall reimburse the lender in an amount which bears the same ratio to the total amount of the loan as the amount of the educational services which the student received before the school terminated its teaching activities bears to the total services which he or she would have received, during the period for which the loan was obtained, had the school not terminated its teaching activities. The Commissioner will then determine whether the student is obligated to make any repayments on the loan and, if so, in what amount.

(2) If the loan for which a claim has been filed was originally made by a participating institution of higher education or vocational school, but the claim has been filed by another lender which obtained the note by transfer or assignment, the Commissioner shall deduct from the claim any amounts included therein which are attributable to (i) a refund in the amount calculated under Part 168 which the school became obligated to make, prior to the transfer or assignment, but has not made; or (ii) any payments made to the school (or any other prior holder of the loan) which the lender filing the claim authorized to be made or knowingly permitted to be made, or which were made prior to or in the absence of a proper notice of the transfer or assignment having been sent to the student; or (iii) any portion of the program of study which the student was unable to complete due to the school's termination of its teaching activities during the period of time for which the student obtained a loan under this Part. The Commissioner will not deduct from the claim an amount which would be attributable to a refund which the school became obligated to make after the date of the transfer or assignment, but has not made, if the student does not have a defense on the loan on the basis of his

or her entitlement to a refund under State or Federal law and if the lender, prior to filing the claim, has made a diligent effort to collect that refund from the school. If the lender fails to make that effort or if the student has a defense on the loan on the basis of his or her entitlement to a refund under State or Federal law, the Commissioner will deduct from the claim any amount included therein which is attributable to a refund which the school is obligated to make. If a lender holding a loan that was made by an educational institution has knowledge that the school has terminated its teaching activities during the period of time for which the student obtained a loan under this Part, the lender shall not make any effort to collect on the loan from the student, shall not hold the loan during the 9 to 12 month grace period provided for in § 177.58(a), and shall promptly file a claim in accordance with § 177.64. The lender will be reimbursed an amount which bears the same ratio to the total amount of the loan as the amount of the educational services which the student received before the school terminated its teaching activities bears to the total services which he or she would have received, during the period for which the loan was obtained, had the school not terminated its teaching activities. The Commissioner will then determine whether the student is obligated to make any repayments on the loan and, if so, in what amount.

(c) *Loans originated by schools.* For purposes of this section, a loan which has been originated (as defined in § 177.11) by an educational institution shall be treated, in accordancewith paragraph (b)(1), as if it were a loan made and still held by an educational institution.

(d) *Effect of violations of requirements in this part on disposition of default claims.* The Commissioner may deny payment of a default claim on a loan made under this Subpart if any of the requirements of this Part have been violated with respect to that loan. Violations of some of these requirements may be cured by the holder, in a manner specified by the Commissioner, as a condition for payment of a default claim. Some of the violations may be excused by the Commissioner if (i) the holder submitting the default claim satisfies the Commissioner that the violation did not contribute to the default or (ii) the violation was committed by a prior holder of the loan and the holder submitting the default claim satisfies the Commissioner that the transaction whereby it received the loan was an arm's-length transaction, and that it otherwise had no knowledge of the violation at the time of the transfer and could not have become aware of it through examination of the loan documents. All violations of the requirements of this Part, regardless of whether they lead to denial of default claims, could form a basis for the limitation, suspension, or termination of the eligibility of a lender under this Subpart, in accordance with the procedures set forth in Subpart H of this Part.

(20 U.S.C. 1080, 1082.)

§ 177.66 Records, reports, and inspections requirements for the Federal Insured Student Loan Program.

(a) *Records.* Lenders (including subsequent holders) of federally insured loans must keep records as specifically required by this Part and as may be necessary to make the reports required under this Subpart, including but not limited to the reports described in paragraph (b) of this section and elsewhere in Subpart F. In addition, they must keep complete and accurate records of each loan account, reflecting each transaction so as to afford ready identification of the borrower's account and status and containing full and proper documentation to support a claim for loss in accordance with § 177.64(a). A lender (or subsequent holder) must retain records for a loan for not less than 5 years from the date the loan has been repaid in full by the borrower or the lender has been reimbursed for a loss on the loan by the Commissioner. The Commissioner may, in particular cases, require the retention of records beyond this minimum period. Records may be stored in microform or computer format. However, the holder of a promissory note must retain the actual note until returned to the borrower upon complete repayment, after which it must retain a copy of the note for the prescribed period.

(b) *Reports.* Lenders (including subsequent holders) of federally insured loans must submit reports to the Commissioner at such times and in such manner as the Commissioner shall prescribe, including periodic reports on:

(1) The collection and payment of loan insurance premiums;

(2) Loans insured, loans repaid in full, loans defaulted or for which other claims for loss have been submitted to the Commissioner, and total loans converted from in-school to repayment or deferment status. If a lender holds loans which were originally made by another lender and were acquired by transfer or assignment, default data on these loans must be reported separately and categorized by type of original lender. For this purpose, the following four categories of lenders apply: (i) school lenders, (ii) States or private, nonprofit lenders designated by States, (iii) banks, savings and loan associations, and credit unions, and (iv) all other types of institutions or agencies;

(3) Interest and special allowance payments due from the Commissioner and

(4) The other subjects of the reports referred to in § 177.59(c)(3).

(c) *Inspections.* A lender (including a subsequent holder) of federally insured loans must afford the Commissioner (or other agencies of the Government designated by the Commissioner) access to its records upon request in order to assure the correctness of the reports described in paragraph (b) of this section and elsewhere in Subpart F.

(20 U.S.C. 1077, 1078, 1079, 1080, and 1082)

§ 177.67 Collection efforts by the Commissioner after payment of claims.

After the Commissioner has paid a default claim on a loan insured under this Subpart, the Commissioner shall attempt to obtain repayment on the loan from the borrower (and any proper endorser) in accordance with the following standards:

(a) If the Commissioner determines that the borrower (or endorser) has a defense on the loan applicable law or regulation, the Commissioner shall refrain from collection to the extent of the defense.

(b) If the Commissioner determines that the borrower is entitled under Part 168 to a refund from the school in which the borrower enrolled for the academic period intended to be covered by the loan, but that the refund has not been made, the Commissioner shall forgive the borrower's indebtedness to the extent of the unmade refund in the amount calculated under Part 168 *Provided,* That (1) (if the borrower has not previously assigned his or her right to the refund to a lender) the borrower assigns his or her right to receive the refund from the school to the Commissioner in a manner approved by the Commissioner and (2) the borrower agrees in writing to pay to the Commissioner the remaining portion of his or her indebtedness on the loan, if any.

(c) If the Commissioner determines that the school in which the student borrower enrolled for the academic period intended to be covered by the loan terminated its teaching activities with respect to that borrower during that period, the Commissioner shall forgive the borrower's indebtedness to the extent that, under applicable law, the borrower would have had a defense on the loan if the loan (1) had been made by the school, (2) was part of the same transaction as the student's enrollment at the school, and (3) was in consideration for the educational services that were to be provided by the school. As conditions to this forgiveness the borrower must (i) assign his or her rights to receive any refund due him or her under Part 168

from the school, if any, to the Commissioner in a manner approved by the Commissioner (unless the borrower has previously assigned his or her rights to the refund to a lender) and (ii) agree in writing to pay to the Commissioner the remaining portion of his or her indebtedness on the loan, if any.

(d) If the Commissioner determines that the borrower, or a State or local government agency acting on his or her behalf, has filed, in a court of competent jurisdiction, an action against a school, a lender, or the Commissioner, or that a Federal agency other than the Office of Education has instituted an administrative proceeding against a school or a lender, alleging facts regarding the provision of educational services or the making of the loan which, if proven, would in the judgment of the Commissioner entitle the borrower to refuse to repay all or a portion of the loan, or to obtain a judgment for recovery of payments already made on the loan, the Commissioner shall suspend collection activity pending the final resolution of the litigation or the administrative proceeding, and shall then take such collection activity as he or she considers appropriate in light of the resolution, provided that:

(1) The Commissioner at no time has reason to believe that (in the case of an action) the action is not being prosecuted in good faith or in an energetic or timely manner; and

(2) The Commissioner does not make his or her own determination that the borrower's allegations regarding the provision of educational services or the making of the loan are unlikely to be proven.

(e) If the Commissioner has instituted an action under Part 168 for the limitation, suspension, or termination of the eligibility of the school in which the student borrower was enrolled for the academic period covered by the loan or of any lender which has held the loan, the Commissioner may, if he or she believes that the outcome of that action should have a bearing on the borrower's obligation to repay the loan, suspend collection activity pending the final resolution of the action, and shall then take such collection activity against the borrower, educational institution or lender as he or she considers appropriate in light of the resolution.

(f) If the Commissioner determines that the borrower has died, become totally and permanently disabled, or has had his or her loan obligation discharged in bankruptcy, the Commissioner shall refrain from collection activity thereafter against the borrower or his or her estate.

(g) Except as otherwise provided in this section or when inconsistent with an exercise of forbearance under § 177.60, the Commissioner shall adhere to the Federal Claims Collection Standards (4 CFR Parts 101–105).

(20 U.S.C. 1080, 1082)

Subpart G—Requirements and Standards for Participating Educational Institutions

§ 177.71 Agreements between eligible schools and the Commissioner.

(a) Any eligible educational institution seeking to participate, in any manner, in any program covered under this Part shall submit to the Commissioner for approval, on a form provided by the Commissioner, an agreement signed by an appropriate official acknowledging the school's obligation to comply with all applicable laws and all applicable regulations set forth in this Part and in Part 168.

(b) If a school requests an agreement under this section, the Commissioner shall respond within 30 days and, if he or she has decided not to approve the request, or to approve only limited participation, shall state reasons for the decision. A school which has been denied an agreement or received an initial agreement subject to limitations shall be given an opportunity to meet with a designated Office of Education official to show cause why the agreement should not be denied or limited. However, the Commissioner need not give reasons for a denial or limitation, or grant an opportunity to show cause, if the request is submitted within six months of a previous denial or imposition of limitation.

(c) If a participating school undergoes a change of controlling ownership or form of control, its agreement shall automatically expire at the time of that change. In that case, continued participation by the school in loan programs under this Part shall require a new agreement with the Commissioner and continuation of the school's status as an eligible school under this Part.

(d) Schools outside the States shall be required to comply with the provisions of this Part only to the extent determined by the Commissioner on a case by case basis.

(20 U.S.C. 1082, 1088f-1)

§ 177.72 Agreements between the Commissioner and eligible schools which make or originate loans.

(a) A school may not make or originate (as defined in § 177.11) loans under this Part (either under Subpart F or under a guarantee agency program), unless it has in effect an agreement with the Commissioner, submitted in a form prescribed by the Commissioner, under which the school agrees that:

(1) It will not (except as authorized by paragraph (e) of this section) make or originate a loan to be insured under this Part to a student if by doing so more than 50 percent of the students who are not graduate or professional students then in attendance at that school on at least a half-time basis would be in receipt of loans made or originated by that school under this Part to cover educational costs for the academic period for which that loan is to be made.

(2) It will not make or originate a loan to be insured under this Part to a student who is not a graduate or professional student and who has not previously received a loan that was made or originated by the school until the student has provided the shool with either (i) a written statement from an eligible lender (other than an educational institution, a State agency or a private nonprofit agency designated by a State) indicating that the student sought and was denied a loan isured under this Part by that lender for the academic period for which the loan is sought, or (ii) a sworn statement by the student indicating that he or she was refused a loan by such a lender for the academic period for which the loan is sought and that the lender which so refused declined to provide a written statement of denial. The student's sworn statement under clause (ii) must include the date of the loan denial, the name of the lending institution which denied the loan, and the name of the official with whom the student communicated. The statement must be signed by the student in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at the school. The notary or other person must sign the statement and, if appropriate, affix his or her seal or stamp.

(3) It will not make or originate loans to a student who is in his or her first academic year of a program of postsecondary education who has not enrolled previously in such a program in an amount in excess of the lesser of $2,500 or one-half of the estimated cost of attendance for that academic year.

(4) It will not in any academic year make or originate a loan of more than $1,500 to a first-year student described in paragraph (a)(3) unless the proceeds are disbursed in multiple installments in accordance with the provisions of § 177.33(a)(1)(iv) or § 177.54(a)(3).

(b) The school must inform any student seeking a loan to be made or originated by the school that he or she must make a good faith effort to obtain a loan from an eligible lender described in paragraph (a)(2)(i) of this section. In determining whether a school has adhered to this requirement, the Commissioner may take into

consideration any pattern reflected in the statements of loan denials received by the school.

(c) For the purpose of paragraph (a)(2)(i) of this section, the written refusal of a lender to lend the entire amount requested by the student and recommended by his or her school will constitute sufficient denial to warrant the making or originating of a loan of the full amount requested and recommended by that school even though the lender is willing to make a loan of lesser amount. A school may, however, supplement a loan which the student receives for a lesser amount with a second loan which it makes or originates.

(d) In the event that the provisions of this section are violated by a school in either the making or the origination of loans, the institution's eligibility to participate in programs under this Part may be limited, suspended, or terminated in conformance with the procedures set forth in Subpart H of Part 168.

(e) An educational institution may request that the provisions of paragraph (a)(1) be waived. The Commissioner shall waive the provisions of that paragraph if he or she determines that those provisions create a substantial hardship to present or prostpective students of that school. In making a determination, the Commissioner shall take into consideration:

(1) the extent to which the school is providing, and expects to provide, educational opportunities to economically disadvantaged students (as measured by the percentage of students enrolled at the school who fall within the "low-income family" category used by the Bureau of the Census) who, as a result of the application of paragraph (a)(1) of this section, would not be able to enroll, or continue their enrollment, at the school and would not be able to obtain a comparable education at another institution;

(2) The extent to which the school has academic programs which are unique in the general geographical area served by the school and which would be made unavailable to students as a result of the application of paragraph (a)(1) of this section; and

(3) The quality of, and improvements expected in, the management of the institution especially with respect to its handling of student financial assistance programs, and its conformance with generally accepted standards of sound business practice.

(f) A school which makes or originates loand on the effective date of this regulation must submit the agreement described in paragraph (a) of this section within 90 days of that date in order to be eligible to continue to make or originate loans in programs covered under this Part.

(g) For purposes of this section, a loan is made or originated as of the date of the first disbursement of any loan proceeds.

(20 U.S.C. 1075, 1078, 1082, 1083)

§ 177.73 Records, reports, and inspection requirements for participating schools.

(a) Each participating educational institution shall establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of any funds received from students who have obtained loans under this Part, to assure that the rights of students established under this Part are protected, to protect the United States from unreasonable risk of loss due to defaults, and to comply specifically with all applicable requirements set forth in this Part and Part 168.

(b) Each participating school shall maintain records, with respect to each student who receives a loan under this Part, regarding the student's admission (to the extent required for purposes of § 177.75), academic standing, periods of attendance (to the extent required for purposes of paragraph (c) of this section and Part 168), courses taken and placement (if the school provides a placement service and the student uses the service). Each participating school must also, with respect to each loan, maintain a record of the name of the student borrower, the name of the lending institution, the amount of the loan, the period for which the loan is intended, the school's reasons for recommending Federal interest benefits (if applicable), the date the school receives the loan check (if the school is not the lender and the loan is either insured under Subpart F or its disbursement through the school is required under a guarantee agency program), the date the school disburses the loan check to the student (unless under a guarantee agency program disbursement is accomplished directly from the lender to the borrower), the date the school signs the loan check (if the school is a co-payee), and the date of and amount of tuition and fees paid by the student. A participating school must retain, as applicable, all documents required by § 177.72(a)(2) regarding a borrower's inability to obtain a loan from certain types of lenders. The school shall retain these records (which may be stored in microform or computer format) for not less than five years (unless otherwise directed by the Commissioner) following the date the student graduates, withdraws, or fails to matriculate for an academic period for which he or she has received a loan under this Part. Copies of reports submitted by the school in accordance with this section and other forms utilized by the school relating to loans made under this Part shall also be retained for not less than five years following their completion, unless otherwise directed by the Commissioner.

(c) Each participating school shall submit such reports to the Commissioner or to lenders at such times and in such manner as the Commissioner may prescribe. This includes timely completion of the Student Status Confirmation Report (OE Form 1072) and compliance with the requirements of § 177.77.

(d) A participating school must submit such reports as the Commissioner may prescribe concerning the school's compliance with the requirements of § 177.72(a)(1). A participating school lender must also submit such reports at such times as the Commissioner may prescribe for the purposes of § 177.76.

(e) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records required by this Part and by Part 168 and to any other pertinent books, documents, papers, and records of a participating school.

(f) *Audits—non-Federal.* (1) A school's transactions relating to its participation in the Guaranteed Student Loan Program shall be audited by the school or at the school's direction by a Certified Public Accountant or by a Licensed Public Accountant licensed before December 31, 1970, to determine, at a minimum, the fiscal integrity of financial transactions and reports, and whether such transactions are in compliance with applicable laws and regulations. Audits shall be scheduled with reasonable frequency, usually annually, but not less frequently than once every two years, considering the size and complexity of the activity of the program. Each audit must cover the entire period of time which has elapsed since the last audit that was performed in accordance with those guidelines.

(2) The required audit report must be submitted to the regional office of the Department of Health, Education, and Welfare Audit Agency serving the region in which the school is located for its review. The school must provide access for the Audit Agency and the Commissioner to the records or other documents necessary to review the results of those audits.

(g) In the event of the closure, termination, suspension or change of ownership of a participating school, that school or its successors must make provision for the retention of the records provided for in paragraph (b) of this section and for access to those records by the Commissioner as provided for in paragraph (e) of this section.

(20 U.S.C. 1082, 1083)

§ 177.74 Student information.

Each participating school shall make a good faith effort to present each prospective student, prior to the time he or she makes an obligation to pay tuition or fees to the school, with a complete and accurate statement (including printed materials) about the school, its current academic or training programs, and its faculties and facilities, with particular emphasis on those programs in which the prospective student has expressed interest. In the case of a school having a course or courses of study, the purpose of which is to prepare students for a particular vocation, trade or career field, the required statement shall include information regarding the employment of students previously enrolled in those courses. This information shall include data regarding the average starting salary for previously enrolled students entering positions of employment for which the courses of study offered by the school were intended as preparation. It shall also include percentage of previously enrolled students who obtained employment in such positions. This information shall be based on the most recently available data. If the school, after reasonable effort, cannot obtain statistically meaningful data regarding its own students, it may use the most recent comparable regional or national data. When the data the school possesses, regarding its own students, is more than three years old and cannot be updated after reasonable effort by the school and when there is available comparable regional or national data at least three years more recent than the school's data, the school must use regional or national data.

(20 U.S.C. 1082, 1085, 1088f-1)

§ 177.75 Admissions criteria for a vocational, trade or career program.

Each participating educational institutions holding itself out as preparing students for a particular vocation or career field trade, shall, prior to the time the prospective student makes an obligation to pay tuition or fees to the school, make a determination, based on an appropriate examination or other appropriate criteria, that there is a substantial and reasonable basis to conclude that that person has the ability to benefit from the instruction or training to be provided.

(20 U.S.C. 1082, 1085, 1088f-1)

§ 177.76 Lending eligibility standard for participating schools.

(a) Except as determined under paragraph (c) of this section, the Commissioner shall terminate the lending eligibility of a participating school (whether that eligibility was granted under subpart F or under a guarantee agency program) if during each of the two most recent consecutive 12-month periods for which data are available the amount of original loan principal on which its student borrowers went in default represented 15 percent or more of the original principal amount of all loans in repayment status (including those in deferment) at the beginning of each period plus that of all loans coming into repayment status (including those in deferment) during that period. The termination will begin on the first day of October following the Commissioner's determination, after notice and opportunity for a hearing under paragraph (d) of this section, that such a default situation exists.

(b) For the purposes of making both the determination and the termination under paragraph (a) of this section in the case of a school which makes loans to students in attendance at other schools under the same ownership, the Commissioner may either treat all such schools as one school or else may make the determination and termination on a school-by-school basis.

(c) The Commissioner shall not terminate the lending eligibility of a participating school under paragraph (a) of this section if he or she determines that either of the hardship conditions described in the following two subparagraphs applies:

(1) The termination would be a substantial hardship to the school because there is a reasonable possibility that the institution will within the next year appreciably improve its collection of loans insured under this part. Recent improvement of the school's loan delinquency rate and recent improvement in a school's collection capabilities (for example, improved procedures or increased staff) will be considered as evidence that a school will improve its collection of loans insured under this part.

(2) The termination would be a substantial hardship to current or prospective students. In making this determination, the Commissioner will consider;

(i) The extent to which the school is providing, and expects to provide, opportunities to economically disadvantaged students (as measured by the percentage of students enrolled at that school who fall within the "low-income family" category used by the Bureau of the Census) who as a result of the application of paragraph (a) of this section would not be able to enroll, or to continue their enrollment, at the school and would not be able to obtain a comparable education at another school;

(ii) The extent to which the school has academic programs which are unique in the general geographical area served by the institution and which would be unavailable to students as a result of the application of paragraph (a) of this section; and

(iii) The quality of, and improvements expected in, the management of the school with respect to its student financial assistance programs, its collection of loans insured under this part, and its conformance with generally accepted standards of sound business practice.

(d) *Termination procedures.* Termination of the lending eligibility of an educational institution under this section shall be made only after the notice and opportunity for a hearing provided under this paragraph.

(1) An official of the Office of Education designated by the Commissioner shall begin the termination action by sending a notice to the school by certified mail with return receipt requested. The notice must:

(i) Inform the school of the Commissioner's intent to terminate its lending eligibility under this part because of the school's default experience under the terms of paragraph (a) of this section,

(ii) Specify the proposed effective date of the termination, which shall be the next October 1,

(iii) Inform the school that it has 15 days to submit written material for consideration by the designated offical or to request a hearing to show cause why the determination under paragraph (a) should not be made, and

(iv) Inform the school that it may submit written material for consideration in determining whether its lending eligibility should not be terminated because either of the hardship conditions described in paragraph (c) of this section applies.

(2) If the school does not request a hearing but on a timely basis submits written material, the designated official, after considering that material, shall notify the school whether it comes within the terms of paragraph (a) of this section.

(3) If the school on a timely basis requests a hearing, the designated official will set a date and place for it. The date of the hearing will be at least 15 days after the designated offical receives the request.

(4) A presiding officer conducts the hearing.

(5) The presiding officer shall consider any written material presented before the hearing or other evidence presented during the course of the hearing.

(6) The presiding officer will determine whether or not the school comes within the terms of paragraph (a) of this section

(7) The decision of the presiding officer, or of the designated official in the event that the school has submitten written material on a timely basis

but has not requested a hearing, is subject to review by the Commissioner.

(8) Prior to the effective date of a termination of a school's lending eligibility, the Commissioner shall determine whether the school's lending eligibility should not be terminated because of a potential hardship condition described in paragraph (c) of this section.

(9) A school whose lending eligibility is terminated under this section may not make further loans under this part unless it has entered into a new agreement with the Commissioner under § 177.52 or with a guarantee agency under subpart D. No new agreement may take effect until the second October first following the Commission's determination under paragraph (a) of this section.

(20 U.S.C. 1082, 1085)

§ 177.77 Notification to lender of change in student enrollment status.

Each participating school shall establish policies and procedures whereby the holder of a loan insured under this part made to a student for attendance at that school will be notified by the school within 60 days following the student's graduation, formal withdrawal, or failure to register on at least a half-time basis for any academic period for which that student was expected to register as part of his or her academic program. The notice shall contain (1) the date of graduation, withdrawal, or failure to register and (2) the student's latest known permanent (and, if known, temporary) address. The procedures must provide that if the school does not know the identity of the current holder of a loan, it will report these facts to the insurer of the loan.

(20 U.S.C. 1082, 1088f-1)

§ 177.78 Certifications by a participating school in connection with a student loan application.

In connection with a student's application for a loan to be insured under this part, a participating school must:

(a) Certify that the student either (1) is accepted for enrollment in an eligible program at an eligible school or (2) is enrolled in such a program and is in good standing and maintaining satisfactory progress in his or her course of study according to the standards and practices of the institution. If a school determines that a student is not maintaining satisfactory progress but reverses that determination prior to the end of the enrollment period, then the student will be considered to be making satisfactory progress for the entire enrollment period. (b) Certify that the student is carrying or plans to carry, during the period for which the loan is intended, at least one-half the normal full-time workload as determined by the school.

(c) Certify that the student does not owe a refund on a grant previously received under the Basic Educational Opportunity Grant Program (45 CFR part 190), the Supplemental Educational Opportunity Grant Program (45 CFR part 176), or the State Student Incentive Grant Program (45 CFR part 192) for attendance at that school, except as follows:

(1) If the student received an overpayment, and thus owes a refund, on such a grant because of the school's error, that student shall not be considered ineligible for a loan for this reason if he or she: (i) Acknowledges in writing the amount of the overpayment and (ii) agrees in writing to repay the refund within a reasonable period of time.

(2) If the student received an overpayment, and thus owes a refund, on a Basic Educational Opportunity Grant, that student shall not be considered ineligible for a loan for this reason if the school can, and expects to, recoup the overpayment within the same academic year for which the loan is intended by adjusting subsequent BEOG payments due the student.

(3) If the student received an overpayment, and thus owes a refund, on a Supplemental Educational Opportunity Grant, that student shall not be considered ineligible for a loan for this reason if the school can, and expects to, recoup the overpayment within the same academic year for which the loan is intended by adjusting subsequent SEOG payments due the student.

(d) Certify that the student is not in default on any loan previously received under the National Direct Student Loan Program (45 CFR part 144) made for attendance at that school, or on any loan previously received under this part (whether or not made for attendance at that school), unless the Commissioner (for a federally insured loan), a guarantee agency (for a loan insured by that agency), or the school (for a National Direct Student Loan made by that school) has determined that the student has made satisfactory arrangements to repay the defaulted loan. In determining whether a student is in default on a loan made under this part, a school may, in good faith and in the absence of information to the contrary, rely upon a written statement by the student that he or she is not in default on such a loan.

(e) Provide a statement of the academic period for which the loan is sought.

(f) Provide a statement of the student's estimated cost of attendance, as described in § 177.11.

(g) Provide a statement of other estimated financial assistance of which the school is aware which has been awarded to the student for the period for which the loan is sought, as described in § 177.11.

(h) Provide, only if required under § 177.21(a)(1)(iii)(B) for the purpose of determining Federal interest benefit eligibility and if the school is located in a State, a statement containing a determination of need and recommendation as described in § 177.21(a)(3).

(20 U.S.C. 1077, 1078, 1085, 1088f)

§ 177.79 Loan disbursement responsibilities of a participating school.

(a) When a participating educational institution receives from a lender which is not a school a loan disbursement check payable to a student borrower matriculated at that school, it must deliver the check promptly to the student. If, when a school receives such a check, the student has not yet matriculated, the school shall hold the check and deliver it to the student at the time he or she matriculates. If, after the school receives a check, the student fails to matriculate within a reasonable time for the academic period for which the loan was intended, or notifies or has notified the school that he or she does not plan to matriculate for that period, the school must notify the lender and return the check to the lender within 30 days of the conclusion of the reasonable time or the notification.

(b) If a loan check is payable jointly to a student and a school, the school may either: (1) Endorse the check on its own behalf and deliver it to the student borrower, or (2) obtain the student's endorsement prior to endorsing the check on its own behalf. In the latter case, the school may apply the loan proceeds directly to any of the student's educational costs that are payable to the school, but it must then promptly disburse to the student any remaining portion of the loan.

(c) A school lender making loans which are insured under subpart F must follow the requirements of § 177.57(d). The requirements of paragraph (a) and (b) of this section shall apply only to loan checks which the school receives for disbursement to its students from other lenders.

(20 U.S.C. 1078, 1082)

SUBPART H—PROCEDURES FOR THE LIMITATION, SUSPENSION, OR TERMINATION OF THE ELIGIBILITY OF LENDERS UNDER THE FEDERAL INSURED STUDENT LOAN PROGRAM

§ 177.81 Purpose and scope.

(a) This subpart establishes rules and procedures for the limitation, suspension, or termination of the eligibility of an otherwise eligible lender to participate in the Federal Insured Student Loan Program (subpart F). These provisions apply to a lender which vio-

lates any provision of title IV, part B of the Higher Education Act of 1965, as amended, this part, or applicable limitations or agreements.

(b) This subpart does not apply to administrative action by the Department of Health, Education, and Welfare based on any alleged violation of title VI of the Civil Rights Act of 1964, which is governed by 45 CFR parts 80 and 81; title IX of the Education Amendments of 1972, which is governed by 45 CFR part 86; or the Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended) which is governed by 45 CFR part 99.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.82 Definitions.

As used in this subpart:

"Designated OE Official" means an official of the U.S. Office of Education to whom the Commissioner has delegated the responsiblities indicated in this subpart.

"Limitation" means the continuation of a lender's eligibility, subject to compliance with special conditions or restrictions which the Commissioner has set as a result of a decision in a limitation or termination proceeding.

"Presiding Officer" means one or more impartial persons having no prior involvement with the facts giving rise to a limitation, suspension or termination proceeding, and selected by the Commissioner to conduct a hearing.

"Suspension" means the removal of a lender's eligibility for a specified period of time or until the occurrence of one or more specified conditions.

"Termination" means the unqualified removal of a lender's eligibility for an indefinite period of time.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.83 Effect on prior participation.

An action under this subpart resulting in the limitation, suspension, or termination of a lender shall not affect any of its responsibilities arising from participation in programs under this Part prior to the date of the action. Nor shall the action impair any benefits or claims to which a lender may be entitled based on its participation prior to the action, except as provided in § 177.90 and § 177.93(c).

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.84 Informal compliance procedure.

(a) If the Commissioner receives a complaint, or has other information which he or she believes to be reliable, indicating that a lender is, or may be, in violation of applicable laws, regulations, agreements or limitations, the Commissioner may call the matter to the attention of the lender and may give the lender a reasonable opportunity (1) to respond to the complaint or other information, (2) to show that the matter has been corrected, or (3) to submit an acceptable plan to correct the violation and to prevent its recurrence.

(b) The procedures provided in this subpart for limitation, suspension, or termination need not be delayed during the informal compliance procedure if the Commissioner believes (1) that the delay would have an adverse effect on the Federal Insured Student Loan Program, or (2) that the informal compliance procedure will not result in a correction of the alleged violation.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.85 Emergency action.

(a) The Commissioner may take emergency action to withhold the issuance of further commitments of insurance to a lender if the designated OE official:

(1) Receives information which the official believes to be reliable that the lender is in violation of applicable laws, regulations, agreements, or limitations.

(2) Determines that immediate action is necessary in order to prevent the likelihood of substantial loss of funds either to the Federal Government or to students involved.

(3) Determines that the likelihood of loss outweighs the importance of following the procedures set forth in this Subpart for limitation, suspension, or termination.

(b) The designated OE official begins an emergency action by notifying the lender, by certified mail with return receipt requested, of the action and the basis on which it is taken. The effective date of the action is the date on which the notice is mailed.

(c) An emergency action shall not exceed 30 days unless a limitation, suspension, or termination proceeding is begun under this subpart before the expiration of that period. In that case, the period may be extended until the completion of the proceeding, including any appeal which may be made to the Commissioner.

(d) If a limitation, suspension, or termination proceeding is begun, the Commissioner will provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted pending the outcome of that proceeding.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.86 Suspension proceedings.

(a) *Scope and consequences.* From its effective date, a suspension removes a lender's eligibility to participate as a lender under the Federal Insured Student Loan Program for a period of time not exceeding 60 days unless:

(1) The lender and the designated OE official agree to an extension when the lender has not requested a hearing, or

(2) The designated OE official begins a limitation or termination proceeding under § 177.87 of this subpart.

(b) *Procedure.* (1) The designated OE official begins a suspension proceeding by sending a notice to the lender by certified mail with return receipt requested. The notice must:

(i) Inform the lender of the intent of the Commissioner to suspend the lender's eligibility, cite the consequences of that action, and identify the alleged violations which constitute the basis for the action;

(ii) Specify the proposed effective date of the suspension, which shall be at least 20 days after the date of mailing of the notice of intent;

(iii) Inform the lender that the suspension will not be effective on the date specified in the notice if the designated OE official receives, at least five days before that date, a request for a hearing or written material indivating why the suspension should not take place; and

(iv) Invite voluntary efforts to correct the violation(s) which led to the commencement of the action.

(2) If the lender does not request a hearing, but submits written material, the designated OE official, after considering that material, notifies the lender (i) that the proposed suspension is dismissed, or (ii) that the suspension is effective as of a specified date.

(3) If the lender on a timely basis requests a hearing, the designated OE official sets a date and place for it. The date will be at least 15 days after the designated OE official receives the request. No suspension may take place until a hearing is held.

(4) A presiding officer conducts a hearing.

(5) At the hearing, the presiding officer shall consider any written material presented before the hearing or any material or other evidence presented during the course of the hearing.

(6) If, after considering the evidence, the presiding officer concludes that the suspension is warranted, he or she will issue an initial decision suspending the eligibility of the lender.

(7) The Commissioner will review the initial decision of the presiding officer and will issue a final decision adopting the initial decision, unless the initial decision is clearly unsupported by the evidence.

(c) Notice of the suspension will be promptly mailed to the lender. The suspension takes effect either upon the date on which the notice is mailed to the lender of the original proposed effective date stated in the notice of intent, whichever is later.

(d) A suspension shall not exceed 60 days unless a limitation or termination proceeding is begun under this Subpart before the expiration of that period. In that case, the period may be extended until the completion of the proceeding, including any appeal to the Commissioner.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.87 Limitation or termination proceeding.

(a) *Scope and consequences.* From its effective date, a limitation or termination shall either:

(1) Result in limitations on the lending eligibility of a lender, or

(2) End the lending eligibility of a lender.

(b) *Procedures.* (1) The designated OE official begins a limitation or termination proceeding, whether or not a suspension proceeding has begun under § 177.86, by sending a lender a notice by certified mail with return receipt requested. This notice must:

(i) Inform the lender of the intent of the Commissioner to limit or terminate the lender's eligibility, cite the consequences of that action, identify the alleged violations which constitute the basis for the action, and in the case of a limitation proceeding, state the limits which may be imposed;

(ii) Specify the proposed effective date of the limitation or termination, which shall be at least 20 days after the date of mailing of the notice of intent;

(iii) Inform the lender that the limitation or termination will not be effective on the date specified in the notice if the designated OE official receives, at least 5 days before that date, a request for a hearing or written material indicating why the limitation or termination should not take place;

(iv) Invite voluntary efforts to correct the violation(s) which led to the initiation of the action.

(2) If the lender does not request a hearing but submits written material, the designated OE official, after considering that material, notifies the lender (i) that the proposed action is dismissed, (ii) that limitations are effective as of a specified date, or (iii) that the termination is effective as of a specified date.

(3) If the lender on a timely basis requests a hearing, the designated OE official sets a date and a place for it. The date will be at least 15 days after the designated OE official receives the request. No proposed limitation or termination may take place until after a hearing is held.

(4) A presiding officer conducts the hearing.

(5) At the hearing the presiding officer shall consider any written material presented before the hearing, or any material or other evidence presented during the course of the hearing.

(6) If, after considering the evidence, the presiding officer concludes that limitation or termination is warranted, he or she will issue an initial decision that may limit or terminate the lender's eligibility. If a termination action is brought against a lender, and the presiding officer believes a limitation to be more appropriate, the presiding officer may issue a decision imposing one or more limitations on a lender rather than terminating its eligibility.

(c) *Expedited hearings.* With the approval of the presiding officer and the mutual consent of the parties, any time schedule specified in this section may be shortened.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.88 Initial and final decisions.

(a) The presiding officer issues an initial decision in any limitation, suspension, or termination proceeding based on findings of fact and conclusions of law. Findings of fact shall be based only on evidence considered at the hearing and matters of which official notice has been taken. The initial decision of the presiding officer will be promptly mailed to the lender.

(b) In a suspension proceeding, the Commissioner will review the initial decision of the presiding officer and will issue a final decision adopting the initial decision, unless the initial decision is clearly unsupported by the evidence.

(c) (1) In a limitation or termination proceeding, the intial decision of the presiding officer becomes the Commissioner's final decision 20 days after being issued, unless within that 20-day period the lender or the designated OE official appeals the decision to the Commissioner.

(2) Within a period of time specified by the Commissioner, the party that appeals to the Commissioner may submit any additional written material, including exceptions to the initial decision, proposed findings and conclusions, and supporting briefs and statements. The opposing party shall respond within a period specified by the Commissioner. Any party making a submission to the Commissioner must provide a copy to each party that participated in the hearing.

(3) The initial decision of the presiding officer limiting or terminating the lender's eligibility does not take effect pending the appeal, unless the Commissioner determines that a stay would seriously and adversely affect the Federal Insured Student Loan Program or students involved

(4) In the case of an appeal, the Commissioner issues a final decision affirming, modifying, or reversing the initial decision, including a statement of reasons for the decision.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.89 Verification of mailing dates.

Verification of the Office of Education's mailing dates referred to in this subpart is evidenced by the original receipts from the U.S. Postal Service.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.90 Effect of a suspension or termination proceeding.

The Commissioner will not issue an insurance commitment for any loan made by a lender after the effective date of a suspension or termination decision. Additionally, the Commissioner may prohibit a lender which has been suspended or terminated under this subpart from making further disbursements on any loan insured under subpart F, including loans for which insurance commitments have been previously issued by the Commissioner.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.91 Limitation.

A limitation may include any of the following:

(a) A limit on the number or total amount of loans which a lender may make, purchase, or hold under the Federal Insured Student Loan Program,

(b) A limit on the number or total amount of loans a lender may make under the Federal Insured Student Loan Program to students at a particular school,

(c) A requirement that a school lender utilize a special promissory note form as provided in § 177.57(a)(2), or

(d) Other requirements or conditions determined to be reasonable and appropriate.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.92 Reimbursements, refunds, and offsets.

(a) The Commissioner, designated OE official, or presiding officer may require a lender to take reasonable and appropriate corrective action to remedy a violation of applicable laws, regulations, agreements, or limitations.

(b) The corrective action may include payments of funds, to the Commissioner or to designated recipients, which the lender improperly received, withheld, disbursed, or caused to be disbursed, including but not restricted to:

(i) Ineligible interest benefits, special allowances, or other claims paid by the Commissioner,

(ii) Discounts, premiums, or excess interest received in violation of § 177.14 of this part, and

(iii) In the case of a school lender, refunds to students under part 168.

(c) If any final decision requires a lender to reimburse or make any other

payment to the Commissioner, the Commissioner may offset these claims against any benefits or claims due the lender.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.93 Reinstatement after termination.

(a) A lender whose eligibility to participate in the Federal Insured Student Loan Program has been terminated under this subpart may not file a request for reinstatement of its eligibility before the expiration of 18 months from the effective date of its termination.

(b) After the minimum termination period, a lender may request reinstatement of its eligibility. The request must be in writing and must show that the lender has corrected the violations on which the termination was based and that the lender meets all qualifications for eligibility.

(c) If a school whose eligibility to participate in programs under this part has been terminated under part 168 seeks reinstatement of its lending eligibility under the Federal Insured Student Loan Program, it must request reinstatement under this section in addition to requesting reinstatement under part 168.

(d) Not later than 60 days after receipt of the request for reinstatement, the Commissioner shall respond to the lender by either: (i) granting its request; (ii) denying its request; or (iii) granting the request subject to limitations.

(e) (1) If the Commissioner denies the lender's request, or allows reinstatement subject to limitation(s), the lender, upon request, will be granted an opportunity to show cause why it should be fully reinstated.

(2) In the event the Commissioner's response allows reinstatement subject to limitation, the lender, by requesting a show cause meeting, shall not be deemed to waive its rights to participate in the Federal Insured Student Loan Program if it complies with the reinstatement limitations pending the outcome of the meeting.

(20 U.S.C. 1080, 1082, 1088f-1)

§ 177.94 Removal of limitation.

(a) A lender whose eligibility to participate in the Federal Insured Student Loan Program has been limited may not apply for removal of the limitation until 12 months after the effective date of the limitation.

(b) After the minimum limitation period, the lender may request removal of the limitation. The request must be in writing and show that the lender has corrected the violation(s) on which the limitation was based.

(c) Not later than 60 days after the receipt of the request for reinstatement, the Commissioner shall respond to the lender by either: (i) granting its request; (ii) denying its request; or (iii) granting the request subject to other limitations.

(d) If the Commissioner denies the request, or establishes other limitations, the lender upon request will be granted an opportunity to show cause why its eligibility should be fully reinstated.

(e) The lender's request for a show cause meeting shall not be deemed to waive its right to participate in the Federal Insured Student Loan Program if it complies with the continuing limitations pending the outcome of the meeting.

(20 U.S.C. 1080, 1082, 1088f-1)

[FR Doc. 78-8707 Filed 4-4-78; 8:45 am]

federal register

WEDNESDAY, APRIL 5, 1978
PART III



DEPARTMENT OF LABOR

Office of the Secretary

■

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

[4510-30]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 97]

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

Proposed Rules

AGENCY: Department of Labor.

ACTION: Proposed rules.

SUMMARY: This document contains proposed regulations for the summer program for Economically Disadvantaged Youth authorized under the Comprehensive Employment and Training Act. These rules are needed to implement and operate the 1978 program. Their purpose is to provide guidance to 1978 summer program sponsors.

DATE: Comments must be received on or before May 5, 1978.

ADDRESS: Send comments to: Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone: 202-376-7449.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor, Employment and Training Administration, proposes to revise the regulations accompanying title III, section 304(a)(3) of the Comprehensive Employment and Training Act of 1973, as amended (hereinafter referred to as the Act), Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845; and Pub. L. 94-444, 90 Stat. 1476, in order to provide for the implementation of the 1978 summer program. This proposed document is essentially similar to the regulations published in the FEDERAL REGISTER (42 FR 11711) on April 22, 1977, however, programmatic changes have been made to reflect the experience gained in the first four years of implementation, and to integrate the summer program with the new Youth Programs established under title III, part C, subparts 2 and 3 of CETA, as amended.

The regulations are being published today as proposed 1978 summer program regulations.

AN OVERVIEW AND GENERAL INSTRUCTIONS FOR THE 1978 SUMMER PROGRAM

The changes made in these proposed regulations reflect continued efforts to improve the quality of the summer program so that youth will engage in meaningful work tasks and training programs which will develop their skill levels and enhance their future employability. Major program emphases will be placed on: (1) Early planning and integration of the summer program and the overall youth employability development strategy of the prime sponsor; (2) monitoring and assessment to learn more about the program and to improve performance; (3) expanding vocational exploration programs and improving the relationship between education and work through the award of academic credit for competencies gained on the job.

The purposes and short term goals of this program are manifold. Inclusive among these, depending upon local needs of youth, are the provision of: (1) Structured well supervised work to improve work habits; (2) work experiences which will provide opportunities for vocational exploration; (3) job rotation to provide youth with exposure to different work settings which can assist them in making career decisions; (4) vocational counseling and occupational information; (5) summer income to participants who without assistance would be unable to return to school; (6) assistance for youth with special employability needs; (7) services which will induce and aid dropouts in returning to school; and (8) avenues for securing part-time in-school employment as well as full-time unsubsidized employment where return to school is not expected.

A short explanatory statement is provided to describe the substantive amendments proposed for the 1978 summer program regulations. A description of the amendments follows:

DISCUSSION OF CHANGES

In § 97.2, *Allocation of funds,* paragraph (b)(3) has been changed to reflect the Department's decision to use data on the number of persons in low income families in the allocation formula rather than the data on the number of adults in low income families which were used last year.

In § 97.3, *Unexpended previous year summer program funds,* paragraphs (b) and (c) have been eliminated. The information previously contained in these paragraphs can be found in § 97.7.

In § 97.4, *Eligibility for funds,* paragraph (b) has been changed to indicate that Native American Employment and Training Program prime sponsors eligible to apply for funds are those which are Indian tribes on Federal or State Reservations, recognized tribes in Oklahoma, and Alaskan Native villages.

In § 97.5 and 97.8 changes are made to reflect the new grant application procedures implemented in fiscal year 1978, and the revised narrative description of the program.

In § 97.6, *Program planning; planning and youth councils,* renumbered § 97.7, the following changes have been made:

Paragraph (a) (1) has been added to require that prime sponsors coordinate their summer program with their Title I, YETP and YCCIP programs.

Paragraph (a) (2) has been revised to require that youth councils established under YETP be used for summer program planning. Last year's program required that a separate youth council be created for the summer program.

In § 97.10, *Comment and publications procedures,* renumbered § 97.9 has been changed to allow the required comment period to be simultaneous with the submission of the summer plan to the RA.

In § 97.11, *Modification to the Summer Plan,* renumbered § 97.12, has been revised. Modifications will be necessary whenever a prime sponsor transfers a substantial amount of its program funds between program activities or cost categories.

In § 97.14, *Basic responsbilities of prime sponsors,* renumbered § 97.13, the following changes have been made:

Paragraph (b) has been reworded to require that prime sponsors provide services on an equitable basis to the various significant demographic segments within their eligible population.

Paragraph (f) has been revised to require that outreach and recruitment techniques should be aimed at all segments of the eligible population, especially school dropouts and those youth not likely to return to school without assistance from the summer program. Last year's summer regulations listed three categories of youth which were to receive priority.

Paragraph (g) requires that labor market orientation be provided to all participants.

A new paragraph (i) has been added requiring that prime sponsors utilize those cooperative relationships established under YETP with other agencies and institutions providing employment and training services to youth in their community.

A new paragraph (j) has been added requiring that the prime sponsor insure that adequate supervision be provided to participants at each worksite.

A new paragraph (k) has been added requiring prime sponsors to make appropriate efforts to encourage educational agencies and institutions to award academic credit for competencies participants gain from employment under the program.

In § 97.15, *Eligibility for participation,* renumbered § 97.14, the following changes have been made:

Paragraph (a) now requires that participants meet eligibility criteria at

time of application. Previously, summer program eligibility was to be determined at time of enrollment.

Paragraph (a) has been expanded by allowing wards of the court and youth offenders to be eligible if they can be determined to have left the family unit. It should be noted that the definition of economically disadvantaged as revised in the October 18, 1977 FEDERAL REGISTER and found in § 94.4(s), applies to this year's summer program.

A new paragraph (a) (3) has been added to permit youth to directly transfer into the summer program from other CETA programs without recertification of youth's family income. Paragraph (c) has been eliminated because it duplicates section § 94.4(v).

In § 97.16, *Types of employment and training programs available,* renumbered as § 97.15, has been revised to exclude public service employment as described in § 95.33(d)(3) as an allowable activity. This revision does not preclude work experience which is designed to be a short term and/or part time work assignment, with a public employer or private non-profit employing agency as defined in § 95.33(d)(4).

In § 97.17, *Vocational Exploration Program,* renumbered § 97.16, the following changes have been made:

Paragraph (A) has been reworded to clarify that youth in this program may only receive allowances and wages may not be paid.

Paragraph (C) has been revised to clarify that Vocational Exploration Program opportunities cannot be for positions which are the subject of a labor dispute involving a work stoppage.

A new paragraph (D) has been added requiring that a detailed curriculum be developed.

A new paragraph (a)(ii) has been added to clarify that organizations involved in the program may only be reimbursed for the extraordinary training costs associated with the program.

In § 97.17, *Startup of program,* a new section has been added to clarify what activities are allowable prior to the close of the school year. The previous year's provision for the employment of out-of-school youth two weeks before the end of the school year has been eliminated.

In § 97.19 *Participant benefits,* where the prime sponsor elects not to pay allowances to enrollees during the planning and implementation of the program, prior to the close of the school year, no waiver is necessary from the RA.

In § 97.25, *Reporting requirements,* renumbered § 97.23, has been revised to reflect the Department's decision to use the same reporting forms developed for YCCIP and YETP for this program.

Section 97.26, *Termination date for the Summer Program,* has been renumbered § 97.24.

A new section, *Administrative provisions,* numbered § 97.25, has been added to place increased emphasis on monitoring responsibilities of prime sponsors, subgrantees and contractors.

A new section, *Alternative remedies,* numbered § 97.26, describes remedies to be used whenever a prime sponsor or one of its subgrantees or contractors has materially violated the provisions of the Act, the regulations or the terms of the summer program grant.

In addition to these substantive changes, other changes were made in restructuring these regulations to be similar in format to those published for other CETA programs.

1. In § 94.3, Consolidated table of contents for secs. 94-99; the table of contents for Part 97, Subpart A is revised to read as follows:

§ 94.3 Consolidated table of contents for Parts 94-99.

* * * * *

SUBPART A—SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

General

Sec.
97.1 Scope and purpose.
97.2 Allocation of funds.
97.3 Unexpended previous year Summer Program funds.
97.4 Eligibility for funds.

Grant Planning, Application and Modification Procedures

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning; planning and youth councils.
97.8 Description of the Summer Plan.
97.9 Comment and publication procedures.
97.10 Submission of Summer Plan; review and approval.
97.11 Use of alternative prime sponsor and services by the Secretary; reallocation of funds.
97.12 Modifications to the Summer Plan.

Program Operations

97.13 Basic requirements of prime sponsors.
97.14 Eligibility for participation.
97.15 Types of employment and training programs available.
97.16 Vocational exploration program.
97.17 Startup of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nondiscrimination in Native Americans Programs.
97.23 Reporting requirements.
97.24 Termination date for the Summer Program.
97.25 Administrative provisions.
97.26 Alternative remedies.

2. Accordingly, Part 97 of Title 29 of the Code of Federal Regulations is revised to read as follows:

SUBPART A—SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

General

Sec.
97.1 Scope and purpose.
97.2 Allocation of funds.
97.3 Unexpended previous year Summer Program funds.
97.4 Eligibility for funds.

Grant Planning, Application and Modification Procedures

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning, planning and youth councils.
97.8 Description of the Summer Plan.
97.9 Comment and publication procedures.
97.10 Submission of Summer Plan; review and approval.
97.11 Use of alternative prime sponsor and services by the Secretary; reallocation of funds.
97.12 Modifications to the Summer Plan.

Program Operations

97.13 Basic requirements of prime sponsors.
97.14 Eligibility for participation.
97.15 Types of employment and training programs available.
97.16 Vocational exploration program.
97.17 Startup of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nondiscrimination in Native Americans Programs.
97.23 Reporting requirements.
97.24 Termination date for the Summer Program.
97.25 Administrative provisions.
97.26 Alternative remedies.

Subpart A—Summer Program for Economically Disadvantaged Youth Under the Comprehensive Employment and Training Act

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; (29 U.S.C. 801 et seq.); Pub. L. 93-567, 88 Stat. 1845 and Pub. L. 94-444, 90 Stat. 1476), secs. 702(a) and 304(a)(3), unless otherwise noted.

GENERAL

§ 97.1 Scope and purpose.

(a) This Subpart A contains the policies, rules, and regulations of the Department in implementing and administering a Summer Program for Economically Disadvantaged Youth (hereinafter referred to as the Summer Program) authorized by Title III, section 304(a)(3), of the comprehensive Employment and Training Act (hereinafter referred to as the Act).

(b) Programs funded under this Subpart A shall be designed by summer sponsors, defined in § 97.4, to provide

summer employment and any other activities and services, except public service employment, described under Title I of the Act.

(c) Subpart A should be read in conjunction with Parts 94, 95, 97, and 98 of this title. The provisions of Parts 95 and 97, however, apply to this Subpart A only as indicated in specific sections of these regulations. The definitions of Part 94 and the provisions of Part 98 shall apply to this Subpart A, unless otherwise indicated in specific sections of these regulations.

(d) The Division of Indian and Native American Programs in the Office of National Programs shall have field reponsibility for all matters pertaining to funds allocated to Indian and Native American Employment and Training Program summer sponsors for programs funded under this Subpart A. All references to PA in this Subpart A shall be read as Director, Division of Indian and Native American Programs, when pertaining to programs for Indian and Native Employment and Training Program summer sponsors.

§ 97.2 Allocation of funds.

(a) *General.* The funds available for Title III, section 304(a)(3) in any fiscal year shall be allocated according to the procedures set forth below; except that the Secretary may reserved up to 5 percent of available funds to fund a national vocational exploration program, and for other discretionary purposes.

(b) *Prime sponsor basic allocations.* Allocations of funds for summer sponsors who are prime sponsors under Tilte I of the Act shall be based on the following formula:

(1) Fifty percent of such funds shall be allocated on the basis of each sponsor area's proportion of the funds allocated for the previous year Summer Program;

(2) Thirty-seven and one-half percent of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the sponsor's area (in the most recent year for which data are available) to the total annual average number of unemployed persons in the United States in that year;

(3) Twelve and one-half percent of the funds shall be allocated based on the ratio of the number of persons in low income families in the sponsor's area to the total number of persons in low income families in the United States; and

(4) Each sponsor shall receive a new allocation which when added to its unspent previous year's summer funds as of December 31, shall be equal to the amount determined by the above formula.

(5) To the extent that funds are available, allocations shall be adjusted by the Secretary to insure that each prime sponsor area receives adequate funding to provide at least the same number of opportunities as were available in the area under the Summer Program for Economically Disadvantaged Youth in the previous year.

(c) *Native American prime sponsor allocations.* The total funds for Native American summer sponsors shall be allocated based on the ratio of the number of Native American youth 14 through 21 years of age in the eligible Native American summer sponsor's area to the total number of Native American youth 14 through 21 years in all Native American summer sponsor areas, except that adjustments in the allocations shall be made to insure that to the extent funds are available, no area receives less funds than were provided under the previous year's Summer Program.

(d) *Other allocation.* The allocation to Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Northern Marianas, in the aggregate, shall be equal to the same percentage of the funds allocated to them in the aggregate under the previous summer program.

§ 97.3 Unexpended previous year summer program funds.

Unexpended summer program funds as of December 31 of each year must be utilized in the next year for appropriate summer activities and expended in accordance with these regulations.

§ 97.4 Eligibility for funds.

The following are eligible to be summer sponsors:

(a) Prime sponsors designated to operate programs under Title I of the Act; and

(b) Native American Employment and Training Program prime sponsors which are Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.5 Content and description of Grant Application.

In order to receive funds, each eligible summer sponsor shall submit a summer plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant application.

§ 97.6 Preapplication for Federal assistance.

(a) An eligible summer sponsor interested in receiving financial assistance shall submit a preapplication to the RA, the Governor and the appropriate State and areawide A-95 clearinghouses (See Part I of Attachment A, OMB Circular A-95) by a date established by the RA. The preapplication shall consist of Standard Form 424 as prescribed by Federal Management Circular (FMC) 74-7.

(b) State and areawide clearinghouses may request information in addition to that furnished on the preapplication form. Such a request shall be made within 30 days of receiving the preapplication in order to avoid delay in a prime sponsor applicant's preparation of its summer plan.

(c) The A-95 clearinghouses shall within 30 days of receiving the preapplication, inform the prime sponsor applicant of any actual or potential problems with the preapplication and notify the prime sponsor applicant if they wish to review the completed plan. If the prime sponsor applicant receives no such notifications, the prime sponsor applicant has fulfilled its obligation under A-95 and it may submit its plan to the RA without submitting it to the A-95 clearinghouses.

§ 97.7 Program planning; planning and youth councils.

(a)(1) In developing the summer program the prime sponsor shall coordinate such plan with its Title I, YETP, and YCCIP annual plans.

(2) Eligible summer sponsors which are prime sponsors under Title I of the Act shall utilize the planning process and planning council, as described in § 95.13 (b) and (c) of this title; and the youth council established for YETP. The roles and responsibilities of the youth council shall be those described in § 97.705(b) (1), (2), (3) and (5).

(b) Upon approval from the RA, the following planning and implementation activities shall be allowable beginning January 1 of each year:

(1) Hiring of staff (planners, worksite developers, intake specialists, etc.);

(2) Development of summer plan;

(3) Publication and clearance through A-95;

(4) Worksite development;

(5) Application, selection and enrollment until subject to the limitations provided in § 97.17;

(6) Arrangements for supportive services;

(7) Orientation to jobs/activities;

(8) Coordination between schools and other services;

(9) Other activities with the approval of the RA that may be characterized as planning and implementation but not program operation.

§ 97.8 Description of the Summer Plan.

The summer plan consists of the following items:

(a) Approval Request Letter.

(b) Application for Federal assistance (Standard Form 424) which is contained in FMC 74-7.

(c) Narrative description of the summer program consisting of the following:

(1) Objectives and needs for assistance.—A discussion of:

(i) The program's purpose and goals in terms of local needs of youth;

(ii) The rationale for the selection of significant segments by the summer sponsor as it relates to the program purposes and goals.

(2) Results and benefits expected.—A discussion of:

(i) How the enrollment of participants in the various program activities and the projected program outcomes reflect the program purposes: This should include a description of how the program activities will serve the needs of the particular significant segments designated by the summer sponsors;

(ii) Efforts to obtain academic credit for youth as a result of competencies gained on the job during the summer program;

(iii) Other benefits which will accrue to participants.

(3) Approach.—A description of:

(i) The role of the Youth Council in the formulation of the summer program;

(ii) How analyses of the previous summer program were used in the planning of the program including the selection of the worksites;

(iii) The methods, procedures, standards, etc. used to make worksite selections and items to be covered by worksite agreements;

(iv) Special methods, if any, specifically designed for recruitment of summer participants (as distinguished from other participants) and who the recruiting agent(s) will be;

(v) The intake process, including the particular methods to be used and the identity of the service providers;

(vi) The process of determining eligibility and the verification methods to be used;

(vii) The orientation, assessment and assignment process;

(viii) The work experience, on-the-job training, and classroom training activities indicating the number of youth who will be served in each of these components, and a discussion of labor market orientation and any skill training and remedial education to be provided;

(ix) Any special services to be provided to designated significant segments;

(x) The supportive services which will be provided to participants;

(xi) Any vocational Exploration Programs, funded under the summer plan, including:

(A) Number of total participants and planned expenditures;

(B) Name of organizations with which the prime sponsor has a contract or written agreement listing the number of participants and occupations to which participants will be exposed;

(C) The methods and techniques which will be used to provide broad career exposure;

(D) The methods the prime sponsor has developed to ensure that youth are not involved in work experience or any other activity which contributes to, or could be expected to contribute to, additional sales or profit for a private-for-profit organization or otherwise result in the subsidization of wages for such organizations; and

(E) Evidence of the approval of labor organizations representling employees in the affected collective bargining units;

(xii) The methods and delivery agents which will be used in placing participants into jobs, other CETA programs, etc. and of arrangements for providing continuity of services, and the efforts that will be made to encourage participants to return to school;

(xiii) A description of the linkages established with SESA's, local educational agencies and postsecondary institutions, labor organizations, the private sector (other than organizations conducting Vocational Exploration Program), neighborhood and community based organizations and other youth related programs/agencies;

(xiv) How the summer program will enhance the employment potential of participants and how this strategy will be coordinated with other CETA programs.

(4) Management and Administration Plan.

(i) An organization chart and staffing pattern and an explantion of how it relates to the prime sponsor's regular organization pattern;

(ii) A detailed description of monitoring procedures, including the number of planned visits to each worksite, the activities to be monitored, and procedures and timeframes for taking corrective action, including followup visits;

(iii) A discussion of plans to assess the overall program and the performance of each worksite employer, including how the knowledge gained will be used to improve the quality of other youth programs and next year's summer program;

(iv) A description of any special payroll process or any special allowance payment system not previously described in the PSA.

(v) A discussion of the cost plan, including an explanation of how administrative costs were determined.

(d) CETA Youth Program Planning Summary and Youth Budget Information Summary which provide information on the estimated number of participants and accured expenditures.

§ 97.9 Comment and publication procedures.

The comment and publication procedures of § 95.15 shall be applicable to the summer program, except that newspaper publication and provision of the application to Governors, appropriate units of Government, appropriate Native American prime sponsors, appropriate labor organizations and State and sub-State clearinghouse(s) may be simultaneous with submission of the summer plan to the RA. However, the plan cannot be executed until 30 days after submission of it to these organizations during which time comments can be submitted to the RA and prime sponsor.

§ 97.10 Submission of summer plan; review and approval.

(a) A program shall be undertaken upon execution of the summer plan between a summer sponsor and the RA. The RA shall send a summer plan package to each eligible summer sponsor. The summer plan shall be submitted to the RA not later than a date set by the RA.

(b) Each summer plan shall be reviewed by the appropriate RA using all the standards described in § 95.17 (a) and (b) (1), (7), (8), and (9) of this title.

(c) Each summer plan shall be approved or disapproved under the provisions and conditions described in §§ 95.18 and 95.19 of this title.

§ 97.11 Use of alternative sponsor and services by the Secretary; reallocation of funds.

(a) If a summer plan is not submitted, or is denied, or terminated, the Secretary may make provisions for the use of an alternative sponsor, or provide services directly pursuant to § 95.20 of this title.

(b) The reallocation provisions of § 98.11 of this title shall be applicable to the summer program, except as follows:

(c) Reallocation may occur immediately (without regard to the number of months that have elapsed in the fiscal year of the grant) after completion of the notice and comment procedure specified in § 98.11(d). The comment period specified in § 98.11(d)(2) shall be limited to 10 days.

Priority shall be given in reallocating such funds to other areas with the same State.

§ 97.12 Modification to the summer plan.

(a)(1) A modification to the summer plan requiring prior regional office approval is necessary under any of the following conditions:

(i) Change in duration of the summer plan;

(ii) Change in summer plan allotment;

(iii) Substantial change in program design and/or program goals defined as follows:

(A) When the cumulative number of individuals to be served is proposed to

be increased or decreased by 15 percent or more.

(B) For grants of $100,000 or less, when the cumulative transfer of funds among program activities or cost categories exceeds $15,000.

(C) For grants of over $100,000, when the cumulative transfer of funds among program activities or cost categories exceeds $50,000 or 15 percent of the total grant budget, whichever is less.

(2) A summer sponsor desiring a modification as defined in paragraph (a)(1) of this section, shall sumit a revised Youth Budget Information Summary, a revised Youth Program Planning Summary and an explanation of the proposed changes to the RA.

The RA shall notify the sponsor of approval or disapproval within 10 days of receipt of the proposed modification.

(b) A RA may initiate a modification as described in § 95.21(b)(iv).

PROGRAM OPERATIONS

§ 97.13 Basic requirements for program operation.

Each summer sponsor shall:

(a) Follow the regulations of this subpart;

(b) Follow the provisions described in § 95.31 (a), (b), (e), and (f) of this chapter;

(c) Provide service on an equitable basis to the significant demographic segments among its economically disadvantaged youth population, taking into account the priorities identified by the Secretary, if any, the youths most in need of service and the geographic distribution of economically disadvantaged youth within the prime sponsor's jurisdiction;

(d) Design programs which are, to the maximum extent feasible, consistent with every participants' fullest capabilities;

(e) Maintain accounting records in accordance with §§ 98.12 and 98.13 of this title;

(f) Giving special consideration to the needs of eligible veterans as described in § 95.32(e)(i) of this chapter;

(g) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return to school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significent employment barriers relating to work attitude, aptitude, social adjustment, and other such factors.

(h) Provide labor market orientation to all participants. This orientation may include vocational exposure, counseling, testing, resume preparation, job interview preparation, providing labor market information, providing information about other training programs available in the area, including apprenticeship programs, and similar activities. It may be provided on a group or individual basis. Skill training and remedial education shall be provided on an as-needed basis. In providing labor market orientation, skill training and remedial education, each sponsor shall make maximum efforts to develop cooperative relationships with other community resources so that these activities are provided in the summer program at no cost, or at minimum cost, to the summer program.

(i) Coordinate its summer activities with an organization operating a nationally funded vocational exploration program in its area pursuant to § 97.16(b);

(j) Use cooperative relationships established under YETP with other agencies and institutions that provide employment and training services to youth in the community;

(k) Ensure that adequate supervision is provided to participants at each worksite; and

(l) Make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for the competencies participants gain from their employment.

(m) Ensure that all appropriate efforts are made to closely monitor the performance of service deliverers in compliance with § 97.25(d) as well as part 98, Subpart B, Assessment and Evaluations. Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor established goals.

(n) Ensure that enrollee applications are widely available and that jobs are awarded in an equitable fashion.

(o) Enter into subgrants and contracts in accordance with § 98.20 and OMB Circular A-102, Attachment O.

§ 97.14 Eligibility for participation.

(a) Each participant shall at the time of application be:

(1) Economically disadvantaged as defined in § 94.4(s) of this title and 14 through 21 years of age; or

(2) Wards of the court and offenders 14 through 21 years of age determined to have left the family unit or who otherwise do not have access to the benefits that family income would normally be expected to provide shall be treated as a family of one and only income generated by themselves shall be used in determining income status; such a determination shall be based on the certification by an assigned probation officer, or other responsible court official that the youth has lived at home 50 percent or less of the time in the last six months; or

(3) A current participant in another CETA program who at the time of his or her enrollment into any of these programs met the criteria of paragraph (a)(1) of this section.

(b) Program participation shall be limited to citizens of the United States, natives of American Samoa, Trust Territory of the Pacific Islands and the Northern Marianas, permanent resident aliens and other aliens who have been permitted to accept permanent employment in the United States.

§ 97.15 Types of employment and training programs available.

A program funded under this Subpart A may include any activity or service specified in § 95.33 of this title, except public service employment. Because of the short term nature of this program, public service employment opportunities which are transitional in nature and likely to lead to regular unsubsidized employment are not appropriate under this program.

§ 97.16 Vocational exploration program.

(a) A summer sponsor may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs available in the private sector through observation of such jobs and instruction, including where appropriate limited practical experience.

(1) The following provisions shall apply to all locally funded vocational exploration programs:

(i) All contracts, subgrants, or written agreements between summer sponsors and other parties for the operation of such programs shall at a minimum assure that:

(A) Participants in vocational exploration programs shall receive allowances in accordance with § 95.34 of this title and shall receive workmen's compensation benefits in accordance with § 98.24(a) of this title. Wages shall not be paid to participants;

(B) The program has received the approval of any labor organization representing employees in the affected collective bargaining units;

(C) Youth will not be assigned to vocational exploration opportunities which are the subject of a labor dispute involving a work stoppage;

(D) A detailed curriculum has been developed; and

(E) The program shall not displace currently employed workers or prevent the hiring of new workers.

(ii) Organizations which have a contract, subgrant or written agreement with a prime sponsor may be reimbursed only for the costs incurred in the conduct of the program: *Provided,* That payments to employers organized for profit are only made for the costs of training which are over and above those normally provided by the employer.

(2) Whenever opportunities are located with a private-for-profit organi-

zation, the summer sponsor shall assure, in addition to items listed in (1) (i) of this section, that youth will not be involved in work experience or any other activity that contributes, or could be expected to contribute, to additional sales or profit for the private-for-profit organization or otherwise result in the subsidization of wages for the organization.

(b) Where a nationally funded program operates in a summer sponsor area, the prime sponsor shall enter into an agreement with the local representative of the program which shall include provisions dealing with arrangements for recruitment, selection, referral and certification of the youth entering the nationally funded program.

§ 97.17 Startup of program.

During the planning and implementation phase of the program prior to the close of the school year, participants may only receive those services listed in § 95.33(d)(5). Such services may include outreach, intake, assessment, counseling, orientation to jobs/activities and other such services which may be appropriate for the youth.

§ 97.18 Worksite standards.

(a) No participant under 18 years of age shall be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Subpart E of Part 570, of this title).

(b) Participants who are 14 and 15 years of age will participate only in accordance with the limitations imposed by §§ 570.13 and 570.35 of Subpart C of Part 570 of this title.

(c) Each prime sponsor shall develop written agreements with each worksite employer which assures: (1) Adequate supervision of each participant; (2) adequate accountability for participant time and attendance; and (3) adherence to the rules and regulations governing the Summer Program. Such written agreements do not have to be contracts or subgrants. They may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions to which the worksite is expected to adhere.

(d) Each prime sponsor shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(e) No participant shall be required to work, or be compensated for more than 40 hours of work per week. Nothing in this section shall be construed as limiting an individual to a maximum number of total hours of employment in the Summer Program. While the Department uses a 9-week, 26-hour week job as the basis for estimating the number of youth to be served, it is not intended to take away the flexibility of the prime sponsor to establish job slots in keeping with the needs of the area and the youth to be served.

§ 97.19 Participant benefits.

(a) Participants in classroom training shall receive allowances as described in § 95.34 of this title and workmen's compensation as provided in § 98.24(a) of this title.

(b) Participants in on-the-job training shall be compensated as specified in § 95.35 of this title, as applicable, and shall be assured of appropriate benefits and working conditions as provided in § 98.24 of this title.

(c) Participants in work experience shall receive wages, benefits and working conditions as provided in § 95.33(d)(4) (viii) and (ix) and § 98.24 of this title.

(d) Participants receiving services (including orientation to jobs/activities), other employment and training activities, or combined activities shall be compensated as specified in § 95.33 (d)(5)(v), (6)(ii), and (7)(ii) of this title.

§ 97.20 Training for lower wage industries and relocation of industries.

The provisions of § 95.37 shall apply in the summer program.

§ 97.21 Nepotism.

(a) The provisions of § 98.22 of this title regarding nepotism apply to summer sponsors who are prime sponsors under title I of the act.

(b)(1) The provisions of § 98.22 (a) and (b) of this title regarding nepotism apply to Native American Employment and Training Program summer sponsors except as modified by paragraphs (b) (2), (3), and (4) of this section.

(2) No Native American Employment and Training Program summer sponsor or subgrantee shall hire, or permit the hiring of, any person in a position funded under this subpart A if a member of that person's immediate family is employed in an administrative capacity by the Native American Employment and Training Program summer sponsor. For the purposes of paragraphs (b) (2), (3), and (4) of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister and the term "administrative capacity" means persons who have selection, hiring, or supervisory responsibilities for participants in a program under this subpart A, or operational responsibility for the program.

(3) If a subgrantee cannot hire program participants without an immediate family member being included, the Director, Division of Indian and Native American Programs may waive the requirement of subparagraph (2) of this paragraph if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdication are eligible and available for participation.

(4) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule in lieu of this policy.

§ 97.22 Nondiscrimination in Native American Employment and Training Programs.

Section 98.21 of this title shall be applicable to Indian programs funded pursuant to this subpart A, except that participants must be Native Americans and staff may be limited to Native Americans. Native American summer sponsors may also require that subgrantees agree, to the maximum extent feasible, to hire qualified Native Americans to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e-2(i).

§ 97.23 Reporting requirements.

Each summer sponsor shall submit the following reports to the RA:

(A) A Youth Program Status Summary, as of September 30, based on the enrollment records required under §§ 98.8, and 98.18 of this title (separate reporting of the Vocational Exploration Program component will be included in this report);

(b) Two Youth Financial Status Reports, as of September 30 and December 31, based on the accounting records required under §§ 98.8, 98.12, and 98.13 of this title (separate reporting of the Vocational Exploration Program component will be included in this report;

(c) Separate Quarterly Summary of Youth Characteristics reports, as of September 30, based on the participant records for (1) this program and (2) the title I summer component, required under § 98.18 of this title.

(d) Selected information required on the above reports shall also be submitted for informational purposes for participants and expenditures in summer components funded with monies in the sponsor's current title I annual plan.

(e) The reports in this section shall be submitted to the RA no later than 30 days after the end of the report period.

§ 97.24 Termination date for the Summer Program.

(a) Participants shall not be enrolled in program activities beyond September 30.

(b) Allowable acitivities after September 30 include: Report and record preparation and submittal, completion

of followup activities, completion of evaluations and assessments of worksite employees and the overall program or other elements of the summer program, and audits.

§ 97.25 Administrative Provisions.

(a) Summer sponsors shall comply with the provisions of Part 98 of this title.

(b) Summer sponsors may enter into subgrants or contracts for the operations of the summer program only with public agencies and private nonprofit organizations which:

(1) Have sufficient capability to operate the program;

(2) Have financial management capability as required by § 98.5 of this title:

(3) Have stated that all proposed worksites have been evaluated in terms of the requirements of the summer program, and that such worksites will be adequate;

(4) Include in their applications the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and and managing personnel of any affiliate, subsidiary, etc. which will participate in the operation of the summer program;

(5) Include in their application a list of all Federal programs under which they have received financial assistance during the last three years and a statement that they have substantially compiled with the requirements, procedures and objectives of such programs;

(6) If they operated a summer program under this subpart in the previous year, that at the time of application there is no information available to them showing substantial noncompliance with the Act and regulations in operation during the terms of such program, or, if there is, they have developed a corrective action plan which has been approved by the RA;

(7) Assures in their applications that none of the officers, directors, or managing employees, who are subject to the disclosure requirement of paragraph (b)(4) of this section, have been convicted of defrauding the Federal Government, or of obstructing an investigation with respect to such fraud, during the past three years: *Provided*, That nothing herein will prohibit the participation of otherwise eligible ex-offenders in CETA programs; and

(8) Assures in their applications that all their personnel will have had basic training in the program and regulations before the summer program begins.

(c) In selecting subgrantees and contractors the prime sponsor shall consider the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that this appropriate in terms of participant needs and local market demands);

(2) Provide specific services contracted for;

(3) Restrict expenditures to allowable cost items only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested, including the information required to be kept under paragraphs (b)(4) and (e) of this section.

(d) To effect compliance with part 98, Subpart B, Assessment and Evaluation, of this title, prime sponsors shall, or shall require their contractors and subgrantees to:

(1) Have supervisory and operational personnel for monitoring each site to which their participants are assigned;

(2) Assure that all sites where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment;

(3) Train their own personnel and site personnel with regard to duties and responsibilities, including monitoring.

(e) Each prime sponsor shall compile and continually update a list of worksites (broken down by subgrantee and contractor) to aid in its monitoring efforts and to be made available to the public on request.

(f) Each prime sponsor, without prior notice, shall visit some worksites of each subgrantee or subcontractor at least once during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is enough meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records which accurately record time worked by each enrollee are being maintained, and

(4) The requirements of the Act and this subpart are being met.

(g) In addition to following the monitoring requirements of § 98.31 of this title, each prime sponsor shall:

(1) Promptly review the reports written by its own and Federal monitors;

(2) Revisit worksites where monitors report problems; and

(3) Close worksites where it finds serious or continual violations of the Act, the regulations or the grant which are not likely to be remedied by quick remedial action.

§ 97.26 Alternative remedies.

(a) In addition to the remedial procedures available to the Secretary under Subpart C of Part 98 of this title, the Secretary, in view of the short-term nature, and the national program character, of the summer program, may employ any of the following remedies whenever the Secretary has reason to believe that a prime sponsor or one of its subgrantees or contractors has materially violated the provisions of the Act, the regulations, the terms of the summer program grant, or that the program is being administered in an inefficient or incompetent way:

(1) The Secretary may immediately terminate or suspend the prime sponsor's program in whole or in part provided the Secretary offers the prime sponsor an opportunity for a subsequent hearing; or

(2) The Secretary, for good cause, may order a subgrant or contract suspended or terminated in whole or in part effective on the date of the Secretary's order or on such other date as the Secretary determines. In cases of termination, the Secretary may allow the subgrantee or contractor to expend further funds only for purposes of closing out the subgrant or contract, including the transfer or participants into other of the prime sponsor's summer program slots in accordance with the Secretary's directions. Whenever the Secretary orders termination of suspension of a subgrantee or contractor under this paragraph, the Secretary may take whatever action is necessary including direct legal action against the subgrantee or contractor, or an order to the prime sponsor that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the summer program.

(b) All grants, subgrants and contracts under the summer program shall contain the provisions of this section.

Signed in Washington, D.C., this 3rd day of April 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-9145 Filed 4-4-78; 8:45 am]