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highlights

CORRECTION

Pages 35834 to 35842 of the Tuesday, August 24, 1976 "Federal Register" were printed in error. The correct text of Federal Register Document 76–24757 is printed in today's issue as Part V appearing at pages 36003 to 36012.

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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled 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, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

rules and regulations

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

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

Title 7—Agriculture

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

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Increase in Rate of Assessment 1975–76 Fiscal Period

On August 2, 1976, notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 32234) regarding a proposed increase in the previously approved rate of assessment, from two and one-half to three cents per carton of grapefruit, for the fiscal period September 1, 1975, through August 31, 1976, pursuant to Order No. 909, as amended (7 CFR Part 909), regulating the handling of Grapefruit grown in Arizona and designated parts of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposal set forth in such notice which was submitted by the Grapefruit Administrative Committee (established pursuant to said amended marketing order), it is hereby found and determined that due to a decrease in the projected grapefruit crop, 4 million cartons of assessable grapefruit will be shipped during 1975–76, down from the 5 million cartons estimated at the beginning of the year. Therefore, income from the currently approved rate of assessment is not sufficient to meet the expenses of the committee, thus rendering necessary an increase in assessment rate.

It is, therefore, ordered that paragraph (b) *Rate of assessment* of § 909.214 (40 FR 54236) be amended to read as follows:

§ 909.214 Expenses, rate of assessment, and carryover of unexpended funds.

* * * * *

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at three cents ($0.03) per carton, or equivalent quantity of grapefruit.

* * * * *

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the increased rate of assessment is necessary to enable the committee to meet its obligations and carry out its functions, (2) grapefruit shipments are now being made and will be completed for the 1975–76 fiscal period on August 31, 1976, (3) The relevant provisions of said marketing order require that the amended rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during said period, and (4) such period began on September 1, 1975, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: August 20, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76-24838 Filed 8-24-76;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 124; Docket No. AO–368–A9]

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

Referendum Order; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted to determine whether the issuance of the order amending the order regulating the handling of milk in the Oregon-Washington marketing area, which was attached to the decision of the Assistant Secretary issued August 6, 1976, is approved or favored by the producers, as defined under the terms of the order, as proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of March, 1976 is hereby determined to be the representative period for the conduct of such referendum.

James A. Burger is hereby designated agent of the Secretary to conduct the referendum for the Oregon-Washington marketing area in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (7 CFR 900.300 et seq.). Such referendum shall be completed on or before September 24, 1976.

Signed at Washington, D.C., on August 19, 1976.

RICHARD L. FELTNER,
Acting Secretary.

[FR Doc.76-24839 Filed 8-24-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8761]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

William R. Clark

NOTE.—Codification under 16 CFR Part 13 appears at 34 FR 15348.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

In the Matter of William R. Clark

Order modifying an earlier order dated August 6, 1969, 34 FR 15348, 76 F.T.C. 207, modified September 1, 1970, 35 FR 15807, 77 F.T.C. 1186, by deleting Paragraph 16 of the Order because provisions of the newly promulgated Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses supersedes it.

The modifying order to cease and desist is as follows:

ORDER MODIFYING ORDER TO CEASE AND DESIST

On June 17, 1976, respondent William R. Clark (Clark) by a paper entitled Motion to Modify Order Issued on August 6, 1969, and Modified on September 1, 1970, which will be treated as a petition to reopen this proceeding, has requested that Paragraph 16 be deleted from the Order. The Bureau of Consumer Protection has filed an answer wherein it advises that it does not oppose Clark's request.

The Commission has determined that the request should be granted because the provisions of its newly promulgated Trade Regulation Rule on the Preservation of Consumers' Claims and Defenses have superseded Paragraph 16 of this order.

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the Order to Cease and Desist be, and it hereby is, modified by deleting Paragraph 16.

The Modifying Order was issued by the Commission July 13, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-24841 Filed 8-24-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 75N-0297]

PART 510—NEW ANIMAL DRUGS

Subpart D—Records and Reports

SUBMISSION OF ADVERTISING AND PROMOTIONAL DATA

The Food and Drug Administration is providing for use of the form entitled "Transmittal of Periodic Reports and Promotional Material for New Animal Drugs" (Form FD-2301) in submitting new animal drug promotional material, effective September 24, 1976.

In the FEDERAL REGISTER of February 27, 1976 (41 FR 8496), the Commissioner of Food and Drugs proposed to amend § 510.302 (21 CFR 510.302) to make it consistent with the other regulations on records and reports and with the format and intended use of Form FD-2301. The Commissioner provided a 60-day period for comment on the proposal, until April 27, 1976, but no comments were received.

Form FD-2301 provides for the submission of new animal drug promotional material to the agency. Previously, submissions under § 510.300(b) (1), (2), and (3) (21 CFR 510.300(b) (1), (2), and (3)) were exempted by § 510.302 from using Form FD-2301. The basis for exempting the reports submitted pursuant to § 510.300(b) (1) and (2) from use of Form FD-2301 is the agency's need to receive and process the information submitted, which includes information concerning product defects and unusual or unexpected side effects, as rapidly as possible because expeditious agency implementing action may be necessary. Exemption under § 510.300(b)(3) from use of this form for the submission of mailing pieces or any other labeling and advertising that are devised for promotion of a new animal drug, on the other hand, is unnecessary because the exigency is absent for this type of information, and the Commissioner concludes that this information is more appropriately and easily processed when submitted on the Form FD-2301. Accordingly, the Commissioner is amending § 510.302 to require that information listed in § 510.300(b) (3) be submitted on Form FD-2301.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701 (a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner is amending Part 510 in § 510.302 by revising paragraph (a) to read as follows:

§ 510.302 Reporting forms.

(a) The information described in § 510.300, except that described in paragraph (b) (1) and (2) of that section, shall be submitted appropriately identified with the new animal drug application(s) to which they relate in duplicate on Form FD-2301 "Transmittal of Periodic Reports and Promotional Material for New Animal Drugs."

* * * * *

Effective date: This amendment shall be effective September 24, 1976.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)).)

Dated: August 18, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24847 Filed 8-24-76;8:45 am]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2134]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations Village of Jean Lafitte, Louisiana

On April 5, 1975, at 41 FR 14368, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Jean Lafitte. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 26, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 220371A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Jean Lafitte Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Jean Lafitte map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24865 Filed 8-24-76;8:45 am]

[Docket No. FI-1042]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations City of Clayton, Missouri

On April 21, 1976, at 41 FR 16655, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Clayton, Missouri. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 9, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 290341B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Clayton Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Clayton map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24866 Filed 8-24-76;8:45 am]

[Docket No. FI–1075]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Smithville, Missouri

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Smithville, Missouri. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 295271A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the City of Smithville Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Smithville map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24867 Filed 8–24–76;8:45 am]

[Docket No. FI–1036]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Borough of Lavallette, New Jersey

On April 16, 1976, at 41 FR 16147, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Lavallette, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 16, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 340379C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Lavallette Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Lavallette map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24868 Filed 8–24–76;8:45 am]

[Docket No. FI–1076]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for Borough of Rumson, New Jersey

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Rumson, New Jersey. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345316B and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Rumson Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Rumson map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–24869 Filed 8–24–76;8:45 am]

[Docket No. FI–1078]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Fargo, North Dakota

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Fargo, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 23, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385364A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buidings and contents.

The numerous changes made in the base flood elevations on the City of Fargo Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Fargo map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76–24870 Filed 8–24–76;8:45 am]

[Docket No. FI–1077]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Pembina, North Dakota

On April 27, 1976, at 41 FR 17541, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Pembina, North Dakota. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of April 30, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448) 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 385368C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Pembina Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Pembina map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76–24871 Filed 8–24–76;8:45 am]

[Docket No. FI–173]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations for City of Rapid City, South Dakota

On August 7, 1975, at 40 FR 33283, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Rapid City, South Dakota. Ninety days have elapsed since that date, and the Administrator has received an appeal from Rapid City, requesting changes in the proposed flood elevation determinations.

The Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base flood elevations proposed on August 7, 1975, as a result of requests for changes in the determination. These modified elevations are in effect as of September 3, 1976, and amend the Flood Insurance Rate Map, which was in effect prior to this date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 465420C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Rapid City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Rapid City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76–24872 Filed 8–24–76;8:45 am]

[Docket No. FI–989]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations, City of Arlington, Texas

On March 26, 1976, at 41 FR 12682, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Arlington, Texas. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 5, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485454A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for

new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Arlington Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Arlington map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24873 Filed 8-24-76;8:45 am]

[Docket No. FI-990]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations Bay City, Texas

On March 26, 1976, at 41 FR 12683, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in Bay City. Since that date, ninety days have elapsed, and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of March 5, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485455A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Bay City Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Bay City map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 29, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 4, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-24874 Filed 8-24-76;8:45 am]

[Docket No. FI-2254]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Honolulu County, Hawaii

On June 3, 1970, in 35 FR 8734, the Federal Insurance Administrator published a list of communities with special hazard areas which included Honolulu, Hawaii. Map No. H 150001 45 indicates that Haiku Gardens Townhouse Development, being R-6 Residential District No. R-57, Heeia, Koolauporo, Oahu, Hawaii, recorded in Liber 10045, Page 316 in the office of the Bureau of Conveyance, State of Hawaii, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 150001 45 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 5, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-24875 Filed 8-24-76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Need and Amount of Assistance; Correction

In FEDERAL REGISTER Document 76-21627, published at page 30647 in the issue dated Monday, July 26, 1976, the definition of Need Standard appearing near the end of the Notice is corrected to read: "Need standard means the money value assigned by the State to the basic and special needs it recognizes as essential for applicants and recipients;"

Approved: August 13, 1976.

THOMAS S. MCFEE,
Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.76-24914 Filed 8-24-76;8:45 am]

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Home Health Services

Notice of proposed rule making was published August 21, 1975 (40 FR 36702) revising existing regulations on the provision of home health services under State plans for medical assistance (title XIX, Social Security Act). The purpose of the proposed revisions was to remove certain restrictions and ambiguities which prevented full realization of the benefits of such services. The basis for the proposal was the Department's desire to increase the availability of home health services to Medicaid recipients and to encourage their use in appropriate cases as one alternative to institutionalization.

In summary, the regulations as proposed would have:

Permitted certain types of qualified health service agencies, in addition to those which meet Medicare standards, to provide home health services under Medicaid programs;

Prescribed the standards which those agencies must meet, which paralleled those for Medicare but were appropriately adjusted for differing needs under Medicaid;

Permitted proprietary agencies to participate if they met the standards, subject to any licensing law of the State;

Clarified that States must make available under the State plan the three main types of services needed in home care: nursing, home health, aide, and supplies and equipment, and also permitted them to provide various therapies as home health services;

Clarified the Medicaid recipients to whom home health services must be available, specified the requirements for a physician's determination of medical needs recorded in a plan of care and periodically reviewed, and clarified that Medicare requirements relating to need for certain types of "skilled" care and the prior hospitalization applicable to the Medicare Part A home health benefit do not apply under Medicaid.

Nearly 1300 comments were received from a broad range of interested parties: Members of Congress, private citizens, national health and welfare organizations, consumer and senior citizen groups, public and private providers and provider organizations, State and local agencies, etc. The comments themselves represented a broad range of opinion from approval of the changes to strong objections in whole or in part. Evidence of widespread interest was also presented by the holding of public hearings on Oc-

tober 28, 1975 by subcommittees of the Senate and House Committees on Aging, and by the convening of an all-day session on the major issues to which the Department invited State, congressional, consumer and provider representatives.

The greatest controversy arose over the proposal to drop from Medicaid the restrictions on proprietary agency participation applied by statute under Medicare, thus allowing their participation in the Medicaid program on the same basis and under the same standards as nonprofit agencies. Another major issue was the establishment of standards differing in some respects from Medicare's, including the provision for single service agencies to participate in Medicaid (those offering only nursing or only home health aide services). In addition, however, these were questions and suggestions on virtually every detail of the proposed regulations.

In light of the great public interest and widely varying opinions the Medicaid regulations are being published at this time with only those revisions necessary to clarify the previous ambiguities on persons eligible to receive home health services and types of services State must provide. This should increase understanding of the requirements on the part of States, recipients and home health agencies and facilitate the appropriate provisions of the services. The issues raised by the proposed rule making will be included for discussion in the overall review of home health care on which the Department has announced public hearings (see Notice of Intent, FR Doc. 76–24916 published elsewhere in this issue).

With respect to the eligibility provisions, comments received were affirmative. Comments on the services requirements and the Department's response are summarized below:

(a) Clarify when services may be provided in an intermediate care facility. This has been done by giving an example.

(b) Change the 90-day physician's review to the Medicare requirement of 60 days. This has been done.

(c) With respect to use of a "solo" nurse in the absence of a qualified agency: Drop the requirement, make it optional, clarify when no agency is considered "available", require States to hold public hearings prior to such a finding, clarify "direction" by a physician.

The requirement has been retained since it is necessary for the provision of services in certain areas, primarily rural. Approximately 23 States now make use of this provision and the Department considers it essential for all States to have such arrangements in effect. However, the requirement has been strengthened by restricting its applicability to use of registered nurses.

The non-availability of an agency has been clarified by changing the wording to "no such agency exists in the area". This clarification also makes it unnecessary to provide for public hearings on whether an agency is not "available". The wording on "direction" by a physician has been replaced by more specific language.

(d) Clarify whether the home health agency itself must furnish the medical supplies, equipment and appliances required by § 249.10(b)(7)(i)(C).

It is the State's responsibility to make payment for any such item. The items may be supplied by direct prescription of the physician and not necessarily by the home health agency.

(e) Many respondents suggested that a variety of other services—nutrition, homemaker, social services—should be required and that the therapy services listed as optional should be mandated.

The Department recognizes that many of these services would enhance the benefits gained from home health services. However, some of the suggested services are solely custodial in nature and readily available under other federally-assisted programs and, therefore, do not appear to be appropriate for inclusion under title XIX of the Act, the primary purpose of which is to make medical care and services available to indigent people. The therapy services have been retained as optional since it is felt that in the light of current fiscal restraints, this should be a State decision. Such services are optional in State Medicaid programs for provision to any recipient as well as under home health programs. However, all suggestions on services will be considered in the development of possible legislative proposals as a result of the NOI and public hearings discussed above.

A comment was also received on the definition of a medical rehabilitation facility which may provide therapy services under these regulations. It pointed out an inconsistency between the specification that the major portion of services be provided in the facility and the fact that home health services are provided in the patient's residence. The wording has been clarified.

Accordingly, the proposed regulations, as modified, are hereby adopted.

During the year following the publication of these regulations, the Department will evaluate the utilization and delivery of home health services under both Medicare and Medicaid. Modifications in the legislation and regulations of both programs will be considered on the basis of this evaluation.

Chapter II, Title 45, Code of Federal Regulations, is amended as follows:

1. Section 249.10 is amended by revising paragraphs (a)(4) and (b)(7) to read as set forth below:

§ 249.10 Amount, duration, and scope of medical assistance.

(a) * * *

* * * * *

(4) Provide for the inclusion of home health services which, as a minimum, shall include nursing services, home health aide services, and medical supplies, equipment and appliances, as specified in paragraph (b)(7) of this section. Under this requirement, home health services must be provided to all categorically needy individuals 21 years of age or over; to all categorically needy individuals under 21 years of age if the State plan provides for skilled nursing facility services for such individuals; and to all corresponding groups of medically needy individuals to whom skilled nursing facility services are available under the plan. Eligibility of any individual to receive home health services available under the plan shall not depend upon his need for, or discharge from, institutional care.

* * * * *

(b) * * *

* * * * *

(7) *Home health services.* (i) This term means the following services and items provided to a recipient in his place of residence. Such residence does not include a hospital, skilled nursing facility or intermediate care facility, except that these services and items may be furnished as home health services to a recipient in an intermediate care facility if they are not required to be furnished by the facility as intermediate care services (for example, short-term registered nurse service during an acute illness to avoid transfer to a skilled nursing facility). Any such service or item provided to a recipient of home health services must be ordered by his physician as part of a written plan of care which is reviewed by his physician at least every 60 days. Those services listed in paragraphs (A), (B) and (C) are required to be made available by the State as home health services; those listed in paragraph (D) may be provided as home health services at State option.

(A) Nursing service, as defined in the State Nurse Practice Act, provided on a part-time or intermittent basis by a home health agency or, in the case where no such agency exists in the area by a registered nurse who is currently licensed to practice in the State, who receives written orders from the patient's physician, documents the care and services provided, and has had orientation to acceptable clinical and administrative record-keeping from a health department nurse.

(B) Home health aide services provided by a home health agency.

(C) Medical supplies, equipment and appliances suitable for use in the home.

(D) Physical therapy, occupational therapy or speech pathology and audiology services, provided by a home health agency or by a facility licensed by the State to provide medical rehabilitation services.

(ii) The term "home health agency" means a public or private agency or organization, or a subdivision of such an agency or organization, which is qualified to participate as a home health agency under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation.

(iii) A "facility licensed by the State to provide medical rehabilitation services" means one which is operated under competent medical supervision and which provides therapy services for the primary purpose of assisting in the rehabilitation of disabled persons through an

integrated program of (i) medical evaluation and services, and (ii) psychological, social, or vocational evaluation and services. The facility must be operated either in connection with a hospital or as a facility in which all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

* * * * *

(Sec. 1102, 49 Stat. 648 (42 U.S.C. 1302).)

Effective date: The regulations in this section will be effective November 23, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Answers to specific questions may be obtained by calling Robert Silva, 202–245–0251.

Dated: August 13, 1976.

DON WORTMAN,
Acting Administrator, Social and Rehabilitation Service.

Approved: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

[FR Doc.76–24915 Filed 8–24–76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Alameda and Pocatello, Idaho

Order. In the matter of amendment of § 73.202(b), *table of assignments*, FM Broadcast Stations. (Alameda and Pocatello, Idaho).

1. The FM Table of Assignments indicates that Channel 285A is assigned to Alameda, Idaho. However, since the adoption of the assignment, Alameda has been incorporated into the City of Pocatello, Idaho. Pocatello (pop. 40,036) has two Class C FM assignments (Channels 229 and 235). In order to update and correct the assignment in the FM Table, Channel 285A is redesignated as a Pocatello assignment. There is an application pending for use of the channel (BPH–9877) filed by KSEI Broadcasters, Inc. The application will not be affected since Alameda is now a part of the City of Pocatello.

2. This amendment to the rules is adopted pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules. Since this amendment constitutes a corrective measures, imposes no new requirements, and will not adversely affect the rights of any licensee, prior notice of proposed rulemaking and the usual effective date requirements of the Administrative Procedure Act are unnecessary. 5 U.S.C. 553 (d)(B) and 5 U.S.C. 553(d)(3).

3. Accordingly, *it is ordered*, That effective September 3, 1976, the Table of FM Assignments, § 73.202(b) of the rules and regulations, is amended to read as follows:

City:	*Channel No.*
Alameda, Idaho	—
Pocatello, Idaho	229, 235, 285A

Adopted: August 19, 1976.

Released: August 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76–24893 Filed 8–24–76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–118]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegations Under Executive Order 11912

The purpose of this amendment is to delegate to various Departmental officers functions vested in the Secretary by Executive Order 11912, "Delegation of Authorities Relating to Energy Policy and Conservations" (41 FR 15825; April 15, 1976.)

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.50, a new paragraph (j) is added, to read as follows:

§ 1.50 Delegations to National Highway Traffic Safety Administrator.

The National Highway Traffic Safety Administrator is delegated authority to—

* * * * *

(j) Carry out the functions vested in the Secretary by section 1(a) of Executive Order 11912.

2. In § 1.57, a new paragraph (d) is added, to read as follows:

§ 1.57 Delegations to Assistant Secretary for Policy, Plans, and International Affairs.

The Assistant Secretary for Policy, Plans, and International Affairs is delegated authority to—

* * * * *

(d) Carry out the functions vested in the Secretary by section 4(a) of Executive Order 11912.

3. In § 1.59, a new subparagraph (3) is added at the end of paragraph (a), and a new paragraph (m) is added, to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

The Assistant Secretary for Administration is delegated authority for the following—

(a) *Procurement.* * * *

(3) Carry out the functions vested in the Secretary by sections 3 and 4(b) (as appropriate) of Executive Order 11912.

* * * * *

(m) *Building management.* Carry out the functions vested in the Secretary by sections 1(b) and 4(b) (as appropriate) of Executive Order 11912.

4. In § 1.63, a new paragraph (c) is added, to read as follows:

§ 1.63 Delegations to Director of Public Affairs.

The Director of Public Affairs is delegated authority to—

* * * * *

(c) Carry out the functions vested in the Secretary by section 4(b) (as appropriate) of Executive Order 11912.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e).)

Effective date: This amendment is effective August 25, 1976.

Issued in Washington, D.C., on August 19, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76–24878 Filed 8–24–76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on September 10, 1976.

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

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Wheeler National Wildlife Refuge is permitted only on the area designated by signs and/or on hunt maps as open to hunting. This open area, comprising that part of the Wheeler National Wildlife Refuge located within the boundaries of the Redstone Arsenal Reservation, is delineated on maps available at the Refuge Headquarters, Box 1643, Decatur, Alabama 35601; the Provost Marshal's Office at Redstone Arsenal; and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing hunting of deer, subject to the following conditions:

(1) Hunting shall be by daily permit only.

(2) Hunting will be limited to the periods October 23–24, October 30–31, November 6–7, November 13–14, 1976, archery only, either sex; November 20–21, November 27–28, December 4–5, December 11–12, December 18, 1976, guns only, antlered bucks only; and December 26, 1976, January 2, and January 8, 1977, gun, either sex.

(3) Weapons are limited to shotguns of gauges 20 to 12, loaded with single ball only and longbows with broadhead arrows.

(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 8, 1977.

ARKANSAS

HOLLA BEND NATIONAL WILDLIFE REFUGE

Public hunting of deer with longbow and arrow on the Holla Bend National Wildlife Refuge, Arkansas, is permitted. The hunting area, comprising approximately 6,367 acres, is delineated on a map available at Refuge Headquarters, Box 1043, Russellville, Arkansas 72801, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer subject to the following special conditions:

(1) Open Season: October 1 through November 30, 1976; Archery only.

(2) A special permit is required.

(3) Hunters may not enter the refuge earlier than 2 hours before official sunrise daily.

(4) All deer taken must be reported before leaving the refuge.

(5) Only portable tree stands capable of being quickly removed are permitted. Stands must bear the name and address of the owner and must be removed from the refuge by December 6, 1976.

(6) All hunters must register upon entering the refuge each day.

(7) Hunters are prohibited from driving vehicles across or otherwise damaging standing crops and may not park their vehicle so as to block any road or thoroughfare.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1976.

WHITE RIVER NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the White River National Wildlife Refuge, Arkansas, is permitted only on the area designated by signs as open to hunting. This open area is delineated on a map available at the Refuge Headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer, beaver, and feral hogs.

(2) Open season: Archery—October 16–30; Muzzleloading rifles—October 22–23; Gun—November 8–9, 1976.

(3) Bag limits: One deer of either sex, no limit on beaver and feral hogs.

(4) Weapons—in accordance with State regulations.

(5) Loaded guns are not permitted in vehicles or in camps. Shooting is not allowed from boats, vehicles, or roadways used by vehicles. Dogs and horses are not allowed and all vehicles must stay on regularly used roads and trails. Shooting hours are 30 minutes before sunrise to 30 minutes after sunset. Camping is permitted in designated areas. Hunters may enter the open hunting area at noon on the date preceding each hunt and must be out of the area by dark of the closing day. Fires may be built only at the campsites.

(6) Deer killed during the gun hunting must be checked at one of the refuge check stations between 7:30 a.m. and 7 p.m.

(7) Hunters may not return to hunt hogs or beaver after they have killed a deer.

(8) Permit required. No person is authorized to enter the hunting area without a permit. Submission of more than one permit application or applications containing false information is prohibited.

(9) Each hunter under 17 years of age must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(10) Each gun deer hunter is required to wear a minimum of 500 square inches of daylight fluorescent orange above the waistline.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 9, 1976.

FLORIDA

LAKE WOODRUFF NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer and feral (wild) hogs is permitted on approximately 1,450 acres of Lake Woodruff National Wildlife Refuge. The area open to hunting includes all Federally owned lands on Dexter and Tick Islands as delineated on a map available at the Refuge Headquarters, P.O. Box 488, DeLeon Springs, Florida 32028, or from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer and hogs, subject to the following special conditions:

(1) Open seasons: (a) Archery—September 10–12 and September 24–26, 1976, (b) Primitive gun—October 8–10 and October 29–31, 1976.

(2) Bag limits: White-tailed deer—same as State regulations. Feral hogs—no bag limit. Deer of either sex, except spotted fawns, may be hunted during the archery and primitive gun seasons.

(3) Permitted methods of hunting:

(a) Archery season: Weapons in accordance with State regulations. Hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the hunt area is permitted during the stand hunt hours.

(b) Primitive gun season: Weapons permitted are muzzleloading percussion cap or flintlock rifles with iron sights and rifled bores.

(4) Access and hours of use: No overnight use is permitted on the refuge. No entry will be permitted prior to two hours before sunrise, and all hunters must clear the area by one hour after sunset. All hunters must check in daily at the check station before entering the hunt area and check out daily before leaving.

(5) Permits: A refuge permit is required. Permits are non-transferable; submission of more than one permit application or applications containing false information is prohibited.

(6) Scouting: Participants drawn for the hunts may visit the hunt area on September 3 and 4 and October 1 and 2 from 8:00 a.m. to 5:00 p.m. Weapons, dogs and fires are prohibited.

(7) During the primitive gun season hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) All fires are prohibited.

(10) No dogs are allowed on the refuge.

(11) It is unlawful to drive a nail, spike, or other metal object into any tree, or to hunt from any tree in which a metal object has been driven.

(12) Game must be checked at the refuge check station.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title

50, Code of Federal Regulations, Part 32, and are effective through October 31, 1976.

ST. MARKS NATIONAL WILDLIFE REFUGE

Public hunting of deer and wild hogs on the St. Marks National Wildlife Refuge, Florida, is permitted only in the area designated by signs as open to hunting. This open area, comprising approximately 1,200 acres is delineated on a map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer and wild hogs.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1977.

ST. VINCENT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer, feral (wild) hogs, raccoon, and opossum is permitted on 12 358 acres of St. Vincent National Wildlife Refuge. The area open to hunting includes all of St. Vincent Island. The area open to hunting is delineated on a map available at the Refuge Headquarters, P.O. Box 447, Apalachicola, Florida 32320, or from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, wild hogs, raccoon, and opossum, subject to the following special conditions:

(1) Species permitted to be taken: White-tailed deer—either sex (except spotted fawn) on archery hunts. Antlered bucks only on primitive gun hunt. Hogs (minimum 15 inch shoulder height), raccoon, and opossum.

(2) Bag limits: White-tailed deer—1 per day, 2 per season. Hogs, raccoon, and opossum—no bag limits.

(3) Open seasons: Bow and arrow—October 21–24, 1976, and November 18–21, 1976. Primitive gun—December 9–12, 1976.

(4) Methods of hunting: (a) Bow and arrow seasons—Weapons in accordance with State regulations. Hunters must be on stands from ½ hour before sunrise to 1½ hours after sunrise. No stalking or movement through the woodlands is permitted during the stand hunt hours. (b) Primitive gun season—Weapons permitted are muzzleloading percussion cap or flintlock rifles with rifled barrels.

(5) A special permit is required for all hunts.

(6) Access: Initial entry onto St. Vincent Island is restricted to two check stations throughout the hunts. These are designated Campsite 1 and Campsite 2 on the hunting area map. Each hunter must check in upon initial entry and check out before he leaves the island on his last hunting day. Participants are to have their game inspected by refuge personnel at the check station where they received their permits. The use of boats to gain access at points other than check stations must first be registered at one of the check stations. The use of boats for ingress and egress at unauthorized locations is prohibited.

(7) During the primitive gun hunt, hunters are required to wear outer garments above the waist which contain a minimum total of 500 square inches of daylight, fluorescent orange colored material. Bow hunters are required to wear red, orange, or yellow outer garment (hat, vest, etc.) while hunting.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) Camping and fires are restricted to designated camping areas. Participants may set up camp one day prior to the opening of each hunt season, but are not permitted to leave the campsite area to set up stands, "scout," etc. Campers must remove all equipment from St. Vincent Island by 3:00 p.m. following the last day of each hunt season.

(10) Dogs are not permitted on the island.

(11) No motorized vehicles or equipment will be permitted.

(12) Only dead wood may be cut for campfires.

(13) It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Public hunting for deer on Blackbeard Island National Wildlife Refuge, Georgia, is permitted only on the area designated as Blackbeard Island proper. This open area, comprising 4,535 acres, is delineated on a map available at the Refuge Headquarters, Route 1, Hardeeville, South Carolina 29927, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer subject to the following conditions:

(1) Deer and raccoon may be taken during the following open periods: October 28–31, 1976 and December 28–30, 1976.

(2) During the periods from daylight to 9:30 a.m. and from 3:30 p.m. to sunset daily all hunters must remain on stands.

(3) The season bag limit is two deer of either sex.

(4) Only archery equipment as prescribed in State regulations may be used.

(5) Dogs are prohibited.

(6) Camping and fires will be permitted only at the designated camping area.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) Participants may not enter the refuge more than 2 days in advance of each opening date and must depart the refuge the day following the last day of the hunt.

(9) The refuge will be closed to all forms of public use except hunting during the periods October 28–31, 1976 and December 28–30, 1976.

(10) *Hunters will be restricted to the camping area until the morning of the first day of each hunt period.*

(11) Blazing, driving spikes in, painting, applying tape to, or damaging trees and shrubbery in any manner is prohibited. Hunting stands which will damage trees are not permitted.

(12) A refuge permit is required to hunt and camp.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1976.

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Piedmont National Wildlife Refuge, Georgia, is permitted on the refuge except in those areas designated by signs as closed. The open area, comprising approximately 33,000 acres, is delineated on the map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer, subject to the following special conditions:

(1) Open season and bag limit:

(a) Archery hunt—October 2–10, 1976. Limit two deer of either sex.

(b) Buck hunt—October 28–30, 1976. Limit two bucks with visible antlers.

(c) Either sex hunts—November 5 and 13, 1976. Limit one deer.

(2) Roads cabled off or not shown on the map are closed to all vehicular travel. Parked vehicles must be in sight of the road and must not block entrances to roads.

(3) Buckshot and handguns may not be used or possessed. Target practice during the gun hunts is prohibited.

(4) All deer killed must be field dressed and checked in at Refuge Headquarters on the same day they are killed and before leaving the refuge area.

(5) Dogs are prohibited.

(6) Camping and fires are restricted to the designated camping area in Com-

partment 19 which will be open on the following dates: October 1–11; October 27–31; November 4–6; and November 12–14, 1976.

(7) Each hunter under age 17 must be under the close supervision of an adult. The ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) It is unlawful to drive a nail, spike, or metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

(9) All areas open for hunting may be visited for scouting purposes only on October 23, 1976, during daylight hours only. Weapons and dogs are not permitted.

(10) A refuge permit is required. Hunt permits are nontransferable. Submission of more than one permit application or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 13, 1976.

WASSAW ISLAND NATIONAL WILDLIFE REFUGE

Public hunting for deer and raccoon on Wassaw Island National Wildlife Refuge, Georgia, is permitted on the area designated as Wassaw Island proper excluding that area known as the "Home Parcel." This open area, comprising 1,705 acres, is delineated on a map available at Refuge Headquarters, Route 1, Hardeeville, South Carolina 29927, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer and raccoon, subject to the following conditions:

(1) Deer and raccoon may be taken December 17–19, 1976.

(2) During the periods from daylight to 9:30 a.m. and from 3:30 p.m. until sunset daily all hunters must remain on stands.

(3) The season bag limit is two deer of either sex.

(4) Only rifles, and shotguns 20 gauge or larger using slugs may be used during the hunt. Handguns and buckshot are prohibited. Target practice during the gun hunt is prohibited. Weapons must be unloaded except during the daily hunting periods.

(5) Dogs are prohibited.

(6) All camping will be at the designated camping area on Pine Island. Fires must be confined to the camping area.

(7) Permit holders must check in at the Wassaw Refuge Headquarters and leave their boats at the refuge dock.

(8) The refuge will be closed to all forms of public use except hunting from December 17–19, 1976.

(9) Hunt participants may not enter the refuge more than 1 day prior to the hunt. Hunters will be restricted to the camping area until the morning of the first day of each hunt period.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(11) Blazing, driving spikes in, painting, applying tape to, or damaging trees and shrubbery in any manner is prohibited. Hunting stands which will damage trees are not allowed.

(12) A refuge permit is required to hunt and camp. Hunt permits are nontransferable. Submission of more than one permit application, or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 19, 1976.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted within the fenced portion of Catahoula National Wildlife Refuge designated by signs as open to hunting. This area, comprising 3,000 acres or 55 percent of the total refuge area, is delineated on the map on the reverse side. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Seasons and sex:

(a) Archery hunt: Either sex—October 30–November 7, 1976.

(b) Gun hunt: Bucks only—December 2–4, 1976.

(2) Weapons:

(a) Archery: Longbows as provided for in State regulations.

(b) Gun: Centerfire rifles.

(3) Hunting hours: One-half hour before sunrise until one-half hour after sunset. Hunters may enter area 30 minutes prior to legal shooting hours and must exit 30 minutes after legal hours.

(4) Permits: A refuge permit is required for all hunts.

(5) Still hunting only. No dogs allowed. No permanent tree stands may be constructed. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a metal object has been driven.

(6) Required clothing: Every gun hunter must wear outer garments consisting of at least 500 square-inches of daylight fluorescent orange colored material worn above the waistline.

(7) No vehicles may be parked more than 50 yards from existing roads or trails. No ATV vehicles other than jeep type will be allowed. No vehicles with tires larger than 9.00x16" may be used.

(8) Unmarked feral hogs may be taken by deer hunters.

(9) All deer killed must be checked out at a refuge checking station.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 4, 1976.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on Noxubee National Wildlife Refuge, Mississippi, is permitted only on the area designated by signs and delineated on maps available at Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Open Seasons: Archery hunt—October 2–16, 1976; Gun hunts—November 22–27, 1976 and January 10–15, 1977; Primitive weapons—December 6–11, 1976.

(2) Weapons: Longbow and arrows, shotguns 20 gauge or larger and centerfire rifles, muzzleloading rifles and shotguns.

(3) Sunday hunting prohibited.

(4) Horses and dogs are not permitted.

(5) All deer killed must be checked out at one of the designated refuge checking stations.

(6) Permits are required for all deer hunts.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(8) Man-drive deer hunting prohibited.

(9) The use of any CB radio devices to aid in the pursuit or taking of any wildlife species is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1977.

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Yazoo National Wildlife Refuge is permitted only in wooded areas not designated by signs as closed to hunting. This open area, comprising approximately 10,500 acres, is delineated on a map available at Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329.

Hunting shall be in accordance with all State and Federal regulations governing the hunting of deer, subject to the following special conditions:

(1) Open season: Archery—October 30–November 13, 1976, Sundays excluded. Gun—December 27, 1976–January 1, 1977.

(2) Bag limit: One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

(3) Weapons: Archery—Longbows only; Gun—Shotguns, 20 gauge and larger, and centerfire rifles .222 cal. or larger. No handguns permitted.

(4) A refuge deer hunting permit is required. Entry of hunting area without permit is prohibited. Submission of more than one permit application or applications containing false information is prohibited.

(5) Firearms may not be discharged within 250 yards of residences or the Refuge Headquarters. The carrying of loaded firearms in vehicles and shooting from or across county or State roads is prohibited.

(6) All deer killed must be checked out at a refuge checking station.

(7) Hunters may enter the hunting area no earlier than 1 hour before sunrise. Archery hunters must depart the hunting area immediately after sunset and gun hunters must depart the hunting area no later than 1 hour after sunset.

(8) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(9) Gun hunters are required to wear a minimum of 500 square inches of daylight fluorescent orange colored garment above the waist.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1977.

North Carolina

PUNGO NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Pungo National Wildlife Refuge, North Carolina, is permitted on all areas not designated by signs as closed to hunting. This open area, comprising 7,000 acres, is delineated on maps available at the Refuge Headquarters, Plymouth, North Carolina, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) Seasons and sex:

(a) Bow and arrow only: Either sex—September 20–October 6, 1976.

(b) Shotguns and primitive weapons: Either sex—October 12, 13, 14, 18, 19, 20, 26, and 27, 1976.

(2) Hunting hours; Sunrise to sunset. All guns must be unloaded and bows unstrung at sunset.

(3) Weapons:

(a) Bow and arrow as provided for in State regulations.

(b) Shotguns—20 gauge or larger with rifled slugs or shot no smaller than No. 4 buckshot.

(c) Primitive weapons—muzzleloading percussion cap or flintlock rifles.

(4) Permits: A refuge permit is required for all hunts. Submission of more than one permit application, or applications containing false information is prohibited.

(5) Required clothing: Every gun hunter must wear outer garments consisting of at least 500 square inches of daylight fluorescent orange colored material worn above the waistline.

(6) Age Limits: Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(7) Closed area: Unauthorized entry into any building or designated "CLOSED AREA" is prohibited. No hunting is permitted within 200 yards of the refuge subheadquarters.

(8) Transporting weapons: Weapons must be unloaded while being transported in or on a vehicle.

(9) Prohibited: Modern rifles, pistols, crossbows, dogs, fires, camping, and littering.

(10) Hunters shall not disturb, damage, or destroy unharvested crops.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 27, 1976.

South Carolina

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, Awendaw, South Carolina, is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,500 acres, is delineated on maps available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) The open season for hunting of white-tailed deer (either sex) is November 8–13 and December 6–11, 1976.

(2) Only archery equipment in accordance with State regulations is permitted. Firearms & ammunitions, crossbows, poison arrows, dogs, alcoholic beverages, nails, paint or flagging are not allowed on the Island.

(3) On the area north of Beach Road, hunters must remain on their stands from 30 minutes before sunrise until 9 a.m. and from 3 p.m. until 30 minutes after sunset. No hunting within 100 feet of the Walking Trail (interpretative foot trail).

(4) Each hunter must obtain a Refuge permit upon arrival at Bulls Island and must turn in this permit before leaving the Island. All deer taken must be checked by refuge personnel before leaving the Island.

(5) Only hunters with a valid refuge hunting permit may camp. Camping and fires are restricted to the designated camping area which will be open from 9 a.m. on November 7 until 12 noon on November 14 and from 9 a.m. on December 5 to 12 noon on December 12, 1976.

(6) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 12, 1976.

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted on 96 percent of the Carolina Sandhills National Wildlife Refuge. This open area is designated by signs and delineated on a map available from Refuge Headquarters, McBee, South Carolina, and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations and subject to the following special conditions:

(1) Seasons:

(a) Archery only—October 18–23, 1976.

(b) Gun hunts—November 1–3, 8–10, 15, and 22, 1976.

(2) Hunters are allowed on the hunting area from 5:30 a.m. until 6:30 p.m. Hunters must enter the hunting area at designated entrance points and must park their vehicles on the hunting area.

(3) Bag limits:

(a) Archery only—Two (2) of either sex.

(b) Gun hunts—November 1–3 and 8–10—Two (2) bucks with antlers visible above the hairline; November 15 and 22, One (1) of either sex. All deer taken must be checked before leaving the refuge.

(4) Only stalk and still hunting with centerfire rifles and shotguns using slugs permitted during gun hunts.

(5) Stopping, parking, walking, or hunting within 500 feet of the paved auto visitor drive or hunting within 100 feet of any other road or trail open for vehicle travel is prohibited.

(6) A refuge permit is required for all hunts. Permits non-transferable. Submission of more than one permit application or applications containing false information is prohibited.

(7) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(8) Each hunter must wear an outer garment containing a minimum of 500 square inches of daylight fluorescent orange colored material above the waistline. Alcoholic beverages are not permitted. The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 22, 1976.

SANTEE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer is permitted only on the Cuddo Unit of Santee National Wildlife Refuge. The open area, comprising some 3,140 acres, is delineated on a map available at refuge headquarter and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(a) Open season: October 4–5, 8–9, and 13–14, 1976.

(b) Daily bag Limit: One (1) white-tailed deer of either sex per hunter.

(c) Method of hunting:

(1) Only shotguns using slugs and centerfire rifles larger than .22 caliber will be permitted. Buckshot, other shotgun shells, and pistols will not be allowed. No military or hard jacketed ammunition may be used.

(2) Only stalk and still hunting will be permitted. No dogs or drives are allowed.

(3) Each hunter must wear an outer garment containing a minimum of 500 square inches of daylight fluorescent orange color above the waistline.

(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(5) A refuge permit is required. Permits non-transferable. Submission of more than one permit application or applications containing false information is prohibited.

(6) All deer taken must be checked at the designated check station prior to leaving the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 14, 1976.

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Tennessee National Wildlife Refuge, Tennessee, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 2,800 acres for bow hunting only, 1,900 acres for muzzleloading rifle hunting, and 5,075 acres for gun and bow hunting, are delineated on a map available at the Refuge Headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer, subject to the following conditions:

(1) Open seasons: Archery only—October 2 and 3, 1976; Gun—December 26–28, 1976; Muzzleloading rifle only—December 29 and 30, 1976.

(2) The bag limit is one deer of either sex per hunter during the archery hunt, the gun hunt, and the muzzleloader rifle hunt, not to exceed the total season bag set by State regulations.

(3) The use of dogs is not permitted.

(4) Camping on the area is not permitted.

(5) Driving of deer is prohibited.

(6) Hunters may enter the public hunting area at sunrise and must be out of the area one-half hour after sunset.

(7) All hunters must wear protective clothing of daylight fluorescent orange material of at least 500 square inches above the waist.

(8) Each hunter under the age of 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

(9) A refuge permit is required for all hunts. Submission of more than one permit application, or applications containing false information is prohibited.

(10) Hunters must check in and out of the designated checking station.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1976.

KENNETH E. BLACK,
Regional Director, U.S. Fish and Wildlife Service.

AUGUST 13, 1976.

[FR Doc.76-24809 Filed 8-24-76;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.

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 210]

FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Proposed Collection Procedures

Correction

In FR Doc. 76-22605 appearing on page 32605 in the issue for Wednesday, August 4, 1976, make the following correction:

(1) On page 32605, in the third column, under § 210.7, the first paragraph should have been designated as "(e)", and the first sentence should have read as follows: "(e) A financial organization receiving a credit payment shall credit the amount of such credit payment to the account indicated by the depositor account number information specified in the credit payment."

Internal Revenue Service

[26 CFR Part 1]

FOREIGN BASE COMPANY SHIPPING INCOME

Proposed Rule Making; Correction

On Monday, August 9, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 33285). The following corrections are made to the proposed regulations:

(1) In paragraph (b)(4) of example (4) of § 1.952-3(d) (page 33289), the phrase "foreign base company shipping income" should be "foreign base company income".

(2) In § 1.955A-4(d) (page 33306), the phrase "less developed countries" should be "foreign base company shipping operations" in lines 7 and 8 of example (2), lines 11 and 13 of example (3), and line 32 of example (4).

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.76-24932 Filed 8-24-76;8:45 am]

[26 CFR Part 1]

FOREIGN BASE COMPANY SHIPPING INCOME

Proposed Rule Making

Correction

In FR Doc. 76-23140, appearing at page 33285, of the issue of Monday, August 9, 1976, the following changes should be made:

1. On page 33302, the fourth line of the first column should be changed to read "date. The excess of a liability which constitutes a specific charge against property over".

2. On page 33303, in the middle column, the table in the example should be changed by amending the parenthetical material under (5) to read "($9 x $40/$60)".

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Eastern Marten; Review of Status

On June 25, 1975, the Department of the Interior received a petition from the North Star Chapter of the Sierra Club (807 Midland Bank Building, Minneapolis, Minnesota 55402) seeking determination of the Eastern Marten (*Martes americana americana*) as Endangered, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

As required by section 4(c)(2) of the Act, notice is hereby given of the Department's determination that substantial evidence has been presented by the petition to warrant a review of the status of *Martes americana americana* in the United States to determine whether it should be proposed for listing as Endangered or Threatened.

The Department is seeking the views of the Governors of Maine, Michigan, Minnesota, New Hampshire, New York, Vermont, and Wisconsin. All other interested parties are hereby invited to submit any factual information which is germane to this review of the status of this species, or which could assist in determining its Critical Habitat. Such information should be sent to: Director, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 by November 24, 1976. This information, together with the evidence presented and available to the Secretary, and that provided with the petition of the Sierra Club, will be reviewed to determine whether the Eastern Marten should be listed as Endangered or Threatened.

Dated: August 17, 1976.

KEITH M. SCHREINER,
Acting Director, Fish and Wildlife Service.

[FR Doc.76-24885 Filed 8-24-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 76P-0126]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Advance Notice of Proposed Rule Making

The Food and Drug Administration (FDA) is considering amending Part 2 of its regulations to provide for payment of attorneys' fees and the provision of other assistance to participants in its proceedings in appropriate circumstances. This advance notice of proposed rule making is published because the Commissioner of Food and Drugs believes it would be helpful to invite public comment on whether such assistance should be provided and on the identification and selection of appropriate criteria and procedures for providing assistance. All communications received on or before October 26, 1976 will be considered by the Commissioner before any further action is taken on this matter.

Interested persons are invited to participate in developing the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted (preferably in quintuplicate) to: Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Received comments may be seen in the above office, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays. If it is determined to be in the public interest to proceed further after consideration of the available data and comments received in response to this advance notice of proposed rule making, a proposed rule will be published in the FEDERAL REGISTER.

Increasing attention has been given in recent years to the financial barriers to effective public participation in agency proceedings. The Administrative Conference of the United States has recommended that agencies consider measures to facilitate public participation under 1 CFR 305.71-6. The Food and Drug Administration has already adopted several measures to aid participants in proceedings, including making agency staff available to answer inquiries for factual information, and proposing a regulation under § 2.151 (21 CFR 2.151), published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682), to relieve participants who are under an unreasonable financial burden from requirements to

submit multiple copies. The Food and Drug Administration has issued comprehensive regulations under Part 4 (21 CFR Part 4) to implement the Freedom of Information Act; the regulations make nearly all agency records available to any member of the public. Any citizen may also petition the agency to take action on any matter within the agency's responsibilities, and have the petition reviewed and ruled upon by the Commissioner, pursuant to proposed § 2.7 (21 CFR 2.7), published in the FEDERAL REGISTER of September 3, 1975.

The measures so far adopted by FDA have not included provision of attorneys' fees to participants. The Comptroller General has stated in a decision issued February 19, 1976 (File No. B–92288) that a regulatory agency may use its appropriations to extend financial assistance to interested parties "who require it" and "whose participation is essential to dispose of the matter" before the agency.

The Commissioner has recently received a petition from the Consumers Union of United States, Inc., 1714 Massachusetts Ave., NW., Washington, DC 20036, requesting an amendment of FDA regulations to provide compensation of attorneys' fees and other costs to certain participants in agency hearings. Because of its importance in evaluating the need for proposed rule making and in identifying the issues that need to be resolved, the Commissioner is setting forth below the proposed regulation, statement of grounds, and appendices (Appendix A and Appendix B) contained in the petition. To conform with certain format requirements, the material in footnotes in the petition has been included in the text in parenthesis, and certain introductory material has been omitted.

A. THE PROPOSED REGULATION.

§ 2.151 ____.

(a) (1) The Commissioner may provide compensation for reasonable attorneys' fees, expert witness fees, and other reasonable costs of participation incurred by eligible participants in any rule making or adjudicatory proceeding conducted pursuant to Subparts B, C, D, and E of these regulations, whenever public participation in such a proceeding promotes or can reasonably be expected to promote a full and fair determination of the issues involved in the proceeding.

(2) Any person is eligible to receive an award under this section ____ for _____ participation (whether or not as a party) in a rule making or adjudicatory proceeding if

(i) The person represents an interest the representation of which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, taking into account the number and complexity of the issues presented, the importance of public participation, and the need for representation of a fair balance of interests; and

(ii) (*a*) The economic interest of the person in the outcome of the proceeding is small in comparison to the costs of effective participation in the proceeding by that person or, in the case of a group or organization, the economic interest of the individual members of such group or organization is small in comparison to the costs of effective participation in the proceedings; or

(*b*) The person demonstrates to the satisfaction of the Commissioner that such person does not have sufficient resources available to adequately participate in the proceeding in the absence of an award under this section.

(3) (i) In order to facilitate public participation, the Commissioner shall make a determination of the eligibility of a person for an award under this section, and the amount of such award, prior to the commencement of any proceeding, unless the Commissioner makes an express written finding that such a determination cannot practically be made at that time.

(ii) Payment of fees and costs under this section shall be made within 90 days of the date on which a final decision or order disposing of the matters involved in the proceeding is made by the Commissioner. If an eligible person establishes, in a manner to be prescribed by the Commissioner, that its ability to participate in the proceeding will be impaired by the failure to receive funds prior to the conclusion of the proceeding, then the Commissioner shall make advance payments to permit the person to participate or to continue to participate in the proceeding.

(iii) Reasonable attorney's fees, expert witness fees, and other reasonable costs of participation awarded under this section shall be based upon prevailing market rates for the kind and quality of service provided, but in no event shall exceed the rate of compensation (including fringe benefits and overhead) paid to Food and Drug Administration attorneys, expert witnesses, and other personnel with comparable experience and expertise.

B. STATEMENT OF THE GROUNDS

Representation of diverse points of view, including the traditionally underrepresented consumer viewpoint, is essential to fair and balanced decisionmaking by FDA. However, the high costs of participation in administrative proceedings precludes effective participation in agency proceedings by nonindustry groups in the absence of financial assistance from FDA. The Food and Drug Administration has inherent authority, even in the absence of explicit statutory sanction, to compensate certain participants for attorneys' fees and other costs of participation, in view of its broad regulatory powers and the statutory requirement that FDA conduct public hearings with respect to certain regulatory actions.

1. *Financial assistance is necessary for effective public participation and advocacy of diverse points of view before FDA.* Public participation is an essential element of a sound, balanced administrative decisionmaking process. (The importance of public participation in administrative proceedings has been acknowledged by the President, by Congress, by the Courts, by the Administrative Conference of the United States, and by various commentators. See, e.g., letter from President Ford to Senator Ribicoff, Rep. Brooks, and Rep. Staggers, April 17, 1975, released to press by White House; Federal Trade Commission Improvements Act, 15 U.S.C. 757(a)(h), compensation for attorneys' fees in rule making proceedings; Hearings on S. 2715 before the Senate Subcommittee on Administrative Practice, 94th Cong., 2d Sess. (Jan. 30, 1976 and Feb. 6, 1976), Kennedy bill providing for reimbursement of costs of participation; *National Welfare Rights Organization* v. *Finch*, 429 F.2d 725 (D.C. Cir. 1970); *Office of Communications of United Church of Christ* v. *F.C.C.*, 359 F.2d 994 F.2d 608 (2d Cir. 1965); Recommendation 28, 2 Recommendations and Reports of the Administrative Conference of the United States 35 (1970–1972), reprinted in 30 Ad. L. 2d 121 (1972), Cramton, "The Why, Where and How of Broadened Public Participation in the Administrative Process," 60 Geo. L. J. 525 (1972); Gellhorn, "Public Participation in Administrative Proceedings," 81 Yale L. J. 359 (1972); Lazarus and Onek, "The Regulators and the People," 57 Va. L. Rev. 1069 (1972); Note, "Federal Agency Assistance of Impecunious Intervenors," 88 Harv. L. Rev. 1815 (1975).) An imbalance in the advocacy of diverse points of view before regulatory agencies is likely to produce an imbalance in the decisions which are ultimately reached by agency officials. As Roger Cramton, a former chairman of the Administrative Conference of the United States, has written, "The cardinal fact that underlies the demand for broadened public participation is that governmental agencies rarely respond to interests that are not represented in their proceedings." (60 Geo. L. J., supra, at 529.)

It is no longer an accepted notion that the agency can itself perform as the advocate for the "consumer interest," as distinct from the interest of the regulated industries. Judge Warren Burger, now Chief Justice of the Supreme Court, cast aside such thoughts with respect to the Federal Communications Commission nearly a decade ago in *Office of United Church of Christ* v. *FCC* when he wrote:

> The Commission of course represents and indeed is the prime arbiter of the public interest, but its duties and jurisdiction are vast, and it acknowledges that it cannot begin to monitor or oversee the performance of every one of thousands of licensees. * * *
>
> The theory that the Commission can always effectively represent the listener interests in a renewal proceeding without the aid and participation of legitimate listener representatives fulfilling the role of private attorneys general is one of those assumptions we collectively try to work with so long as they are reasonably adequate. When it becomes clear, as it does to us now, that it is no longer a valid assumption which stands up under the realities of actual experience, neither we nor the Commission can continue to rely on it. (359 F.2d 994, 1003 (1966).)

His remarks apply with equal logic to representation of diverse interests before FDA. At present advocacy before FDA follows the usual pattern:

(Governmental agencies) are exposed, with rare and somewhat insignificant exceptions, only to the view of those who have a sufficient economic stake in a proceeding or succession of proceedings to warrant the substantial expense of hiring lawyers and expert witnesses to make a case for them. (60 Geo. L. J., supra, at 529.)

Although the interests of the food, drug, cosmetic, and medical device industries are frequently at odds with the interests of consumers of these regulated products, consumer advocacy before FDA is rare, sporadic, and virtually always underfinanced, while the regulated industries maintain continuous and well-financed advocacy directly and through their trade associations. (One measure of this imbalance is FDA's Public Calendar, which indicates constant and routine contacts between members of the regulated industries, and only occasional contacts with nonindustry spokespersons.)

Yet Congress clearly intended that, in exercising its extensive regulatory powers, FDA fully consider the interests of those who consume the products regulated by the agency, as well as the interests of those who produce them. With regard to certain actions of FDA, Congress directed FDA to conduct hearings upon objection by "any person who will be adversely affected" by such orders, and explicitly stated that "any interested person" may be heard at these hearings. Addressing itself to similar language in the Atomic Energy Act, the Nuclear Regulatory Commission recently stated that such language:

(p)resumably * * * reflects a Congressional emphasis on the importance of hearings and of broad participation in the [licensing] process. (*In the Matter of Consumer Power Co.*, (Big Rock Point Nuclear Plant) Docket 50–155, (Memorandum and Order, November 21, 1974, at 5. The Atomic Energy Act provides that "The Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit such person as a party to such proceeding." 42 U.S.C. 2239.)

Consistent with its statutory mandate, FDA has removed formal obstacles to public participation in its proceedings by adopting broad rules of standing for both initiation of and participation in informal agency proceedings. (See §§ 2.2, 2.110, 2.117, 2.130, 2.155, of the proposed Administrative Practices and Procedures.) In the preamble to its Administrative Practices and Procedures, FDA has adopted a broad interpretation of the statutory language of section 701(e) (21 U.S.C. 371(e)) as follows:

The terms "interested person" and "any person who will be adversely affected" are defined very broadly to mean any person who wishes to participate in any proceeding of the Food and Drug Administration. There is no requirement that such person exhibit any particular interest, or show any specific economic or other harm or other indicia of "standing." Since Food and Drug Administration activities directly affect all members of the public, all members of the public who wish to participate are "interested persons" and "adversely affected" by definition. The courts have ruled that all citizens who wish to challenge agency actions affecting food and drugs are "adversely affected" and thus may properly submit objections and otherwise participate in the administrative proceedings where the statute requires such a showing. (See *Reade* v. *Ewing*, 205 F.2d 630 (2d Cir. 1953).)

While advocates of consumer interests thus enjoy broad rights of participation at FDA, as a practical matter these are hollow rights in the absence of adequate funding for the costs of preparing and presenting effective testimony. (Although the extent of participation varies from proceeding to proceeding, effective participation will usually involve extensive investigatory work, surveying, case regulation and the testimony of experts who serve as consultants and/or witnesses. Public interest representatives "cannot merely rely on legal arguments that certain interests be taken into account but must develop an affirmative case of their own." Cramton, supra, at 539. That is expensive, and well beyond the means of advocates of consumer interests.) As the Administrative Conference has recognized, "(t)he cost of participation in trial-type proceedings can render the opportunity to participate meaningless." (Recommendation 28, supra.) As Simon Lazarus and Joseph Onek have stated:

Assuring the legal rights of public interest representatives to participate in regulatory proceedings is a vital first step. It is, however, only a first step. Without further affirmative action to assure that public representatives actually appear, the legal right to participate will be largely a symbolic—perhaps merely a cosmetic—advance. (57 Va. L. Rev., supra, at 1096.)

Ernest Gellhorn put it more strongly:

If public participation is in fact a 'right' which agencies have a mandate to foster, failure to render some assistance amounts to a practical subversion of that mandate. (81 Yale L. J., supra, at 389.)

So-called "public interest" organizations generally operate under strict financial constraints, and have little or no funding available for intervention or participation. (The phrase "public interest" is a term of art, suggesting a group that represents diffuse, noncommercial interests which traditionally have not received direct representation in the courts, agencies, or legislature.) Many such groups operate with volunteer labor and little or no legal assistance. Others possess some legal capability but little or no in-house scientific expertise. Even larger organizations are unable to afford participation in most of the agency proceedings which affect the health and safety of their memberships or constituencies. Despite their limited monetary and manpower resources, however, many of these groups represent memberships or constituencies of substantial size.

The Food and Drug Administration's Administrative Practices and Procedures rules permit a participant who is "indigent" and whose participation has a "strong public interest justification" or one whose participation "can be considered primarily as benefiting the general public" to petition in forma pauperis for an exemption from the filing and service requirements of the rules, § 2.151 of the Administrative Practices and Procedures. While reducing duplicating and mailing expenses associated with participation is desirable, these cost savings represent but a tiny fraction of the actual costs incurred by intervenors in FDA proceedings and will not induce a group to participate fully in a proceeding it cannot otherwise afford.

While the actual costs of participation will of course vary with the nature and length of the proceeding, the complexity of the issues, and the extent of the participation, Cramton has estimated that the "cost of active participation in an FDA rule making proceeding is in the range of $30,000 to $40,000." (60 Geo. L. J., supra, at 538.) This estimate is based upon Administrative Conference staff interviews with "informed persons, including agency staff members, public interest lawyers, and private practitioners." (60 Geo. L. J., supra, at 538, n. 31.) It was made in 1972. The cost of living having increased 35 percent since then, the current figures are closer to $40,000 to $54,000. Costs for participation in a more complex rule making or adjudicatory hearing could entail substantially greater expense.

In summary, while the act sets forth the rights of any aggrieved person to request and receive a public hearing, and for any interested person to be heard at such hearing, virtually no nonindustry persons have been able to invoke these rights. In practical effect, these rights of participation are hollow and the record upon which FDA ultimately bases decisions directly affecting the public is thereby impoverished and untested. As a practical matter, systematic advocacy of diverse points of view is likely to occur only if FDA actively encourages participation by those who are likely to contribute to a fuller, fairer, and more balanced record by reducing the financial barriers to such participation. (The Supreme Court has recognized approvingly the ability of agencies to encourage or discourage certain activities by adjusting the costs attendant to these activities. In *National Cable Television Association* v. *U.S.*, 415 U.S. 336 (1974), the Court stated:

The lawmaker may, in light of the 'public policy or interest served' make the assessment heavy if the lawmaker wants to discourage the activity; or it may make the levy light if a bounty is to be bestowed * * *. 415 U.S. at 1149.

Although these comments were made in relation to direct assessment of fees by an agency against the regulated industry, they apply with equal logic to the unavoidable "assessment" of costs against those who wish to take part in agency proceedings. Interestingly, the Court further stated that, to the extent the benefits of certain agency actions accrue principally to the public, private parties should not be made to bear the costs of such actions. 415 U.S. at 1150. By analogy, where nonindustry advocates bear the burden of preparing and presenting an effective case, which aids

FDA in reaching a decision which benefits the public health and welfare, it is appropriate that the public bear a portion of the expense.)

2. *Authority to compensate intervenors is inherent in FDA's statutory mandate.* The Food and Drug Administration's broad regulatory powers, and the procedural requirements attendant to the exercise of those powers (supra) are sufficient to permit FDA to compensate intervenors who can be expected to contribute to the fairness and balance of FDA proceedings. (Congress vested in FDA responsibility for protecting consumer health, safety and, to a limited extent, economic wellbeing, in the purchase and use of foods, drugs, cosmetics, and medical devices. 21 U.S.C. 321 et seq.; 15 U.S.C. 1451 et seq. The Food and Drug Administration's extensive regulatory powers include the authority to approve drugs before they can be marketed; to set standards of identity and quality for food products; to require ingredient, warning, or other labeling of products within the agency's jurisdiction; and to remove from the marketplace products which are misbranded, adulterated, or otherwise in violation of the requirements of the act.) Indeed, FDA possesses not only the ability to compensate such intervenors but may well have a duty to do so where compensation is necessary to develop a fair and balanced record. 21 U.S.C. 371(e). As the Court of Appeals for the Second Circuit has stated, an agency (in that case, the Federal Power Commission) "must see to it that the record is complete. [The agency] has an affirmative duty to inquire into and consider all relevant facts." (*Scenic Hudson Preservation Conference* v. *FPC*, 354 F.2d 608, 620 (1965), and cases cited therein.)

In February 1976, the Comptroller General of the United States removed any vestige of doubt that an agency may use funds which Congress appropriates for "necessary expenses" to compensate indigent intervenors, even in the absence of explicit statutory authority for compensation. (Comptroller General's Opinion B–92288, Feb. 19, 1976.) Responding to an inquiry from the General Counsel of the Nuclear Regulatory Commission (NRC) as to the NRC's authority to reimburse for attorneys' fees, expert witness fees, and related expenses of participants in nuclear licensing and rule making proceedings, the Comptroller General concluded that NRC has the legal authority to compensate indigent intervenors with funds generally appropriated for "necessary expenses" if the agency determines, as a matter of discretion, that compensation is "necessary" to meet its statutory obligation to conduct public hearings. (The Comptroller General's opinion was sought by the General Counsel of NRC, following a determination by members of the Commission that they are "tentatively inclined to the conclusion" that the agency does have authority to assist intervenors financially and a published notice seeking comment on the issue. *See In the Matter of Consumer Power Co.* (Big Rock Point *Nuclear Plant*), Docket No. 50–155, Memorandum and Order, Nov. 21, 1974, at 5; and 40 FR 37056, Aug. 25, 1975.)

The Comptroller General's opinion states:

> While 31 U.S.C. § 628 (1970) prohibits agencies from using appropriated funds except for the purposes for which the appropriation was made, we have long held that where an appropriation is made for a particular object, purpose or program, it is available for expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose or program for which the appropriation was made, except as to expenditures in controvention of the law or for some purpose for which other appropriations are made specifically available. * * *
>
> The question, of course, is whether it is necessary to pay the expenses of indigent intervenors in order to carry out [the agency's] statutory functions. * * * We believe only the administering agency can make that determination * * *.

(The Comptroller General's opinion, supra, at 3. In a previous opinion, the Comptroller General made similar statements with respect to FTC's authority to spend its generally appropriated funds to compensate intervenors:

> The appropriations for the Commission are normally available for necessary expenses. While the Commission submits budgets to the Congress prior to the passage of the appropriation acts, the appropriations are enacted in the form of lump sums with no specific limitations as to use. Thus, the determination of what constitutes necessary expenses is left to the reasonable discretion of the Commission.

Comptroller General's opinion B–139703, July 24, 1972, reprinted at Pike & Fischer, Ad. L. 2d at 424 and as addendum to 60 Geo. L. J. 525. With respect to FTC, the Comptroller General was asked to assess the authority of the agency to reimburse for transcript costs, attendance fees, mileage and subsistence expenses of witnesses or respondents, travel and other connected expenses of the intervenor's attorney and traveling and subsistence expenses incident to his own appearance.)

Addressing more directly the question of whether compensation of intervenors might constitute a "necessary expense," the Comptroller General referred to provisions of the Atomic Energy Act which mandate that, in licensing matters, NRC "shall grant a hearing upon the request of any person whose interest may be affected by the proceeding," (Opinion B–92288, supra, at 3, citing 42 U.S.C. 2239 (a).) and concluded that:

> * * * if NRC in the exercise of its administrative discretion, determines that it cannot make the required determination unless it extends financial assistance to certain interested parties who require it, and whose participation is essential to dispose of the matter before it, we would not object to the use of appropriated funds for this purpose. This is essentially the same rationale we followed in our decision B–139703, July 24, 1972, in which we held that the Federal Trade Commission (FTC) had authority to pay certain expenses incurred by indigent respondents and intervenors appearing before the Commission in adjudicative proceedings.

(Opinion B–92288, supra, at 4. The Comptroller General's opinion on FTC's authority to compensate indigent intervenors addressed this point as follows:

> Insofar as intervenors are concerned, section 5(b) of the Federal Trade Commission Act, as amended, 15 U.S.C. 45(b), specifically authorizes the Commission to grant intervention "upon good cause shown". Thus, if the Commission determines it is necessary to allow a person to intervene in order to properly dispose of a matter before it, the Commission has the authority to do so. As in the case of an indigent respondent, and for the same reasons, appropriated funds of Commission would be available to assure proper case preparation.)

FDA, like NRC, receives substantial appropriations for "necessary expenses, not otherwise provided for." (Pub. L. 94–122, Title 5, Slip. Op. at 25.) Clearly, under the rationale set forth by the Comptroller General with respect to NRC, the Commissioner has authority to determine whether compensation of certain intervenors is "necessary" for a fair and balanced hearing, and if he so determines, to award compensation to these participants. (Neither *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1975), *Turner* v. *FCC*, 514 F. 2d 1354 (D.C. 1975), nor *Greene County Planning Board* v. *FPC* are applicable with respect to the relief sought by this petition. As the Comptroller General stated in his NRC opinion:

> In both the *Alyeska* and *Turner* cases, plaintiffs, the prevailing parties, sought to force their adversaries to pay their costs, including reasonable attorneys' fees. All the court did, in our view, is to uphold the 'American rule,' that in the absence of a statutory provision to the contrary, neither a court nor a regulatory commission may shift the costs from one litigant to the other. In the *Greene County case*, the court said it had no power to order either the opposing litigants or the agency to pay the costs of the intervenors.
>
> In the matter before us, we are not considering whether [the agency] has the authority to determine whether one participant in its proceedings should pay the expenses of the other, nor are we concerned with whether the persons to whom financial assistance is extended prevail. There is also no question of compelling [the agency] to pay the expenses of any of the parties. (Comptroller General's opinion, supra, at 7.)

The courts, too, have long recognized that an agency has inherent authority to take actions which it deems necessary and appropriate to carrying out its explicit statutory responsibilities. As the Court of Appeals for the Seventh Circuit observed in *Northern States Power Co.* v. *FPC.*:

> If [the agency] is intelligently to exercise its extensive regulatory and supervisory power, it must have been intended that it shall have power to do everything essential to the execution of its clearly granted powers and the achievement of the purposes of the legislation.

(118 F.2d 141, 143 (1941), citing *Clarion River Power Co.* v. *Smith*, 61 App. D.C. 186, 59 F.2d 861 (1932). In that case, the Court held that the FPC could require its licensee to adopt a particular accounting procedure, in the absence of explicit statutory authority to do so. The ability to require such procedures was held to be

"the necessary implications of the [Federal Power] act." Id.)

The Second Circuit Court of Appeals has stated,

> It has been the law at least since *McCulloch* v. *Maryland*, 4 Wheat. 316, 4 L. Ed. 579, that the lawful delegation of a power carries with it the authority to do whatever is reasonable and appropriate properly to effectuate the power. (*Gallagher's Steak House* v. *Bowles*, 142 F.2d 530, 534 (1944).)

While *McCulloch* v. *Maryland* dealt with delegation of authority by the states to the federal government, the general reasoning of that decision nonetheless applies to delegation of authority by Congress to the regulatory agencies and to the "implied powers" which petitioner urges FDA to recognize. Justice John Marshall reasoned as follows:

> [I]t may, with great reason be contended that a government entrusted with such ample powers * * * must also be entrusted with ample means for their execution. The power being given, it is in the interest of the nation to facilitate its execution. It can never be their interest, and cannot be presumed to have been their intention, to clog and embarrass its execution by withholding the most appropriate means * * *. (4 Wheat. 316, 4 L. Ed. 579.)

Compensation of intervenors has been deemed by several agencies to be an "appropriate means" for responding to the dilemma of how to widen participation in agency proceedings in the face of exorbitant costs to participants. (The Consumer Product Safety Commission, for example, agreed to reimburse a public interest witness for the cost of travel to a hearing on fireworks when consumer representatives petitioned the agency claiming that such travel expenses were beyond the means of representatives of their point of view.) The Commission ruled that:

> Should the Presiding Officer consider it necessary to a full and complete hearing to have the Commission provide for a representative of those parties in favor of the proposed rule or a stricter rule to appear at the Commission expense in Kansas City and Honolulu, then he may so rule.

In Re Fireworks Devices, CPSC Docket No. 74–3. More recently, CPSC ruled that it had authority to pay for the counsel of an indigent respondent and to reimburse those expenses of respondents "reasonably necessary to make meaningful the representation of counsel." *In the Matter of Esquire Carpet Mills, Inc.* FTC Docket No. 8013, CPSC June 2, 1975, Slip Op. at 3.) In fact, FDA has made some modest strides toward assisting intervenors by reducing costs, apparently on the assumption that such actions are within the agency's inherent authority. First, indigents may apply to participate in formal proceedings in forma pauperis, thereby reducing filing and duplicating costs, which are absorbed by FDA. (See supra.) Secondly, participants in any FDA proceeding, formal or informal, may request that outside independent experts be consulted by the presiding officer, as witnesses, at FDA expense. (Letter from Peter Hutt, then General Counsel of FDA, to Tersh Boasberg, Esq., May 12, 1975. See also § 2.151 of the Administrative Practices and Procedures.) Such mechanisms, while helpful, are not adequate to effectively encourage public participation, as is clearly evidenced by the paucity of such participation in FDA proceedings. Direct reimbursement of costs, including attorneys' fees, would be the appropriate next step, still within FDA's inherent authority, to ensure fair and balanced hearings.

Finally, as the Comptroller General's recent opinion makes clear, the absence of explicit statutory authority to compensate intervenors in no way implies that compensation is inappropriate. Indeed, on at least one occasion, Congress has expressly stated as much. In deleting Senate-approved financial assistance language from the Energy Reorganization Act of 1974, a Conference Committee took pains to explain the limited impact of that action. (This provision, sponsored by Senator Kennedy, would have allowed the Nuclear Regulatory Commission to "reimburse eligible parties for the cost of participation, including reasonable attorneys fees * * *." See Senate debate, 120 *Congressional Record* § 15050–15054, daily ed. August 15, 1974.) The Report of the conference committee states:

> The deletion of [the financial assistance provision] is in no way intended to express an opinion that parties are or are not now entitled to some reimbursement for any or all costs incurred in licensing proceedings. Rather, it was felt that because there are currently several cases on this subject pending before the [Atomic Energy] Commission, it would be best to withhold Congressional action until these issues have been definitively determined. The resolution of these issues will help the Congress determine whether a provision similar to Title V is necessary since it appears that there is nothing in the Atomic Energy Act, as amended, which would preclude the Commission from reimbursing parties where it deems it necessary.

(H. Rep. 93–1445, 93rd Cong., 2d Sess. 37 (1974). In reference to this conference report language, the Comptroller General has stated:

> We do not agree that the deletion of the Senate amendment indicated congressional intent to deny the NRC authority to reimburse intervenors. On the contrary, it appears that the members of the conference committee felt that although they wished to await NRC's final position on the matter, quite possibly specific legislation would not be necessary to authorize such financial assistance since they believe that the Atomic Energy Act as amended already contains the necessary authority. Opinion B–92288, February 19, 1976, at 6.)

Surely if affirmative Congressional action to delete a provision authorizing reimbursement is not to be construed as an expression of Congressional intent that reimbursement is unauthorized, then mere silence cannot be so construed, particularly in light of the inherent authority of the agency to effect such reimbursement.

Conclusion

Thus, it is clear that FDA has ample power to compensate legitimate and prudent expenses of intervenors whose participation is likely to result in fairer, more balanced decisionmaking by FDA. Compensation would further the important regulatory goals of facilitating responsible and productive public participation and providing a broader base upon which to rest crucial decisions affecting the consumers of foods, drugs, and other products regulated by FDA.

Authority to compensate intervenors is inherent in FDA's broad regulatory powers, its Congressionally mandated hearing procedure, and the wide discretion afforded in its appropriations legislation. It is barred neither by FDA's authorizing legislation nor its appropriations authority.

Appendix A—Explanatory Material

The proposed regulation is an adaptation of the proposed Public Participation in Government Proceedings Act (S. 2715, 94th Cong., 1st Sess.) and the compensation provision of the proposed Consumer Food Act of 1976, as reported by the Senate Labor and Public Welfare Committee and the Senate Commerce Committee. (S. 641 and S. Rep. 94–684). The fact that Congress is considering statutory language to authorize agencies, including FDA, to compensate intervenors does not imply that agencies lack authority to so provide by regulation. As the Comptroller General has stated with respect to enactment of the FTC Improvement Act,

> [w]e do not feel that enactment of this provision was intended to overrule or modify the basis of our 1972 decision so as to reflect on its precedent value in dealing with agencies for which Congress has not enacted a similar statutory provision. Comptroller General's Opinion B–92288, at 5.)

Petitioner selected these models as the basis for the proposed regulation because they include improvements which experience under the FTC Improvement Act, 15 U.S.C. 557(a)(h), and the regulations pursuant thereto (16 CFR 1.117) has shown to be warranted.

Under the proposed regulation, applicants for compensation must meet both an "interest" test and an "economic" test before funds may be awarded.

It is petitioner's intention that under the "interest" test (petitioner's proposed § 2.151(a)(2)(i)), compensation will be awarded to applicants who represent interests that can reasonably be expected to contribute to the fairness and balance of a proceeding, but only if the applicant has an ability to adequately represent that interest given appropriate financial assistance. (This test is a modification of the "interest" test adopted by the Federal Trade Commission, 40 FR 33968, August 13, 1975. The FTC test provides (1) that the interest represented must "be necessary for" a fair determination of the proceeding, i.e., the "necessity test" and (2) that such interest would not otherwise be represented in the proceeding, i.e., the "uniqueness test". Although Consumers Union has been awarded compensation from the FTC under this test, it has been the experience of Con-

sumers Union and other nonindustry groups that this formulation is extremely burdensome to applicants and very difficult to administer. First, it requires that an applicant have knowledge of any other advocate who may be considering participation in a particular proceeding and the probable content of that person's presentation. As a practical matter, "public interest" applicants are not likely to have such knowledge, as they have no formal network or body to serve the coordinating function performed by industry trade associations. Furthermore, there may be instances where FDA wants to encourage participation by an outside advocate, although some information that the outsider proposes to present may already be available to FDA staff.)

The "economic" test (petitioner's proposed § 2.151(a)(2)(ii)) is stated in the alternative and is intended to permit compensation—both of applicants who cannot afford the costs of participation, and of applicants who represent interests which would contribute to the fairness and balance of the proceeding but who lack the economic stake in the outcome of the proceeding to justify the substantial costs of participating in it. In assessing the interest, i.e., the economic stake in the outcome of the proceeding, of an applicant that is a group or organization, the size of the economic stake of the organization's members, taken individually, is to be considered. When assessing the resources of an applicant, consideration is to be give to the resources which are available for purposes of advocacy. The consumer interest often can best be represented by organizations which, although not "indigent" in any technical sense, have very limited funds available for advocacy activities. Such organizations, including Consumers Union, differ from industry organizations in this respect and also in that the interest of their members as consumers are diffused among hundreds of proceedings in a multitude of agencies, while industry groups generally need to monitor only one or two agencies and select the few proceedings that directly affect their own or their members' profits. To disqualify these organizations on the basis of nonidigency may in effect remove those advocates who are best equipped to present the consumer point of view at particular proceedings.

KINDS OF PROCEEDINGS

Petitioners have requested that reimbursement be authorized for all proceedings defined in Subpart B (formal evidentiary public hearings), Subpart C (public hearing before a public board of inquiry), Subpart D (public hearing before a public advisory committee), and Subpart E (public hearing before the Commissioner) of the Administrative Practices and Procedures (proposed 21 CFR Part 2). It is the petitioner's intention that reimbursement of costs be authorized for all types of hearings for which public notice is required and an opportunity for public participation is available.

REIMBURSABLE COSTS

The proposed regulation limits reimbursement to reasonable attorneys' fees, expert witness fees, and other reasonable costs of participation incurred by eligible participants (petitioner's proposed § 2.151(a)(1)). These costs are intended to include the costs of preparing oral or written testimony, surveys and other submissions, fees for consultants, travel and administrative costs, and miscellaneous expenses. It is intended that costs incurred in preparing an application for funds would be reimbursable under the proposed regulation, in cases where funds for participation are ultimately awarded.

As a rule, applicants are to be notified before the proceeding in question begins as to whether or not they will be compensated for their costs of participation, although payment is to be made within 90 days after final disposition of the matter involved in the proceeding. However, interim advance payments are to be authorized where the participant has demonstrated that his participation will be impaired unless this manner of payment is adopted.

Petitioners further intend that a participant who has not applied for funds initially but finds during or after the proceeding that unanticipated and burdensome expenses have been incurred, may apply for compensation. At this point, of course, the Commissioner could judge the actual contribution of the applicant to the fair balance of the proceeding. Similarly, the proposal would permit persons to apply after commencement of a proceeding for funding to participate at one of the later stages of the proceeding.

APPENDIX B

May 10, 1976.

The HONORABLE JOHN E. MOSS, *Chairman Oversight and Investigations Subcommittee, Committee on Interstate and Foreign Commerce, House of Representatives*

DEAR MR. CHAIRMAN. This refers to your letter in which you request the advice of this Office, with respect to nine agencies of the Government under study by the Subcommittee on Oversight and Investigations, as to whether public participants in proceedings before those agencies may be assisted in any or all of the following ways:

"(1) the provision of funds directly to participants, (2) modification of procedural rules so as to ease their financial burden on public participants, (3) provision of technical assistance by agency staff, (4) provision of legal assistance by agency staff, (5) creation of an independent public counsel, and (6) creation of a Consumer Assistance Office such as that now employed by the FCC."

The agencies to which you refer are the Federal Communications Commission, the Federal Trade Commission, the Federal Power Commission, the Interstate Commerce Commission, the Consumer Product Safety Commission, the Securities and Exchange Commission, the Food and Drug Administration, the Environmental Protection Agency, and the National Highway Traffic Safety Administration.

Your letter refers to our decision in the Matter of Costs of Intervention, Nuclear Regulatory Commission (NRC), B-92288, February 19, 1976, to the NRC (hereafter referred to as the NRC decision) in which we considered the legality of providing similar types of assistance to participants and intervenors in NRC rule making and licensing proceedings.

Due to the time constraints established by the terms of your request, we have not solicited comments and views of the agencies concerned on the questions your letter poses. However, we have examined, with respect to each agency, some of the statutory and/or regulatory authorities which authorize or direct that public hearings be held for a variety of purposes related to accomplishment of the agency mission. We find that each agency has authority to request participation by members of the general public in its proceedings, either as parties or intervenors, although there are individual differences in the extent to which such participation would be likely to be required.

Finally, we could discover no statutory prohibition against the provision of any of the types of assistance about which you have inquired.

We thus conclude that there is no significant difference in the relevant authorities for the nine agencies you named and in those of the NRC. Accordingly, the rationale of our February 19 decision to NRC is equally applicable to each agency named.

1. Provision of funds directly to participants. With respect to your first question, appropriated funds of each agency may be used to finance the costs of participants in agency hearings whenever the agency finds that it cannot make the required determination unless it extends financial assistance to certain interested parties who require it, and whose representation is necessary to dispose of the matter before it; and (2) the party is indigent or otherwise unable to finance its participation. It should be noted that the Federal Trade Commission (FTC) has specific statutory authority, provided by section 202(a) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. No. 93-637, 88 Stat. 2183, approved January 4, 1975, to provide compensation for expenses of participation for persons appearing before it. This provision is discussed on pages 4 and 5 of our aforementioned decision.

We would like to emphasize, however, that it is within the discretion of each individual agency to determine whether the participation of the particular party involved is necessary in order for it to properly carry out its functions and whether the party is indigent or otherwise unable to finance its participation. No party has a right to intervene at Federal expense unless the agency so determines.

Finally, for the reasons set forth in the NRC decision, we believe it would be advisable for the parameters of such financial assistance, and the scope and limitations on the use of appropriated funds for this purpose to be fully set forth by the Congress in legislation, as was done in the case of the Federal Trade Commission by the provisions of section 202(a) of the "Magnuson-Moss Warranty—Federal Trade Commission Improvement Act," supra.

2. Modification of procedural rules so as to ease their financial burdens on public participants. For the reasons stated with respect to NRC in the NRC decision, we find nothing in the laws of any of the agencies considered to prevent simplification of procedures and the elimination of unduly burdensome requirements which increase the cost of participation by parties involved.

3. Provision of technical asssitance by agency staff. For the same reasons given under "Access to Technical Information and Staff" in the NRC decision with respect to NRC, the same access to technical expertise may be made available by each agency. As we stated with respect to NRC, this would

not extend to the assignment of agency staff members to participants in the role of individual technical advisors for the purpose of advancing the position of a particular party.

4. Provision of legal assistance by agency staff. To the extent a participant needs factual information concerning legal aspects of a proceeding, such as explanations of procedures or examples of documents required to be filed, we believe agency staff members can provide this. However, agency staff could not be permitted to act in the capacity of advocates for a participant.

5. Creation of an independent public counsel. We believe nothing precludes an agency from having it staff present information to the agency's decisionmaking bodies concerning the public interest or consumer viewpoints in the course of a proceeding in order to call attention to relevant opinions not expressed by parties representing private interests. However, no agency could use its appropriations to establish an independent entity outside its jurisdiction and control.

6. Creation of a Consumer Assistance Office such as that now employed by the FCC. On March 19, 1976, the Federal Communications Commission (FCC) announced the formation of a new Consumer Assistance office. According to a press release from FCC:

"This office will provide a central location or coordinating point within the Commission for members of the public, citizens groups and FCC licensees who seek information or assistance.

* * * * *

"The Consumer Assistance Office represents another step in the FCC's efforts to ensure prompt and accurate response to inquiries and to enhance public understanding of the Commission's policies and regulations.

* * * * *

"Any person or group wishing information about the Commission's rules, matters pending or material explaining FCC policies and regulations may contact one of the full-time staff members of the Office.

"The Office also will provide information assistance to persons who wish to participate in the Commission's processes or file an application with the FCC but who are unfamiliar with the procedures to be followed.

"Finally, the Office will help prepare attractive and easy to understand brochures explaining Commission regulations and how best to comply with them."

We have been informally advised by staff of the FCC that this office is not in any way intended to act as an advocate for consumers. It does not include in its staff attorneys or professional experts in other fields. Its function is, basically, that of providing the public with factual information. We are not aware of anything which would preclude any of the agencies named in your letter from establishing a similar office.

We might also point out that our NRC decision would also be applicable to agencies other than the ones mentioned in your letter, assuming that there was no specific legislative prohibition against it, provided that the particular agency holds hearings at which it has the discretion as to whom to admit as participants or intervenors; has appropriations available to pay for "necessary expenses" to carry out the missions for which the hearings are being held; and makes the determinations mentioned in the immediately preceding paragraph. This is also true of the other types of assistance mentioned herein.

Sincerely yours,

R. F. KELLER,
Comptroller General of the United States.

Comments on the above Consumers Union petition are specifically requested on the following areas of interest:

1. In what type of proceedings, if any, should attorneys' fees and other assistance be provided?

2. Should the standard for providing attorney's fees and other assistance be the standard discussed by the Comptroller General (participation by an interested party is essential to dispose of the matter pending before the agency and the party is indigent or otherwise unable to finance participation); a standard based on the Consumers Union petition (representation of an interest which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, and the economic interest in the outcome of the person or the individual members of a group or organization seeking the assistance is small in comparison to the costs of effective participation); or some other standard?

3. What financial eligibility criteria should be adopted?

4. Should attorneys' fees be available only to those whose participation benefits the general public or has a strong public interest justification or should those with an economic interest in the outcome be eligible, e.g., a small business distributing products subject to the Federal Food, Drug, and Cosmetic Act?

5. What procedures and criteria should the agency adopt for (a) evaluating the quality of a participant's potential contribution to the resolution of a hearing; (b) to determining the importance of the issue(s) on which a participant wants to be heard; (c) assessing the strength of a participant's interest or the uniqueness of a participant's point of view; and (d) distinguishing among equally capable participants all of whom want to receive financial support for participation in the same proceeding?

6. Should the number of participants who may be subsidized in any one proceeding be limited? If so, what should the number be?

7. When should any determination of eligibility for financial assistance be made, i.e., before a hearing or after the hearing has been held?

8. If separation of function requirements apply to the hearing, what effect, if any, should this have on the timing of a determination of eligibility and the designation of an official to determine eligibility.

9. At what rate should participants be subsidized?

10. What criteria should the agency adopt for determining whether the costs of participation incurred by a participant are reasonable or necessary for participation?

11. Should reimbursable costs be limited to certain costs, but not all costs, e.g., the cost of travel, but not the costs of research needed to prepare oral or written testimony?

12. What amount of public funds should be allocated to subsidizing participants, and from what other FDA activities should the funds be taken?

13. What consideration should FDA give to alternative ways of providing advocacy assistance to participants, e.g., establishment of a public counsel within the agency to represent consumer interests in hearings; and what support should FDA give for establishment of an independent agency to advocate consumer interests?

The Commissioner points out that he would make certain editorial changes if he were to propose a regulation like that urged in the petition; so there is no need for the submission of comments to bring these matters to his attention. In lieu of the term "intervenor," he would use the term "participant," a term which has been defined broadly in § 2.3 (21 CFR 2.3) of the agency's proposed regulations on administrative practices and procedures. In addition, to comport with the organizational scheme used for the proposed regulations on administrative practices and procedures, the proposal would be numbered to fall within the general provisions of Subpart A, rather than be numbered as § 2.151, a section which properly relates solely to formal evidentiary public hearings.

Comments are welcome on these questions, as well as on any other matter relevant to the payment of attorneys' fees and provision of other assistance to participants.

This advance notice of proposed rule making is issued under the authority of the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040–1059 as amended (21 U.S.C. 321 et seq.)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 17, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.76-24845 Filed 8-24-76;8:45 am]

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart H—Evidence—Death

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendment to the regulation set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment relates to a finding of death for a person in missing status by an agency or department of the United States authorized by law to make such a determination. A finding of presumptive death made under section 5 of the Missing Persons Act (56 Stat. 143, 50 U.S.C. App. 1005), as amended, was

acceptable to the Social Security Administration only as evidence of the fact of death but not of the date of death. The Missing Persons Act was repealed by Pub. L. 89–554, section 8(a), 80 Stat. 651. Members of the uniformed services and their dependents in a missing status may now be declared dead under 37 U.S.C. 555 (80 Stat. 628). Federal civilian officers and employees and their dependents in a missing status may now be declared dead under 5 U.S.C. 5565 (80 Stat. 492). The enactment of Pub. L. 89-554 resulted in no substantive change when the source law, i.e. section 5 of the Missing Persons Act, 50 U.S.C. App. 1005, was codified in section 5565 of title 5 and in section 555 of title 37 of the U.S.C. As under section 5 of the Missing Persons Act, when a finding of death is made under either 5 U.S.C. 5565 or 37 U.S.C. 555, the finding must include the date death is presumed to have occurred. Although the Federal agency concerned is legally free, upon review of the case, to continue the missing status if there is a reasonable presumption that the individual is alive, should it make a finding of presumed death the date of that death must be set at a time specified by the respective statutes. The date of presumed death is to be either a year and a day after the disappearance or, if the missing status was continued beyond 12 months from the time of the disappearance, a date determined by the agency concerned. These statutes also specify that the date is "for the purpose of the ending of crediting pay and allowances and settlement of accounts" and, in cases involving a member of a uniformed service, for the payment of death gratuities. Therefore, a determination made under these statutes must be accepted by the Social Security Administration as evidence of the *fact* of death but not of the *date* of death. The latter date is controlling only with respect to the agency making the determination of presumed death and only for the purposes indicated in the statutes. In the absence of evidence establishing a later date, the Social Security Administration will use the missing date (usually cited in the finding) as the date of death for purposes of benefit payments.

Consequently, 20 CFR 404.704(b)(3) is being amended to reflect the repeal of the Missing Persons Act and its replacement by 37 U.S.C. 555, applying to members of the uniformed services and their dependents and 5 U.S.C. 5565, applying to Federal civilian officers and employees and their dependents. The amendment also clarifies that, when a determination of death is made in respect to a missing person under either of these Federal statutes, in absence of evidence establishing a later date, the Social Security Administration shall use the date the person disappeared as the date of death for benefit payments rather than the date of death determined by the other department or agency.

Prior to the final adoption of the amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education and Welfare, P.O. Box, 1585, Baltimore, Maryland 21203, on or before October 12, 1976.

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

(Sec. 205 and 1102 of the Social Security Act, as amended; 49 Stat. 624, as amended; 49 Stat. 647, as amended, 53 Stat. 1362, as amended; 42 U.S.C. 405 and 1302.)

(Catalog of Federal Domestic Program No. 13.805, Social Security—Survivors Insurance.)

Dated: July 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 11, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

20 CFR Part 404 is amended by revising paragraph (b)(3) of §)404.704 to read as follows:

§ 404.704 Evidence as to death.

* * * * *

(b) * * *

(3) A certified copy of an official report or finding of death made by any agency or department of the United States which is authorized or requested to make such report or finding in the administration of any law of the United States, or a statement of the contents of such report or finding certified by an individual designed in § 404.701(g) (2) or (3), as approviate: *Provided, however,* That a finding of presumptive death made pursuant to the missing persons provisions of 5 U.S.C. 5565 or 37 U.S.C. 555, shall be accepted only as evidence of the fact of death and not of the date of death. In the absence of evidence establishing a later date, the Social Security Administration shall use the missing date as the date of death for purposes of benefit payments.

* * * * *

[FR Doc.76-24918 Filed 8-24-76;8:45 am]

[20 CFR Parts 404, 416]

[Regs. No. 4, 16]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Cancellation of a Request for Withdrawal of an Application

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide that the time allowed for the cancellation of an approved request for withdrawal of an application for social security benefits or supplemental security income benefits shall be measured from the date of the notice to the claimant rather than from the date of approval of the request for withdrawal. This would ensure that the claimant knows the point in time from which to measure the period allowed for requesting cancellation of an approved request for withdrawal of an application. Interested parties have until on or before October 12, 1976 in which to submit data, comments or arguments.

Under current provisions of Regulations No. 16, a claimant may cancel his request for withdrawal of his application within 60 days of the approval of the withdrawal request. There may be a delay of several days between the approval of the request and the date the notice of the approval is released. The claimant is not aware of the date of approval and, therefore, could not know the date by which his request for cancellation must be made. Under the proposed regulation the 60 days would run, not from the date of the approval of the withdrawal request, but from the date of the notice to the claimant that the request for withdrawal has been approved. This would ensure that the claimant knows the point in time from which to measure the 60 days and grants more time than currently allowed for the claimant, if he so desires, to reinstate his application. Conforming changes are also being made to Regulations No. 4.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or argument pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before October 12, 1976.

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

The proposed amendments to the regulations are to be issued under the authority contained in sections 205, 1102, 1611, and 1631 of the Social Security Act, as amended, 49 Stat. 624 and 647, as amended, 86 Stat. 1466, 86 Stat. 1475, 42 U.S.C. 405, 1302, 1382, 1383.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security-Disability Insurance; 13.803, Social Security-Retirement Insurance; 13.807, Supplemental Security Income Program.)

Dated: July 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: August 11, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Parts 404 and 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.615a is revised to read as follows:

§ 404.615a Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 404.603 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application or request for revision of earnings be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

2. Section 416.345 is revised to read as follows:

§ 416.345 Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 416.310 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

[FR Doc. 76-24919 Filed 8-24-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 91, 93, 95]

[Docket No. 20846]

PUBLIC LAND MOBILE RADIO SYSTEMS

Interconnection Policies; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Parts 89, 91, 93 and 95 (Class A only) of the Commission's rules to prescribe policies and regulations to govern "interconnection" of private land mobile systems with the public switched telephone network, Docket No. 20846.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a petition filed by the National Association of Business and Educational Radio, Inc. (NABER) for an extension of time for filing comments in the above-captioned proceeding.[1] The prescribed time for filing comments ends September 3, 1976. The petitioner requests that this deadline be extended to December 3, 1976.

2. In support of its petition, NABER points out that while it is certain that many licensees in the Business Radio Service now utilize some form of interconnection, there is a lack of definitive information as to how widespread such interconnection arrangements may be and considerable uncertainty as to the future demand for this capability. Accordingly, in order to insure a responsive and comprehensive filing, NABER wishes to prepare a questionnaire on this subject to canvass all of its members.

3. The Commission, in the Notice of Inquiry phase of this proceeding, solicited information on the various types of interconnection arrangements now in use, the utility of interconnected private land mobile radio systems in the conduct of activities and functions permitted in the private radio services, and the needs and requirements presently met through interconnected facilities which could not be met if the practice was to be limited and restricted as proposed. In addition, we sought information on the degree to which interconnected communications would be compatible with dispatch functions more characteristic of the private services.

4. We feel that the proposed NABER survey would be in accord with the above-stated objectives and would contribute substantially to the information necessary for a proper determination in this matter. We are particularly desirous of obtaining such information on the effect (actual or anticipated) of interconnection in the Commission's largest and most heterogenous commercial radio service. Accordingly, we find that a grant of the NABER petition would be appropriate.

5. Further, in consideration of the large number of anticipated comments in this proceeding and the occurrance of the holiday season near the end of what would normally be the revised reply comment deadline, we propose to extend this deadline an additional two weeks.

6. Accordingly, it is ordered, Pursuant to the authority contained in §§ 0.331 and 1.46 of the Commission's rules, that the time for filing comments in Docket 20846 is extended to December 3, 1976, and that the time for filing reply comments is extended to January 18, 1977.

Adopted: August 17, 1976.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.76-24894 Filed 8-24-76;8:45 am]

[1] See 41 FR 28540, Monday, July 12, 1976.

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL

Final Notice of Proposed Trade Regulation Rulemaking Proceeding and Public Hearings

On January 26, 1976, the Commission published in the FEDERAL REGISTER (41 FR 3747) an initial notice proposing a revised trade regulation rule relating to Care Labeling of Textile Products and Leather Wearing Apparel (proposed revised rule) under the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part 1, Subpart B of the Commission's Procedures and rules of practice (Rules of Practice) 16 CFR 1.7–1.20, and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure). The Commission staff has written a report on the proposed revised rule. The report has been placed in the public record and can be studied by interested persons in Room 130, Division of Legal and Public Records, Federal Trade Commission, Washington, D.C.

Now, under the same authority and more specifically under § 1.12 of the rules of practice the duly appointed Presiding Officer gives final notice of this proposed rulemaking proceeding. The contents of the initial notice which includes the proposed revised rule are incorporated in this notice by reference.

NOTICE TO INTERESTED PERSONS

A. WRITTEN COMMENTS

Please send data, views and arguments on any issue of fact, law and policy that may have some bearing on the proposed revised rule. Your comments need not be limited to the designated issues set forth below in Section D. You may comment on any aspect of the proposed revised rule. Any earlier comments you may have sent have been placed in the public record and need not be sent again.

Send your comments to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, no later than September 24, 1976. Mark them "Care Labeling Comments" for prompt identification and consideration. If possible, send five copies.

B. PUBLIC HEARINGS: DATES AND PLACES

Public hearings on the proposed revised rule will be held as follows:

1. *Washington, D.C.* Hearing will start on November 8, 1976, at 9:30 a.m. in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at 6th Street NW.

2. *Los Angeles, California.* Hearing will start on January 10, 1977, at 9:30 a.m. in Room 13209, Federal Building, 11000 Wilshire Boulevard.

If more hearings are needed, the dates and places will be published later in another FEDERAL REGISTER notice.

C. INSTRUCTIONS FOR WITNESSES

If you are a member of an interested group you are encouraged to make your

views known through your group representative. If you want to testify at a hearing, in any capacity, you must, by the date specified below, give notice and file a word-for-word statement of your testimony or at least a detailed outline. You can testify in only one location.

If you want to testify at the Washington hearing, contact Cynthia S. Lamb ((202) 724–1566), Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commmission, Washington, D.C. 20580. You must notify and file with Ms. Lamb your word-for-word statement of testimony or detailed outline no later than October 15, 1976.

If you want to testify at the Los Angeles hearing, contact Helen T. Sierichs ((213) 824–7575 ext. 234), Federal Trade Commission, 13209 Federal Building, 11000 Wilshire Boulevard, Los Angeles, California 90024. You must notify and file with Ms. Sierichs your word-for-word statement of testimony or detailed outline no later than December 20, 1976.

In your statement or outline list each fact, observation, opinion and conclusion you are going to discuss. If possible, give the specific factual basis for each opinion and conclusion. Remember, the proposed revised rule declares certain acts and practices unfair or deceptive. The Commission needs evidence in the record as to the prevalence of such acts and practices.

Your statement or outline must be available for study by other interested persons before the hearing so they can decide whether to examine or cross-examine you or file contradictory statements (rebuttals). This is an additional reason for you to make your statement or outline as detailed and factual as possible.

If you file an outline that is not sufficiently detailed or factual, the Presiding Officer may require you to file a word-for-word statement before you testify. If you fail to furnish a statement or outline of your testimony, the Presiding Officer has the power to refuse to let you testify.

Use of exhibits during oral testimony is encouraged, especially when they clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period so they can be studied by interested persons. If such documents are unavailable during this period, file them as soon as you can but not later than the deadlines for filing statements or outlines. Mark each document with your name and number it in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits which are not furnished by the deadlines.

If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitate, biographical sketch, resume or summary of your professional background and a bibliography of your publications. If you are going to testify but not as an expert witness, attach such material if it is available.

If possible, send five copies of your statement or outline and exhibits.

In your testimony you can discuss any questions of fact, law or policy concerning the proposed revised rule. You do not have to limt your testimony to the designated issues. But if it does bear on those issues, you may be examined and cross-examined by the Presiding Officer or other persons and there may be rebuttals. Also, the Presiding Officer may question you directly or let others question you about other issues.

These hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the Presiding Officer so requires.

Ordinarily, you will have about twenty minutes for your testimony. If you need more than twenty minutes, send your request for extra time when you file your statement of testimony or outline. The Presiding Officer may set other reasonable time limits and may also allow extra time for questioning. If you want to discuss more than can be presented in a limited time, include it in your written statement.

D. DESIGNATED ISSUES

Set forth below are the issues which the Presiding Officer has determined to designate under § 1.13(d)(1) of the rules of practice as issues to be considered in accordance with § 1.13(d) (5) and (6) of the rules of practice. Testimony with respect to these issues may entitle group representatives or other interested persons to conduct or have conducted such cross-examination as the Presiding Officer may determine to be appropriate and required for a full and true disclosure with respect to any issue so designated. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional oral or written statements.

The Presiding Officer may at any time on his own motion or pursuant to a written petition by an interested person add to or modify any designated issue. Such petitions will not be considered unless good cause is shown why such issue or modification was not proposed during the time specified in the initial notice.

The Presiding Officer has designated the following disputed issues of fact as material and necessary to resolve:

1. *Piece Goods; Yarn* (*§ 423.2*). Are there methods of distribution available for the purpose of ensuring that permanent care labels are obtained by consumer-purchasers of piece goods and yarn at the point-of-sale without requiring the retailer to be ressponsible for such distribution?

2. *Carpets and Rugs* (*§ 423.3*). Are there methods of distribution available for the purpose of ensuring that care instructions are obtained by consumer-purchasers of carpets and rugs at the point-of-sale without requiring the retailer to be responsible for such distribution?

3. *Intermediate Components* (*§ 423.4*). In the absence of regular care instructions accompanying intermediate components covered by the proposed revised rule, do a substantial number of manufacturers of products covered by § 423.1 or § 423.3 of the proposed revised rule assume that certain regular care procedures can be successfully used without restriction to refurbish the components themselves or products made from such components? If so, does this assumption result in damage or substantial impairment to such products or their components due to inaccurate, incomplete or unclear care instructions on labels provided by manufacturers of such products.

4. *Bleaching Instruction* (*§ 423.5(a)(1)(iii)*). When a product covered by the Rule contains a washing instruction which does not include a bleaching instruction, do a substantial number of consumers of such products assume that any accepted bleaching method can be used on such products without damage or substantial impairment? If so, does the assumption result in damage or substantial impairment to the product due to the application of improper bleaching methods by the user?

5. *Bleaching Instruction* (*§ 423.5(a)(1)(iii)*). Is bleaching information in washing instructions required by the proposed revised rule needed to enable the consumer-purchaser of a product covered by such rule to care for and maintain the product adequately without damage or substantial impairment§

6. *Dry Cleaning Instruction* (*§ 423.5(a)(2)*). If a dry cleaning solvent is specified in a dry cleaning instruction, will the consumer-purchaser of a product containing that specification assume that the solvent is readily available in the vicinity of the consumer's residence?

E. REQUESTS FOR CROSS-EXAMINATION RIGHTS

If you want to examine or cross-examine witnesses on the designated issues, you must give written notification to the Presiding Officer by September 24, 1976. State your particular interest in and your position on each designated issue or, if you have no interest or position as to any issue, merely indicate, "No Interest". Also furnish any explanation as to why you are requesting the right to take part in examination as to why you are requesting the right to take part in examination, cross-examination, or to offer rebuttals. Send your request to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580 by September 24, 1976, regardless of the hearing you want to take part in. Mark your notice "Care Labeling Notification" so it can be considered promptly.

If new designated issues are added later you must promptly give the Presiding Officer an additional notice of interest and request for cross-examination rights.

You have a right to study statements of testimony and outlines submitted by prospective witnesses and prepare for examination, cross-examination, or rebuttals. To do so, contact Ms. Lamb in Washington, D.C. or Ms. Sierichs in Los Angeles (see Section C).

Before the hearings begin, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Such groups will be required to select a single representative

for the purpose of examination, including cross-examination. If members of any group cannot agree on a representative the Presiding Officer may select one.

If you are a member of such a group, you must make a good faith effort to agree on a representative. If you cannot agree and you wan to present major relevant issues which will not be adequately presented by the group representative, notify the Presiding Officer. He may allow you to conduct or have conducted examination of witnesses, including cross-examination, or to offer rebuttals.

F. SUMMARY OF HEARING DATES

1. Washington, D.C., November 8, 1976.
2. Los Angeles, Calif., January 10, 1977.

G. SUMMARY OF DEADLINES

1. All written comments and requests for cross-examination, September 24, 1976.

2. Witnesses' prepared word-for-word statements or detailed outlines and exhibits for:

(a) Washington hearing, October 15, 1976.
(b) Los Angeles hearing, December 20, 1976.

Issued: August 25, 1976.

JOHN A. GRAY,
Presiding Officer.

[FR Doc.76-24854 Filed 8-24-76;8:45 am]

notices

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

DEPARTMENT OF STATE

Office of the Secretary

[CM-3/84]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 1:30 p.m. on Thursday, September 16, 1976, in Room 8440 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 17th Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London in February, 1977. In particular, the working group will discuss the following topics:

Promulgation of navigational warnings to shipping,

Training and qualifications of radio officers, radio operators, and radio telephone operators,

Operational standards for shipboard radio equipment,

Operational requirements for emergency position indicating radio beacons and portable radio apparatus for survival craft,

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

For further information, contact LT. F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

AUGUST 17, 1976

[FR Doc.76-24811 Filed 8-24-76;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on September 28, 29, and 30, 1976 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

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

AUGUST 20, 1976.

[FR Doc.76-24898 Filed 8-24-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. AIR CONDITIONING AND REFRIGERATION WHOLESALERS, ET AL.

Proposed Judgment; Comments and Responses

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comments on the proposed judgment filed with the United States District Court for the Northern District of Ohio, Eastern Division, in Civil Action No. C-70-829 WKT, "United States of America v. Air Conditioning and Refrigeration Wholesalers, et al.," were received by the Department of Justice and are published herewith, together with Justice's responses to these comments.

Dated: August 18, 1976.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION

United States of America, Plaintiff, v. Air Conditioning and Refrigeration Wholesalers, et al., Defendants. (Civil No. C-70-829; Judge William K. Thomas.)

GOVERNMENT'S RESPONSE TO COMMENTS OF INTERNATIONAL PLASTICS, INC.

The United States submits this response to the comments of International Plastics, Inc., (IPI) upon the proposed Final Judgment in "United States v. Air Conditioning and Refrigeration Wholesalers," filed May 3, 1976.

In its comments, IPI urges that additional relief be included in the proposed Judgment to deal with the special problems of independent repackagers of refrigerant gas. IPI seeks provisions requiring timely delivery of adequate supplies of refrigerant gas to repackagers; it seeks a requirement that such gas be sold to repackagers at "reasonable prices" in relationship to the prices at which manufacturers are selling gas in packaged form; and it seeks the right to institute actions to enforce the Judgment.

The Department of Justice in formulating the proposed Judgment has sought to protect the interest of repackagers and all other resellers of refrigerant gas. Thus the Judgment enjoins the type of conspiratorial action which was the gravamen of the complaint, and in addition requires that for five years each defendant sell refrigerant gas to any reseller on non-discriminatory terms and conditions to the extent the defendant has gas and containers available. But IPI seeks preferred treatment, particularly as to price.

1. ANTICIPATED ECONOMIC IMPACT OF THE PROPOSED JUDGMENT

IPI argues that the inevitable economic impact of the proposed Judgment will be to eliminate and destroy independent repackagers of refrigerant gas and thus to deprive wholesalers and other resellers of refrigerant gas of the benefits of independent repackagers as a source of supply.

A repackager buys refrigerant gas in large quantities (tank car or truck load lots), from a manufacturer and repackages it into smaller containers. These containers may be as small as one pound packages aimed at the ultimate user such as an automobile owner who wishes to add refrigerant gas to the car's air conditioner, or the container may hold 145 pounds of gas, suitable for an air conditioning wholesaler. IPI correctly notes that the manufacturer defendants in this case are in the business of packaging refrigerant gas as well as the business of manufacturing it.

GOVERNMENT'S RESPONSE

The claim that the judgment will inevitably destroy independent repackagers as competitors is wholly without merit. It is plausible only if the repackager has no useful economic function once the conspiracy alleged in the complaint is terminated. That alleged conspiracy kept refrigerant manufacturers from selling to non-ARW wholesalers. Independent repackagers such as IPI were able to take advantage of this conspiracy to sell to such non-ARW wholesalers. But for some time now, manufacturers have also been selling to non-ARW wholesalers. The economic impact of the Judgment will not be to cut off the supplies of independent repackagers or to require manufacturers to sell to them at high prices. In fact, the impact of the Judgment will be just the opposite. It will require sales to them at non-discriminatory prices, and it will assure that if a manufacturer has gas available, it must sell. If a manufacturer sells to one reseller in bulk at a favorable price, he may not discriminate against a repackager buying similar bulk quantities pursuant to Section VI of the Judgment.

IPI will have to continue to face competition from manufacturers which also package and sell their gas to non-ARW wholesalers.

Surely, IPI cannot be urging that the Court order the conspiracy to continue thus freeing IPI of such competition.

2. RECENT DEVELOPMENTS IN THE REFRIGERANT GAS MARKET

IPI notes a number of recent developments in the refrigerant gas market which it contends require the Court to reject the proposed Judgment as not in the public interest.

The developments noted may be summarized as follows:

(1) IPI is now able to purchase refrigerant gas in bulk from a number of the defendant manufacturers, rather than from only one or two of them as in past years.

(2) There is vigorous price competition by the manufacturers in selling refrigerant gas in cylinders and other consumer oriented packages.

(3) The defendant manufacturers are now competing with IPI for sales to non-ARW wholesalers and to other types of customer.

(4) The price spread between refrigerant gas in bulk and in package form has narrowed.

(5) IPI has not been able to purchase all the refrigerant gas it desired in 1973 and 1974.

GOVERNMENT'S RESPONSE

All these developments appear consistent with a competitive market, and do not appear to be a result of the conspiracy alleged in the complaint in this action. In fact, several of these developments would be expected results of an end to that conspiracy.

Refrigerant gas has as its principal raw materials, chemicals derived from petroleum. Thus when the price of petroleum rose from about $3.50 in 1973 to $12.00 per barrel in 1976, the price of refrigerant gas might be expected to follow a similar course. Likewise when there was a shortage of petroleum in 1973 and 1974 because of the Arab boycott, it is not surprising that there was a shortage of refrigerant gas.

In times of shortage it is not surprising that a manufacturer would unilaterally determine to take care of its internal needs for refrigerant gas to be sold in the consumer oriented containers, and to sell gas in bulk only at a price which returned as much total profit. Likewise it is not surprising that once the conspiracy alleged in the complaint was ended, manufacturers of refrigerant gas sought to win new markets from which they had previously been excluded by the conspiracy. As a result, IPI experienced new competition.

In short, the Department of Justice was aware of the "recent developments" noted by IPI. The Judgment was drafted in light of those developments. In particular, this is shown by the provision of Section VI (C) relating to allocation in times of shortage, a provision which did not appear in early drafts of a proposed Judgment.

3. ADDITIONAL PROVISIONS OF THE PROPOSED JUDGMENT

IPI urges that the Court find the proposed Judgment not in the public interest (1) because it does not contain provisions requiring timely delivery of adequate quantities of refrigerant gas in bulk to fill orders of independent repackagers, (2) because it does not require that sales of such gas be at "reasonable prices", and (3) because it does not permit non-parties such as IPI to apply to the Court for enforcement of the Judgment.

GOVERNMENT'S RESPONSE

1. For a period of five years, the Judgment does require each of the defendant manufacturers to sell refrigerant gas to IPI to the extent the defendant has gas and containers available. The defendant may not avoid the thrust of this order by delay or obfuscation. On the other hand, the Court must recognize that gas may not always be available in sufficient quantities to fill all orders. A great deal of thought, argument, and economic research went in to the Government's proposal as to what to do under such circumstances.

At the outset, it should be said that simply because one manufacturer is short of gas, it does not at all follow that all others will be similarly short. In fact, we expect excess capacity if there is a decline in the use of fluorocarbons as propellants in aerosol sprays.

As outlined in greater detail in the Competitive Impact Statement, the timing of demand in this industry and the capital investment of the manufacturers in cylinders and marketing programs dictated that manufacturers be specifically permitted to consider in such allocation program anticipated demand and marketing objectives for container mix.

2. The Court should not undertake to require sales of refrigerant gas at "reasonable prices". It is true that in antitrust cases courts may order licensing of patents at "reasonable royalties" and in a very few other monopoly cases the monopolist has been ordered to provide some other service at "reasonable prices". "United States v. International Boxing Club of New York," 358 U.S. 242 (1959). But absent a monopoly, the Court can and should rely on the pressures of competition to determie price. Here there are six competing manufacturers selling refrigerant gas. The Court would be unwise to put itself in the position of establishing prices in this industry.

3. The Court should not permit enforcement of this Judgment by non-parties. The courts have routinely refused to permit non-parties to enforce Government antitrust judgments, "United States v. American Society of Composers, Authors and Publishers," 341 F. 2d 1003 (1965), except in the unusual circumstance where reasonable royalty patent licensing has been ordered. "United States v. Vehicular Parking," Ltd., DC, D. Del. (1947) 7 FRD 336.

CONCLUSION

IPI is in error in its prediction that the economic impact of the proposed Judgment will be to eliminate and destroy it as a competitor in the market for packaged refrigerant gas. The "recent developments" in the refrigerant gas industry noted by IPI were known to the Government during the period when the Judgment aws being negotiated. These developments point towards a competitive market and an end to the conspiracy alleged in the complaint. The IPI proposals for additional relief are unwise, not warranted by the allegations of the complaint, and would burden the Court with price regulation of the refrigerant gas industry.

Dated: August 17, 1976.

JOHN A. WEEDON,
Chief, Great Lakes Field Office.
ROBERT S. ZUCKERMAN,
Assistant Chief, Great Lakes Field Office.
JOHN L. WILSON,
Attorney, Department of Justice.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

United States of America, Plaintiff, v. Air Conditioning and Refrigeration Wholesalers, et al., Defendants. (Civil No. C-70-829; Judge William K. Thomas.)

GOVERNMENT'S RESPONSE TO COMMENTS OF REFRIGERATION SALES COMPANY

The United States submits this response to the comments of Refrigeration Sales Company, upon the proposed Final Judgment in "United States v. Air Conditioning and Refrigeration Wholesalers," filed May 3, 1976.

First, the definition of "refrigerant gas" in the Consent Decree is limited to use as a refrigerant. This was the area covered by the conspiracy and is the part of the industry to which the Consent Judgment addresses itself. Gas with the chemical characteristics specified in the definition of refrigerant gas is produced in extremely large quantities for such purposes as propellants for aerosol containers.

The terms of the Consent Judgment have no rational relationship to the other areas where the gas is used. As a result, limiting the definition of refrigerant gas to its use as a refrigerant is justified by the facts and logically consistent with the terms of the Consent Judgment.

Second, the comments suggest certain changes in the definition of the term "reseller". The Competitive Impact Statement ("CIS") clearly covers the area of specificity mentioned. Further, the term "reseller" is broadly defined to include all possible business entities without the necessity of a "laundry list", which could, by negative implication, exclude a reseller of a type not contemplated. Therefore, it is believed that a broad, nonspecific definition of "reseller" is most appropriate in this Consent Judgment.

Third, the comments note that the injunctive prohibitions of the Judgment are limited to an injunction against concerted refusals to deal. It is true that the perpetual injunction in Section IV(A) is so limited. It is thus responsive to the allegiation of law violation contained in the complaint and the prayer for relief of the complaint. However, the unusual injunctions of Section IV (B) and (C) broadly prohibit for five years even discussions of distribution policies and practices amongst manufacturers or by ARW. These provisions thus provide unusually strong relief to prevent the type of conspiritorial activities which Refrigeration Sales Company fears. The Judgment does not deal with unilateral actions by individual defendants in establishing distribution and pricing policies, as such activities were not the subject of this action. It is appropriate that general statutory and common law apply to such activities.

Fourth, the comments of Refrigeration Sales Company argue that the five year time period for the compulsory sales provision of the proposed Judgment is too short. Compulsory sales provisions in antitrust judgments vary in duration depending on their purpose. Here the aim is to end a pattern of refusals to deal which allegedly resulted from a conspiracy. Once a new pattern of business relationships is established, the Court should end as quickly as possible the absolute requirement that defendants sell refrigerant gas to every business which falls within the very broad definition of "reseller." There are, of course, valid business reasons why a manufacturer might thereafter, wish to limit his sales.

Fifth, the comments oppose the proviso in Section VI (A) of the Judgment that defendants need not sell gas in containers larger than 145 pounds to any person who is not technically qualified to use such gas to fill smaller containers. Sales of refrigerant gas, particularly R-12 and R-22, the most commonly used gases, to wholesalers and other resellers are typically made in 145-pound cylinders. Again, the Consent Judgment cannot hope to deal with every possible

transaction in every form and size. However, the language of paragraph VI(A) covers the overwhelming majority of sales to wholesalers and other resellers and specifically deals with the facts as we know them in this case. The proviso tracks langauge in the prayer for relief of the complaint in this case. We believe it affords appropriate protection to the public as well as to the manufacturers.

Sixth, the question raised in the comments regarding deliveries to other than principal places of business is provided for in the Consent Decree. The Competitive Impact Statement makes the warehouse situation clear. Further, manufacturers may not agree on whether they will ship direct to a customer. This is neither prohibited nor mandated by the Consent Decree. There are arguments for and against "drop shipping." Nothing further by way of specificity is required in the Consent Judgment.

Seventh, concerning the recommended language regarding public warehouses, as pointed out in the comments, this is covered in the CIS. Again, to avoid a "laundry list" situation, it is believed that no useful purpose would be served by adding this language to the Consent Decree.

Finally, we believe that the terms of this Consent Decree, (see paragraphs III and VII) bind the ARW, its members, and subgroups operating under the ARW's auspices. Thus, we believe that the ARW's regional groups are covered by the Consent Decree and would act accordingly should these groups act in ways contrary to the Consent Decree.

Though many points raised in the comments are well-taken, we believe, based on the foregoing, that the changes recommended are either unnecessary or inappropriate and, therefore, would not further the public interest in this matter.

Dated: August 17, 1976.

ROBERT S. ZUCKERMAN,
Assistant Chief,
Great Lakes Field Office.
JOHN A. WEEDON,
Chief, Great Lakes Field Office.
JOHN L. WILSON,
Attorney, Department of Justice.

BERGSON, BORKLAND,
MARGOLIS & ADLER,
Washington, D.C., July 1, 1976.

Re *United States* v. *Air Conditioning and Refrigeration Wholesalers, et al.* Civil No. C-70-829

JOHN WEEDON, Esq.,
Chief, Great Lakes Field Office,
Antitrust Division,
U.S. Department of Justice,
Celebrezze Federal Building,
Cleveland, Ohio.

Dear Mr. WEEDON: This is in connection with the proposed consent judgment in the above case which was published in the FEDERAL REGISTER on May 10, 1976. I am submitting these comments on behalf of Refrigeration Sales Co., Inc. of Long Island City, New York.

There are a number of respects in which the proposed consent judgment should be modified in order to provide adequate relief from the violations alleged in the complaint. The gravamen of the complaint was that the defendant manufacturers of refrigerant gas had agreed with a trade association of air conditioning and refrigeration wholesalers to boycott national wholesalers and others who sought to purchase a gas for resale in competition with trade association members, or agreed to sell such other wholesalers only under certain disadvantageous or restrictive terms. We are concerned that the proposed judgment does not preclude a continuation of such anticompetitive practices, in the changing circumstances of the industry. In addition, there are a number of respects in which the language of the decree could be clarified to more clearly set forth the intention described in the Competitive Impact Statement.

Our proposed changes are as follows:

Paragraph II(A). The proposed judgment defines "Refrigerant gas" or "gas" to mean combinations of carbon, chlorine, fluorine and in some instances hydrogen, "which is sold for use in airconditioning and refrigeration equipment". This is a change from the definition in the complaint, which refers to gas "which is suitable for use in air conditioning and refrigeration equipment" (emphasis added). We see no good reason for the change in this definition. Refrigerant gas sold to wholesalers has always included gas used for purposes other than for installation in air conditioning and refrigeration equipment. While the complaint is directed to violations in the sale of gas for replacement purposes in such installations, the practices also affected sales for other purposes. As pointed out below, in our discussion of VI(A), competition in sales for other purposes has increased, particularly in large volume containers, and the judgment should protect competition in this aspect of the market.

We submit that the definition of "refrigerant gas" or "gas" should maintain the same scope as was set forth in the complaint. It should be changed by deleting the word "sold" and inserting instead the word "suitable".

Paragraph II(D). The proposed judgment defines "Reseller" to mean "any person, other than a manufacturer of refrigerant gas, which is engaged in the United States in the business of purchasing refrigerant gas for resale to contractors, dealers, installers, servicemen, or other resellers." A principal item of relief proposed in the consent judgment is the requirement that defendant manufacturers sell on a nondiscriminatory basis for a period of five years to "any reseller" who meets certain specified requirements. It is clear from the Competitive Impact Statement that this obligation is supposed to include all resellers; and, specifically, that it is intended to require defendants to sell to wholesalers who resell to ultimate users that do their own installing or service work (see Competitive Impact Statement, pp. 9-10). This intention is not fully expressed in the stated definition of the word "reseller", because it could be interpreted as being limited to companies who in turn sell to other resellers (to contractors, servicemen, etc.). We submit that the definition should be amended to clarify this point. This could be accomplished by inserting the words "(including industrial and commercial users who do their own installation or service)," after the word "servicemen".

Paragraph IV(A). This provision enjoins the defendants from combining or conspiring with any manufacturer of refrigerant gas, or any association or group of purchasers, "to refuse to sell refrigerant gas to any customer or class or group of customers". As above stated, the violations stated in the complaint consisted of a combination and conspiracy not to sell, *or* not to sell except on disadvantageous or restrictive terms. In particular, it is alleged that there was an agreement not to deliver containers of gas to certain destinations (see Competitive Impact Statement, pp. 2-3). There were other discriminatory practices as well to which the decree should be addressed. One of particular significance has been the refusal to accept cylinder returns and to refund cylinder deposits as requested by disfavored wholesalers or their customers. The manufacturers retain ownership of the cylinders, and they are able to use this power for anticompetitive ends; the deposit amounts can be very substantial for individual wholesalers. Refrigeration Sales has had experience with this problem; it offers to customers the service of handling returns of cylinders and has encountered serious difficulties in arranging for refunds. The Competitive Impact Statement (pp. 5, 10) recognizes the manufacturers' interests in the handling of refund of container deposits. There should be equivalent respect for the customers' interests in fair and non-discriminatory treatment. It should be noted that the necessity to prevent discriminatory treatment is recognized elsewhere in the proposed consent judgment, in VI(A), which imposes a duty upon defendant manufacturers to sell to any reseller for a term of years, and includes the requirements that such sales shall be upon "the manufacturer's terms and conditions of sale", i.e., those generally applicable.

In our view, it is essential that paragraph IV(A) should prohibit a conspiracy or agreement to impose discriminatory terms upon any purchaser; and specific reference should be made to the terms governing cylinder returns and refunds. This paragraph should be amended, therefore, by inserting at the end, after the words "or group of customers", the following: ", or to sell refrigerant gas to any customer or group of customers upon discriminatorily unfavorable or unreasonable terms, including terms for return of cylinders and refunds of deposits pursuant to customer request."

Paragraph VI(A). This paragraph contains the critical item of relief which is essential to open up channels of trade that had been blocked by the combination and conspiracy among the manufacturers and the trade association, and to provide some assurance that the alleged practices will not be continued or resumed. It orders each defendant manufacturer to sell refrigerant gas on a nondiscriminatory basis to any reseller who meets cash or credit requirements for a period of five years, and to ship to branches or warehouses of such resellers. Because of the importance of this relief, we are most concerned about the following limitations or inadequancies which should be rectified.

1. The obligation to sell is for five years. We do not believe that this is a sufficient period of time to dissipate the effects of the combination and conspiracy. As the complaint alleges, the conspiracy goes back more than two decades insofar as the leading manufacturers are concerned. This case itself has been pending for six years, a longer period of itme than would be covered by the proposed injunction. In these circumstances, five years is simply too short to assure that long-standing abuses have been ended, not merely suspended temporarily. Furthermore, refrigerant gas goes through periods of fluctuating demand. We are now in an oversupply situation because of a decline in use of fluorocarbons in aerosols, and the obligation imposed by VI(A) should be of sufficient duration to reach beyond the current cycle of oversupply. We recommend that the period should be at least 10 [ten] years.

2. The manufacturers' obligation to sell is subject to the following exception: "*Provided, however,* That a defendant manufacturer shall not be required to sell refrigerant gas in containers larger than 145 pounds to any reseller which is not technically qualified to uses such gas to fill smaller containers."

We submit that the exception proviso must be modified in two respects:

(a) The cutoff point of 145 pound containers is not appropriate as an across-the-board standard. For each refrigerant, there are different sizes of containers which represent those sold for normal installation, as distinguished from possible use for refilling smaller containers. Refrigerant 12 is sold for that purpose in cylinders up to 145

pounds, and it is that to which the proposed consent judgment appears to refer. But this limit is not appropriate for other commercially important refrigerants. Refrigerant 114 is sold in cylinders up to 150 pounds for normal use. In addition, two important types are sold in liquid form—refrigerant 11 in drums up to 650 pounds, and refrigerant 113 in drums up to 690 pounds. Accordingly, the proviso should be changed by substituting for the words "refrigerant gas in containers larger than 145 pounds" the following: "Refrigerant gas in containers larger than 150 pounds, or refrigerant gas in liquid form in containers larger than 690 pounds."

(b) The proviso is based upon the assumption that larger containers are utilized to fill smaller containers, and hence that it is reasonable for the manufacturers to impose a condition that the reseller must be technically qualified to undertake such refilling. However, during the time in which this complaint has been pending, there has been an increasing development of wholesaler business in the resale of larger sizes of containers directly to ultimate users. Thus, Refrigeration Sales Co., Inc. purchases and resells—without refilling—refrigerant gas in ton tanks and in bulk (tank trucks or tank cars) in substantial and growing quantities. These are sales to industrial or commercial users—industrial plants, large refrigerated warehouses or large building complexes. Because of the importance of wholesale competition in this sector of the business, it is essential that the consent judgment provide assurance that restrictive practices not be utilized to impair or limit competitive activities in such sales. Hence, the proviso in paragraph VI(A) should permit the manufacturers to consider a reseller's technical qualifications for refilling *only* when refilling is contemplated. There would be no purpose, other than an anti-competitive purpose, in using the pretext of technical qualification as a basis for refusing to sell large containers to a company like Refrigeration Sales which plans to resell the containers in wholesale competition. This danger could be guarded against by amending the proviso to insert after the initial words "provided, however, that" the following: ", when refilling is contemplated by the reseller,".

As indicated in our comment on paragraph II(A), some of the applications for which bulk volumes of refrigerant gas are sold go beyond refrigeration and air conditioning. These include use in petroleum processing, freeze-drying and as solvents or propellants. While the amount of such activity has increased during the pendency of the case, the wholesaler market has always included purchases and resale for non-refrigerant uses. These were included in the sales data alleged in the complaint. The manufacturers' price lists to wholesalers have regularly included gas in units designed for such use, e.g., in fire extinguishers and for cleaning purposes. Furthermore, as a practical matter, the decree should cover sales of refrigerant gas to wholesalers regardless of the ultimate application. The manufacturer has no right to control the purposes for which a wholesaler resells, and should not be permitted or encouraged to inquire into such resales. In addition, the unlawful practices are or can be employed in all sales to wholesalers, regardless of the ultimate use of the gas. Since the decree establishes a regime for the relations between manufacturers and wholesalers, it should extend to all such relations. It is well established that a decree can properly bar the parties from other means of reaching the same or related violations and can also properly prevent unlawful conduct in implementation of the decree's affirmative provisions. As a result of the redefinition of "refrigerant gas" and "gas", which we have recommended for II(A), the manufacturers' obligation to sell in this paragraph VI(A) will cover, as it should, all uses for which refrigerant gases are sold, and competition in bulk sales should be protected by the above recommended change in the proviso.

3. The final sentence of paragraph VI(A) provides: "Each defendant manufacturer shall accord all resellers a fair opportunity to place orders and shall ship to any bona fide branch or warehouse of a reseller purchasing gas from it." We have two suggested modifications in this provision:

(a) As pointed out in the Competitive Impact Statement (pp. 2-3), an element in the alleged combination and conspiracy was the refusal to ship smaller containers to any location other than the purchaser's principal place of business or qualified branch, and the refusal to ship larger containers (ton tanks) to any location other than the job site of customers. An essential element of relief is the above obligation to ship "to any bona fide branch or warehouse of a reseller." The Competitive Impact Statement (p. 6) makes it clear that this provision is intended to cover space of a reseller in a public warehouse. We believe that it would be helpful to make this point explicit in the consent judgment and also to make it clear that the provision applies without regard to the method of charging applied by the warehouse (rental of space, payment for storage, etc.). This could be done by inserting after the words "of a reseller" the following: "(including use by a reseller of space in a public warehouse)."

(b) With respect to the larger containers, the manufacturers have barred shipment to any location other than the job site of the reseller's customer, and this has been incorporated in their stated conditions of sale. The proposed judgment requires shipment to branches and warehouse locations, if so desired by the reseller. But with such large containers the reseller may need and desire to have delivery made to the job site of the customer. We believe that it would be proper to provide explicitly that it is the reseller who has the option of determining where the larger containers should be shipped. This could be accomplished by inserting at the end of the sentence, after the words "purchasing gas from it," the following: "; *Provided*, That containers of one ton or larger shall be shipped to such branch or warehouse, or to the site of the reseller's customer, at the option of the reseller."

Paragraph VII. This paragraph imposes various obligations upon defendant trade trade association, Air Conditioning and Refrigeration Wholesalers (ARW). As the Department of Justice is aware, members of ARW are constituted in twelve regional groups, which also conduct meetings and other group activities. Such regional groups may readily be used as vehicles for continuation or resumption of the violations stated in the complaint. It is our belief that they were an important part of the conspiracy in the past. It is not clear to us whether the regional groups are, as legal entities, subordinates to or directly related with ARW. In any event, paragraph VII should be amended to require ARW to take steps to see that the regional organizations amend their by-laws, membership rules, etc., to conform to paragraph VII of the decree.

We submit that the above suggested modifications correct inadequacies in the proposed consent judgment, and provide more effective relief in the public interest. If you desire any further information or submissions, please do not hesitate to contact me.

I would appreciate notice of the filing of the Department's response to the comments received.

Sincerely yours,

LIONEL KESTENBAUM.

COMMENT OF INTERNATIONAL PLASTICS, INC. UPON PROPOSED CONSENT JUDGMENT

International Plastics, Inc. ("IPI") hereby comments upon the Stipulation, Final Judgment, and Competitive Impact Statement ("the proposed Consent Judgment") which was filed herein on May 3, 1976. This Comment is filed pursuant to 15 U.S.C. 16 and Section VI, "Procedures Available for Modification of Consent Judgment" of the Competitive Impact Statement.

SUMMARY OF POSITION

The proposed Consent Judgment fails to contain adequate economic and quantitative assurances concerning supplies of bulk refrigerant gas for non-manufacturer ("independent") repackagers, thus jeopardizing the competitive sources of supply which the wholesaler has enjoyed heretofore.

This failure results from a deficient recognition of the role of the independent repackager as a source of packaged refrigerant to wholesalers. In the context of the events and circumstances which gave rise to this litigation, that role has been in the past and must remain in the future one of particular significance and vigor.

Over the last several years, the independent repackager has effectively provided practical market-place solutions (albeit not total ones) for the problems for which this litigation seeks legal solutions. The contributions of the independent repackager have been of crucial benefit to, indeed have become the bulwark of the non-ARW (i.e., the defendant Air Conditioning and Refrigeration Wholesalers) wholesalers market. Legal solutions will be effective only as they embrace the competitive and economic realities of the market place. On the facts of this case, legal solutions must work in conjunction with, rather than destroy, the position of the independent repackager as a competitor of the defendant-manufacturers in supplying packaged refrigerant to the wholesaler.

The proposed Consent Judgment, if approved in its present form, will necessarily produce two results. The independent repackager will be essentially eliminated from the wholesaler market. An industry will be crippled, if not destroyed.

A second result—one even more important from a public interest standpoint—also inevitably will follow. The wholesaler will no longer have the independent repackager and the defendant-manufacturers competing to supply him. Removal of the independent repackager as such a competitor is a result which the defendant-manufacturers have not and cannot achieve within the anti-trust laws and the economics of the market place. Yet the proposed Consent Judgment will deliver the wholesaler as a totally captive market to the defendant-manufacturers.

This litigation was commenced to relieve the wholesaler market from specific anti-competitive conditions which the defendants created and maintained. The proposed Consent Judgment will merely substitute evils for those wholesalers (i.e.: Replace some packaged product distribution restrictions with the defendant-manufacturers as exclusive supply sources); and it will create for the independent repackager anti-trust and economic problems sufficient virtually to toll the knell for that entire segment of the refrigerant industry.

These are results and circumstances which the Department of Justice and this Court, in the administration of the anti-trust laws, should vigorously oppose. If the proposed

Consent Judgment is approved, those results and circumstances will follow precisely because of the approvals of the Department and of the Court. The position of the defendant-manufacturers as monopolists or virtual monopolists will be further enhanced, indeed assured. The solutions contained in the proposed Consent Judgment lack legal or economic imperatives. That is to say that even if that Consent Judgment were to be approved, it fundamentally is and would remain legally and economically wrong. And the rule would appear to be obvious that one set of anti-competitive problems cannot be solved properly by merely shifting them to other persons or by creating new ones in their stead. The rights of the independent repackager must not be trammeled roughshod in an effort to alleviate the wholesaler's problems. Although the rights of the wholesaler to operate its business profitably, including open access to supply, are as great as the independent repackager's rights, they certainly are not greater.

The public interest is substantially present in this case both in the preservation and maintenance of competitive sources of supply as well as in the continued viability of the independent repackager segment of the refrigerant industry. In neither of these respects is the public interest served by the proposed Consent Judgment.

The specific deficiencies in the proposed Consent Judgment are as follows:

1. Failure to contain assurances that the defendant-manufacturers' sales of bulk refrigerant to the independent repackager and their sales of packaged refrigerant to wholesalers will be at reasonable prices and at levels which will allow competitive manufacturer-vs.-independent pricing to the wholesaler;

2. Failure to contain assurances that the defendant-manufacturers will provide the independent repackager with physical quantities of bulk refrigerant on a timely basis and in amounts adequate to enable the independent to compete with the manufacturer as a supplier to the wholesaler; and

3. Failure to provide that any reseller including an independent repackager may apply to the Court for relief under Section IX of the Final Judgment.

In the "Conclusion and Proposed Solutions" section of this Comment, IPI suggests amendments to the proposed Consent Judgment which will reduce or eliminate these deficiencies.

Prior and Recent Practices and Events In the Wholesaler Market

A. Background Information

Certain background information, most of which was omitted from the Competitive Impact Statement, is essential to a full understanding of the proposed Consent Judgment's "anticipated effects on competition" (15 U.S.C. 16(b)(3)) in the wholesaler packaged refrigerant market.

1. *IPI and the Other Independent Repackagers.* IPI is a repackager of fluorocarbon refrigerant gas, particularly of grades "12" and "22" (but also including certain other grades of gas). IPI is a publicly held corporation, but is neither wholly nor partially owned by nor otherwise aligned (except by supply contracts) with any fluorocarbon manufacturer, including any of the defendants.

IPI's business consists of purchasing fluorocarbon refrigerant gas (grades "12" and "22" together with certain other grades) in bulk directly from one or more of the defendant-manufacturers, repackaging that gas into cans and cylinders of various sizes, and selling the gas as packaged under its proprietary labels to the wholesaler as well as to other markets (i.e., to "resellers" in the terms of the proposed Consent Judgment).

IPI has been engaged in this business since 1961. It currently employs between 70 and 100 persons, and has an annual payroll of approximately $672,000.00. From its former location in Wichita, Kansas, the company moved in 1968 to near Colwich, Kansas, where it presently is located. IPI received two issues of industrial revenue bonds of the City of Colwich totalling $850,000.00. The bonds are being retired on schedule, and approximately $760,000.00 principal amount of those bonds is now outstanding.

In addition to IPI, other principal independent repackagers also serving the reseller market include: Paramount Chemicals, Drew Chemical Corp., Virginia Chemical, R-I-P, Airosol, Inc., Ig-Lo, Technical Chemicals, Surefire, Chem-Spray, Radiator Specialty, U.S. Aviex, and Interdynamics.

2. *The Product and Its Market.* Two types of refrigerant gas are primarily involved, i.e.: grade "12" and grade "22" refrigerant. The principal application of grade "12" refrigerant gas is to the automotive market. This market is and over the years has been served primarily be repackagers, such as IPI. Manufacturers historically have not successfully served this market to any great extent. By contrast, the principal application of grade "22" refrigerant is to the commercial or wholesaler markets for use in virtually all modern, non-automotive types of air conditioning and refrigeration systems. This market is and over the years has been served primarily by the manufacturers. Other grades of refrigerant gas also are involved, but not to the extent that grades "12" and "22" are.

Sales of packaged refrigerant for the current year are estimated at 200,000,000 pounds. The defendant-manufacturers' current share of the market is an estimated 83 percent, and the independent repackager's share is approximately 17 percent. Prior to the entry of IPI into the cylinder market in 1970, the manufacturer absolutely controlled that market.

An understanding of the distinct manufacturer-repackager-reseller functions within the refrigeration production-distribution chain is important. Refrigerant gas is manufactured in bulk from raw chemicals (i.e., carbon tetrachloride, chloroform, and hydrofluoric acid). An estimated 800,000,000 pounds of fluorocarbon was manufactured by the defendant-manufacturers in 1975 for many applications, only some of which include aerosol propellant, blowing agents for plastic foam, and refrigerant products. The total packaged refrigerant market (all applications) uses approximately 25 percent of the fluorocarbon manufactured. The defendant-manufacturers are the sole domestic manufacturers of refrigerant, and none of the independent repackagers has manufacturing facilities. At the other end of the product-distribution chain, the refrigerant "reseller" distributes or sells packaged refrigerant to retailers or to ultimate consumers. In the middle of this chain are the repackagers. They "package" bulk refrigerant gas into cans and cylinders of various sizes and then distribute the gas to the resellers, principally to wholesalers and automotive users.

Although the foregong manufacturer-repackager-reseller references are to separate functions within the production-distribution chain, they are not necessarily references to separate companies or persons. All the defendant-manufacturers are involved in the dual roles of manufacturing as well as of repackaging. Such defendants in effect purchase bulk refrigerant primarily from themselves, package the refrigerant, and compete directly with the independent repackager as a supplier to the wholesaler. The significance of the three distinct functions within the production-distribution chain, and of the duality of roles played by the defendant-manufacturers, is at the crux of IPI's instant Comment. It is the significance which the proposed Consent Judgment totally misses.

3. *Distribution of packaged refrigerant to the wholesaler market.* Preliminarily, the two trade associations which have been particularly significant in the distribution of refrigerant gas to the wholesaler should be discussed.

Historically, the defendant ARW was composed basically of wholesalers who handled parts and accessories for servicing air conditioning and refrigeration systems. ARW members were not normally engaged either in the sale of the basic system hardware, nor at all in the heating business. They sold the parts and accessories for such equipment. The North American Heating and Air Conditioning Wholesalers Association (NHAW) historically sold but did not carry the accessories and parts for air conditioning and refrigeration as well as heating systems. In recent years, however, the foregoing distinctions between the two associations and their memberships have tended to disappear, and now the members of either association might carry air conditioning systems, parts and accessories therefor. Other wholesalers exist, of course, who are not and have never been affiliated with either trade association.

We turn now to the historic channels of distribution of packaged refrigerant to the wholesaler, being the restricted distribution patterns which gave rise to this litigation.

At the time when IPI commenced its business operations, a very strong demand existed in the non-ARW wholesaler market (principally in the NHAW market) for packaged refrigerant products, especially of grade "22". At that time, such products were available primarily through ARW wholesalers, as this litigation has correctly noted. IPI began and has since maintained a nation-wide sales program aimed at supplying packaged refrigerant to all qualified wholesalers, regardless of any trade association affiliation. Over the past several years, IPI has become one of the major, if not indeed the principal, independent supplier of packaged refrigerant to the non-ARW wholesaler market.

When IPI commenced the refrigerant repackaging aspects of its business, in fashion typical of other repackagers, it served only the "12" automotive market. In approximately 1970, IPI also began to serve the "22" cylinder market, primarily the NHAW wholesaler and other non-ARW wholesalers. In response, the majority of the defendant-manufacturers initially refused to deal further with IPI. At no time during the period 1968–1974 did more than two of the defendant-manufacturers sell bulk refrigerant of either grades "12" or "22" to IPI. Further, during a portion of that time (from 1970–1972) only one of the defendant-manufacturers would sell to IPI. The refusal of the remaining manufacturers to sell or even to quote to IPI has continued until recently.

Nonetheless, during the years 1970–1974, IPI became one of the only two principal repackagers to serve successfully both the "12" and the "22" markets. Thus, IPI is a principal independent repackager of "12" and "22" refrigerant gas, and likewise is a principal independent supplier of such packaged product to the non-ARW wholesaler market. In 1974, for instance, more than 25 percent of the NHAW mebership were IPI customers.

In the 1974 season, IPI's principal manufacturer-supplier refused to sell to IPI at volume levels equal to, much less greater than, the prior year. That manufacturer claimed shortage of product. After the 1974

season's contract was executed, the manufacturer refused to make timely deliveries of product to IPI, as it always had done before and as was nceessary for IPI to serve its customers during the limited refrigerant season. Because of such product shortages, IPI was unable to confirm customer orders and experienced significant numbers of customer order cancellations. Thereafter, IPI learned that some of its customers were being actively solicited by that manufacturer, that some of IPI's cancelled orders were being served by it, that the manufacturer was seeking new wholesaler accounts, and that the manufacturer was servicing substantial numbers of its regular customers at volume levels greatly increased over previous years' sales. Also, that manufacturer for the first time adopted IPI's method of marketing, which to that point had not been utilized by the defendant-manufacturers.

For these reasons, IPI commenced an anti-trust action in the federal court in Wichita, Kansas. The legal basis for the suit was that an anti-trust violation and an unfair trade practice occur when a sole or principal supplier competes with its customer and at the same time denies him product. From the consumer's standpoint, such conduct constitutes an additional anti-trust violation and unfair trade practice: The customer-wholesaler is denied the competition between the manufacturer and independent sources of supply. Upon a preliminary finding of likelihood of success by IPI on the merits of its case, that Court ordered the manufacturer to fulfill its existing 1974 contract in a proper manner, and to make timely shipments of product to IPI. The action was ultimately settled between the parties and dismissed.

The background is not yet complete. Beginning in the fall and winter of 1974 and continuing through the spring of 1975, all but one of the defendant-manufacturers offered bulk "12" (and in some cases, "22") to IPI. Thus, two additional manufacturers broke their several-year embargo against sales to IPI, albeit only to a modest extent initially; and IPI's previous manufacturer-suppliers continued to offer product to it. Indeed, in the latter portions of 1974 and in the early part of 1975, these manufacturers offered to flood IPI with product. But the product was expensive. The prices were unprecedentedly high. And the products were offered to IPI only at those high prices. The manufacturers explained that the high prices merely reflected increased costs of production.

The latter portion of 1974 through the the spring of 1975 was the period when bulk suppliers and manufacturers alike were seeking to contract wholesaler sales for the 1975 cooling season, striving in competition with one other. During this period, IPI repeatedly saw that the manufacturers' artificially high bulk prices were eliminating the company as a competitor in major segments of the market place. Further, it saw that correspondingly high prices were not being charged directly by the manufacturers to the wholesalers nor by the manufacturers to others with whom IPI competed. As a result of these inflated price structures, IPI lost a substantial number of its national accounts. These were accounts which it had held for many years and which, but for the artificially high cost of its raw supplies and its lack of assured and timely deliveries, It would have continued to hold. Additionally, the company's profit on the sales which it did make were substantially reduced because of this same pricing structure.

As a further indicator that the high bulk price was simply a manipulative market device, the manufacturers rolled their bulk prices to IPI back in approximately May, 1975—but not before the sales period for that refrigerant season was essentially over and not before IPI had been substantially hurt.

Accordingly, the independent repackagers, led by IPI, have served for many years as the life-line of packaged products for the non-ARW wholesaler. Because of the independent repackager, existing wholesalers of other products were allowed to branch out into the packaged refrigerant field, and new ones were enabled to enter the business. Without the independent repackager, the scope and stature of the non-ARW wholesaler today might well have been insufficient to warrant or to sustain the instant litigation.

B. RECENT DEVELOPMENTS

Certain recent developments also are unnoticed in the Competitive Impact Statement. These developments are significant in that they disclose as to the defendant-manufacturers: A continuing intent to engage in anti-competitive practices in the refrigerant market to the detriment of the wholesaler and the independent repackager alike; an understanding of the appropriate mechanisms to carry out those intentions, particularly the elimination of the independent repackager as a competitor in supplying the wholesaler; and an abundantly adequate power to achieve those ends.

These developments have occurred in the last eighteen months or so, in the very shadow of the proposed Consent Judgment. The defendant-manufacturers presumably have been aware of the essential terms of the proposed Consent Judgment during those months. These recent developments indicate, therefore, the practices, procedures and attitudes which the defendant-manufacturers propose to adopt if the Consent Judgment is approved in its present form.

Those developments are:

1. The pricing of bulk refrigerant gas to IPI and the pricing of packaged refrigerant to the wholesaler all at prices which necessarily result in IPI's having to price packaged refrigerant to the wholesaler at levels which are uneconomical to IPI and non-competitive with the corresponding prices listed by the manufacturer in its publications.

For example, recent manufacturer-published quotes of bulk refrigerant "12" plus only the cost to IPI of the can or cylinder approximate the manufacturer-published list price of packaged product to the wholesaler.

But even based upon IPI's actual costs of bulk refrigerant "12," IPI can meet the manufacturer's published list prices only by absorbing direct and indirect overhead costs, freight and profit. Typically, packaged product is sold to the wholesaler at prices less than the published list prices, various discounts or credits being given for cash and for "competitive conditions." Last year, manufacturers' "competitive discounts" alone at one point reached as much as 20 percent off of published list price, before further reduction for prompt payment. To be competitive with the actual packaged price of the manufacturers, IPI also would have to absorb similar terms, which it cannot do.

Even more startling, recent manufacturer quotes to IPI for certain exotic gas in bulk exceeded the manufacturer's published list price for such packaged gas to the wholesaler. The foregoing are merely some of the examples which could be given.

As a result, competition with the defendant-manufacturers in the wholesaler market is economically disastrous. Profit margins are eroded to the point of elimination. IPI believes that its production and selling costs are at least as favorable as those of the other independent repackagers, and that its position as above set forth is representative of the respective positions of the other independent repackagers as well.

2. The defendant-manufacturers have used and continue to use their control over bulk refrigerant together with their market dominance to keep the prices of packaged refrigerant in the wholesaler market in a constant state of turmoil. The years 1974–1975 were marked by numerous manufacturer-led price changes from manufacturer-published list prices. This contrasts with only a few such price changes per year in each of the preceding several years. In 1974, the prices of bulk and packaged refrigerant were dramatically increased. In 1975, the prices of packaged refrigerant were greatly decreased, but the prices of bulk remained essentially the same. The message implicit in this flex of defendant-manufacturer muscle is clear: Only the manufacturer, not the independent repackager, has certainty of supply; only the manufacturer sets the package price to the wholesaler. The message is not lost upon the trade.

These recent developments have the effect, if not indeed the underlying purpose, of eliminating the independent repackager as a competitor of the defendant-manufacturers in supplying packaged refrigerant to the wholesaler. These developments reflect the continuing intent of the defendant-manufacturers to pursue anti-competitive ends and means in the refrigerant market. They reflect the defendant-manufacturers' awareness of and power to accomplish the things which will remove the independent repackager from the wholesaler market to the exclusive benefit of the manufacturers. And these developments clearly demonstrate the defendant-manufacturer's view of the proposed Consent Judgment.

THE PROPOSED CONSENT JUDGMENT

The proposed Consent Judgment, viewed through the Competitive Impact Statement, constitutes only a fragmented description of the refrigerant market and the most cursory study of the impact which the decree would have upon competition in that market. Few of the circumstances and events described in the preceding section ("Prior and Recent Practices and Events in the Wholesaler Market") of this Comment are reported in the Competitive Impact Statement. Without considering and addressing those matters, the proposed Consent Judgment cannot be in the public interest nor in any way properly approvable by this Court.

By Section IV(A), the proposed Consent Judgment enjoins the defendant-manufacturers from agreeing to refuse to sell refrigerant gas to any group or class of customers. By Section VI, it requires each of the defendant-manufacturers to sell, for a five-year period, refrigerant gas to any "reseller." (See Competitive Impact Statement, pp. 4–5.)

As analyzed by the Competitive Impact Statement, under the foregoing provisions: "Certain classes of customers such as repackagers and resellers who previously supplied these wholesalers may find their business diminished." (Competitive Impact Statement, p. 8.) Explicit in that analysis is the awareness that under the proposed Consent Judgment the independent repackager will lose significant portions of his wholesaler trade to the manufacturers. The analysis does not project that the proposed Consent Judgment will secure unto that trade the benefits of continued and expanded manufacturer-vs.-independent supplier competition. Rather, it clearly reports that the delivery of this trade exclusively to the defendant-manufacturers is a foregone conclusion.

The parties must have been aware that the proposed Consent Judgment would eliminate the independent from the market and reduce manufacturer-independent competition. Why the independent repackager should be eliminated or its vigor reduced so that the

manufacturers will begin properly to serve the wholesaler is not explained. Why the independent repackager should be ousted from or economically penalized in the wholesale market so that the manufacturers will start obeying the anti-trust laws is nowhere justified either in the proposed Consent Judgment document or by the facts of this case.

That competition between manufacturer and independent suppliers falls within the protection of the anti-trust laws is clear from the cases. "*Industrial Building Materials, Inc.* vs. *Interchemical Corp.*" (CA 9, 1970) 437 F. 2d 1336 contains an excellent statement of and application of those principles.

We completely fail to see what interest the Department or this Court can have in returning the wholesaler market to the defendant-manufacturers, who have so long so thoroughly abused it, as witnessed by this action. The public interest would be satisfied, indeed would be extraordinarily well served, by a final decree which would preserve and promote competing manufacturer-vs.-independent sources of supply to the wholesaler.

The Competitive Impact Statement's foregoing analysis of Sections IV(A) and VI then continues: "* * * but they [i.e., the repackagers and resellers] may also find that they now have a more reliable source of supply" (at p. 8).

As a reference to a key provision in the proposed settlement of th's anti-trust case, that statement is an absurdity.

"May" is vague and elusive. A provision which "may" do something, equally "may not" do it. By saying "may," the draftsmen of the proposed Consent Judgment are simply saying that they don't know what will happen, and are not even willing to undertake that anything specific should happen. The defendant-manufacturers know what they intend to do under the Consent Judgment about supplying the independent repackager. Those defendants are not willing to represent that their supplies will "probably" or even "likely" be more reliable, quantitatively or economically, under that decree than they have been in the past. And the Department seems to be at a total loss in the matter. Given the circumstances of the refrigerant market, the role of the independent repackager therein, and the need for anti-trust relief, a decree which only "may" assure competitive manufacturer-vs.-independent supplies to the wholesaler has no inherent necessity or imperative to do anything at all.

The "more reliable supply" statement apparently refers to the quantitative rather than to the economic aspects of supply to independent repackagers. Even so, little may be found in the proposed Consent Judgment as interpreted by the Competitive Impact Statement to support that supposition.

No provision assures that a sufficient supply of refrigerant will be made available to maintain or to promote the independent repackager as a meaningful competitor to the defendant-manufacturers in the wholesaler market. A manufacturer need only to sell "to the extent that it has gas and containers available." Although each defendant "shall afford all resellers a fair opportunity to place orders," nothing prescribes how or when the manufacturer is to fill such orders or ship product thereunder. Recognizing that a defendant-manufacturer will not be in a position at all times to supply all resellers who may seek to purchase refrigerant, the proposed Consent Judgment allows "each defendant-manufacturer [to] determine, unilaterally * * * the manner in which demand or anticipated demand shall be met on the basis of any allocation, reasonable and equitable under all the circumstances." Further, in working out its allocation formula, the manufacturer "may take into account its objectives with regard to container mix." A very suspicious set of provisions, indeed!

The decree provides no guidelines for the parties or the Court in determining whether and to what extent refrigerant shall be deemed "available." May the manufacturers refuse to commit product to the independent repackager based upon actual—or hoped for—demand from the wholesalers or other classes of trade; if so, to what extent and for how long? That is to inquire: May the manufacturers now shove all they can to the wholesaler market, leaving little or nothing available for the independent, who seeks to compete with the manufacturers in that market; or can the manufacturers now hold the orders of the independent until the prime of the refrigerant season has passed before the manufacturers either must accept those orders or ship thereunder? May the manufacturer assert the non-availability of refrigerant to the independent repackager based upon the manufacturer's development and promotion of new products, while at the same time filling refrigerant orders from wholesalers? Neither does the proposed Consent Judgment provide any guidelines for working out allocation and container mix issues in terms of continued and adequate supplies to the independent repackager.

Totally overlooked by the proposed Consent Judgment are any provisions requiring promptness in the manufacturers' acceptance of orders or requiring timeliness in the manufacturers' shipment of refrigerant under accepted orders. IPI has had expensive experience with some of the defendant-manufacturers in delaying acceptance of orders, in refusing to set or to abide by shipping schedules, and in failing to ship in a timely fashion. The result has been that IPI has lost substantial sales because it did not have the refrigerant to package; meanwhile, IPI's manufacturer-suppliers were competing with it directly in the wholesaler market, were filling their own orders, and were exploiting IPI's lack of available and reliable supply. Any final decree entered herein should impose upon the defendant-manufacturers affirmative duties requiring the prompt acceptance of orders as well as the timely and seasonable shipment of refrigerant thereunder, particularly concerning orders of their competitors, the independent repackagers.

The deficiencies in the proposed Consent Judgment's provisions concerning the physical or quantitative aspects of assuring bulk supplies to the independent repackager are significant. Nonetheless, those deficiencies are overshadowed by the omission of any terms concerning the prices at which the defendant-manufacturers are to sell bulk refrigerant to the independent repackager or to themselves as "repackagers," or at which they are to sell packaged refrigerant to the wholesaler. That the defendants must sell "on such defendant-manufacturer's regular terms and conditions of sale * * * to any reseller who pays cash or meets its customary credit requirements" misses the point entirely. As earlier noted in this Comment, the defendant-manufacturers occupy the dual positions of manufacturer as well as repackager. Among the recent developments which were discussed above was that the manufacturers were quoting bulk refrigerant to the independent repackager and were quoting packaged refrigerant to the wholesaler all at prices which would not allow the independent to compete with the manufacturers for the wholesaler trade. One explanation is that the manufacturer-repackager is not "selling" bulk to itself at the same prices as it is quoting to the independent. Because other direct packaging costs, freight, etc. tend to be generally standardized, the only remaining alternative explanation is that the manufacturers are selling to the wholesaler at or below the manufacturers' cost.

The drift of the manufacturer's activities during the course of this litigation has been from the original crude refusal to sell to certain wholesalers to the present sophisticated effective refusal to sell by the deft orchestration of pricing mechanisms. Rather than curing the manufacturer-created anti-trust problems in the refrigerant market, this case in the posture of the proposed Consent Judgment has simply matured those problems. If this Court and the Department of Justice are not up to combating these current refinements of the manufacturer's conduct, the wholesalers' situation will be worsened by the judicially-approved elimination of the independent repackager as a source of supply competitive with the manufacturer.

In sum, the proposed Consent Judgment lacks adequate quantitative and price assurances concerning refrigerant sales from the defendant-manufacturers to the independent repackager. That Consent Judgment will foster the total takeover of the wholesalers' supply channels. The independent repackager segment of the refrigerant market will be eliminated. And the wholesaler as well as the ultimate consumer will be deprived of the benefits of the competition between the manufacturer and the independent supplier. Undoubtedly, so long as the manufacturers' present pricing techniques continue, the wholesaler can purchase packaged refrigerant from those defendants cheaper than he can from the independent repackager. In the balance and over the long term, however, preserving manufacturer-independent supplier competition must be viewed as more in the public interest than any short-term price bargains.

Conclusion

Three principal deficiencies in the proproposed Consent Judgment have been discussed in this Comment: (1) The failure to contain assurances that the defendant-manufacturers will provide the independent repackager on a timely basis with physical quantities of bulk refrigerant adequate to enable the independent repackager to compete with the manufacturer for the wholesaler trade; (2) the failure to contain assurances that the defendant-manufacturers' sale of bulk refrigerant to the independent repackager and their sale of packaged refrigerant to wholesalers will be at reasonable prices and at levels which will allow competitive manufacturer-vs.-independent pricing to the wholesaler; and (3) the failure to provide that any reseller, including an independent repackager, may apply to the Court directly for relief under Section IX of the Final Judgment.

Until these deficiencies are corrected, the proposed Consent Judgment is not in the public interest. This Court should approve that Consent Judgment only if provisions are added covering the following general areas:

A. Prohibiting each defendant-manufacturer from instituting and/or pursuing any practice with regard to pricing, terms of sale, or other types of action in the sale of bulk or packaged refrigerant to IPI or to any other independent repackager or to any wholesaler with the intent or effect of reducing or eliminating competition between such defendant-manufacturer and IPI or any other independent repackager;

B. Providing that it shall be unreasonable for any defendant-manufacturer to institute any plan for the distribution of its refrigerant that gives any less preference to the independent repackager than to any other customer or class of customer of such defendant; and

C. Providing that jurisdiction be retained by the Court for the purpose of enabling IPI or any other independent repackager to apply directly to this Court for relief under Section IX of the Final Judgment.

In Appendix "A" hereto, IPI offers some specific suggestions which might remedy the deficiencies of the proposed Consent Judgment. Being suggestions only and offered solely to be constructive, they do not constitute an essential part of IPI's Comment. Nonetheless, those suggestions do address themselves to the general areas which must be covered if the Consent Judgment is to serve adequately the public interest. And these general areas, as above set out, must serve as reference points to this Court in its determination whether to approve the presently proposed or any future proposed consent decree.

With these deficiencies corrected in the general areas set forth, the proposed Consent Judgment is otherwise generally satisfactory to IPI.

Respectfully submitted,

RICHARD JONES,
ROBERT J. O'CONNOR,
Hershberger, Patterson, Jones & Roth, 700 Farm Credit Banks Building, Wichita, Kansas 67202.

GEORGE F. KARCH, Jr.,
Thompson, Hine & Flory, 1100 National City Bank Building, Cleveland, Ohio 44114.

By RICHARD J. O'CONNOR.

[FR Doc.76-24843 Filed 8-24-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 3839]

CALIFORNIA

Application

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), the Juniper Petroleum Corporation has applied for a 3½" low pressure gas pipeline right-of-way across the following described public lands:

MOUNT DIABLO BASE AND MERIDIAN

CALIFORNIA

T. 30 S., R. 20 E.
Sec. 25, in E½NE¼
T. 30 S., R. 21 E.
Sec. 19, in lot 17

This pipeline will carry gas across 4670.34 feet of national resource lands in Kern County, California.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the State Office, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.76-24842 Filed 8-24-76;8:45 am]

MONTANA STATE MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Montana State Multiple Use Advisory Board of the Bureau of Land Management will meet September 8, 9, and 10, 1976. The September 8 session will be held in the meeting room of the First State Bank of Fort Benton, 1502 Main St., Fort Benton, Montana, at 7 p.m. This session will be devoted to briefings and presentations for the Board Members on problems and opportunities associated with managing national resource lands and resources along the Missouri River in Montana.

This meeting is open to the public, and time will be provided for interested persons to make oral presentations to the board on management of national resource lands and resources along the Missouri River.

Written presentations on any subject may be filed for consideration by the board at the meeting or with the State Director, Bureau of Land Management, 222 North 32nd St., P.O. Box 30157, Billings, MT 59107.

Persons wishing to make presentations to the board at the September 8 session should notify the Montana Bureau of Land Management State Director at the above address prior to September 7, 1976.

The September 9–10 sessions will be in the form of a guided field trip on the Missouri River in Montana between Coalbanks Landing and Judith Landing with a campout on the night of September 9 at Hole in the Wall. The field trip is also open to the public. Persons going on the trip will have to provide their own transportation, equipment and meals.

Further information concerning this meeting may be obtained from Gordon W. Flint, Public Affairs Officer, Bureau of Land Management, P.O. Box 30157, Billings, MT 59107. Telephone (406) 245-6711, Ext. 6561.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.76-24808 Filed 8-24-76;8:45 am]

ROSWELL DISTRICT MULTIPLE USE ADVISORY BOARD

Public Meeting

Notice is hereby given that the Roswell District Multiple Use Advisory Board of the Bureau of Land Management will meet in open session September 20, 1976, at the Roswell Inn, 1815 North Main, Roswell, New Mexico.

The morning session will begin at 8 a.m. and will be devoted to review and recommendation on the Department of the Interior's proposed revised regulations for the management of livestock grazing on lands administered by the Bureau of Land Management. Time will be available for a limited number of brief oral statements by members of the public.

The afternoon session will begin at 1 p.m. and will be for further public comments on antelope fencing and fence modifications. No recommendations will be asked for in this session.

Written statements on either subject should be presented to the official listed below. Further information concerning this meeting may be obtained from James H. O'Connor, District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201, telephone number 622-7670.

Dated: August 17, 1976.

JAMES H. O'CONNOR,
District Manager.

[FR Doc.76-24887 Filed 8-24-76;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Saturday, September 25, 1976, at 9 a.m., at the Stephen Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Nancy Long (Chairman), Glen Echo, Maryland.
Mrs. Anthony C. Morella, Bethesda, Maryland.
Mr. Donald Frush, Hagerstown, Maryland.
Honorable Vladimir A. Wahbe, Baltimore, Maryland.
Mr. Anthony Abar, Annapolis, Maryland.
Mrs. John L. Meinick, Arlington, Virginia.
Mrs. Dorothy Grotos, Arlington, Virginia.
Mr. Burton C. English, Berkeley Springs, West Virginia.
Mr. Henry W. Miller, Jr., Paw Paw, West Virginia.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Joseph H. Cole, Washington, D.C.
Mr. Ronald A. Clites, LaVale, Maryland.
Mrs. Mary Miltenberger, Cumberland, Maryland.
Dr. James H. Gilford, Frederick, Maryland.
Dr. Kenneth Bromfield, Frederick, Maryland.
Mr. Edwin F. Wesely, Chevy Chase, Maryland.
Mr. John C. Frye, Gapland, Maryland.
Mr. Rome P. Schwagel, Keedysville, Maryland.

The matters to be discussed at this meeting include:

1. Whiting's Neck Farm Community.
2. Western Maryland Railway Abandonment.
3. Interpretive Prospectus.
4. Abner Cloud House.
5. Legislation to Dedicate C&O Canal NHP to Justice Douglas.
6. Cumberland Boundary Legislation.
7. Reaction to General Plan.
8. Canal Construction Projects.
9. Montgomery County AWT.

10. Land Acquisition.
11. Commission Goals.
12. Park Maintenance: Mowing Policy.
13. Superintendent's and Area Reports.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 30 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Associate Director, Cooperative Activities, National Capital Parks, at Area Code 202–426–6715. Minutes of the meeting will be available for public inspection 2 weeks after the meeting, at the Office of National Capital Parks, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Dated: August 19, 1976.

RICHARD L. STANTON,
Director, National Capital Parks.

[FR Doc.76-24824 Filed 8-24-76;8:45 am]

Office of the Secretary

COLORADO RIVER STORAGE PROJECT

Notice of Proposed Revised Allocation of Peaking Power

Pursuant to Pub. L. 84–485, April 11, 1956 (70 Stat. 105), and by virtue of authority under the Reclamation Project Act of 1939, August 4, 1939 (53 Stat. 1187, 1194, 1198), the Secretary of the Interior proposes to allocate additional power from the Colorado River Storage Project (CRSP) to be marketed by the Bureau of Reclamation.

There will be 108 megawatts of peaking power available without energy for each summer season (April through September) and 227 megawatts without energy for each winter season (October through March) beginning with the 1977–78 winter season and extending through the end of the 1989 summer season.

Twelve public comments were received on the proposed allocation which was published by notice in the FEDERAL REGISTER, Vol. 40, No. 247, Tuesday, December 23, 1975. A detailed review of the comments received was made, and copies of the comments and the review are available for public inspection at either of the offices below:

Chief, Division of Power, Bureau of Reclamation, Room 7612, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343–5337.

Regional Director, Attention: Code 600, Upper Colorado Region, Bureau of Reclamation, Department of the Interior, P.O. Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524–5493.

Based on that review, a proposed revised allocation has been made and appears below. The principal changes are that the quantities of peaking power rejected by various allottees have been reallocated among those allottees which requested additional amounts of peaking power.

Northern Division allocations were increased to those allottees which requested additional amounts in proportion to the original allocation since the majority of requests were not for definite amounts but for whatever additional quantities would be available. The Southern Division allocations were increased to those allottees which requested additional amounts of peaking power in proportion to the requests since all such requests were for definite amounts of power.

The proposed revision to the original allocation appears below:

Entities wishing to do so should submit their comments in writing to either of the offices shown above on or before September 24, 1976. After review of any comments received, a final allocation will be prepared and published, after which allottees will have until December 1, 1976, to place their allocations under contract. Any allocations not placed under contract by that date will be automatically rescinded.

Dated: August 17, 1976.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

PROPOSED PEAKING POWER ALLOCATION
Colorado River Storage Project

Customer	Summer Season			Winter Season		
	Accepted	Additional	Total	Accepted	Additional	Total
Northern Division						
Arizona						
Navajo Tribal Utility Authority	1,350	272	1,622	4,840	20	4,860
Page	470	95	565	1,720	442	2,162
Sub-total	1,820	367	2,187	6,560	462	7,022
Colorado						
Colorado Springs	1,130	228	1,358	13,440	3,456	16,896
Delta	80	16	96	270	30	300
Fleming	10	2	12	10	3	13
Fort Morgan	590	118	708	1,860	478	2,338
Gunnison	340	/1	340	1,610	/1	1,610
Haxtun	40	8	48	110	28	138
Holyoke	110	22	132	400	103	503
Oak Creek	20	4	24	100	26	126
Platte River Power Authority	8,770	1,768	10,538	36,270	9,327	45,597
Wray	40	8	48	230	59	289
Yuma	80	16	96	290	75	365
Sub-total	11,210	2,190	13,400	54,590	13,585	68,175
Colorado & Wyoming						
Tri-State G. & T. Assn.	18,930	/2	18,930	48,120	/2	48,120
New Mexico						
Energy Research & Development Adm.	15,000	3,025	18,025	15,000	3,858	18,858
Farmington	1,130	228	1,358	4,040	960	5,000
Plains G. & T. Cooperative	8,520	1,718	10,238	35,760	9,196	44,956
Sub-total	24,650	4,971	29,621	54,800	14,014	68,814
Wyoming						
Cody	200	40	240	710	183	893
Consumers L. & P. Assn.	10	/1	10	20	/1	20
Fort Laramie	10	2	12	20	5	25
Guernsey	30	6	36	110	28	138
Lingle	10	2	12	30	8	38
Lusk	20	4	24	270	69	339
Pine Bluffs	10	2	12	50	13	63
Torrington	130	26	156	250	64	314
Wheatland	70	14	84	240	62	302
Willwood	10	2	12	10	3	13
Sub-total	500	98	598	1,710	435	2,145
Utah						
Brigham City	580	117	697	2,960	761	3,721
Levan	30	6	36	110	28	138
Murray	1,920	387	2,307	7,820	2,010	9,830
Intermountain Consumer P.A.						
Beaver	100	20	120	570	147	717
Bountiful	1,870	377	2,247	9,180	766	9,946
Bridger Valley Elec. Assn.	600	121	721	2,260	581	2,841
Dixie R.E.A.	610	123	733	2,900	746	3,646
Ephraim	120	24	144	750	193	943
Escalante Valley Elec. Assn.	690	139	829	1,950	502	2,452
Fairview	40	8	48	200	51	251
Fillmore	130	26	156	510	131	641
Flowell Elec. Assn.	310	62	372	80	21	101
Garkane Power Assn.	1,000	201	1,201	3,980	1,024	5,004
Heber	230	46	276	1,290	332	1,622
Holden	20	4	24	80	21	101
Hyrum	150	30	180	770	198	968
Kanosh	20	4	24	80	21	101
Kaysville	120	24	144	560	144	704
Lehi	200	40	240	1,080	278	1,358
Logan	1,130	228	1,358	4,970	1,278	6,248
Meadow	20	4	24	60	15	75
Monroe	50	10	60	310	80	390
Moon Lake Elec. Assn.	3,460	697	4,157	12,770	3,284	16,054
Morgan	120	24	144	530	136	666
Mt. Pleasant	80	16	96	400	103	503
Mt. Wheeler Power, Inc.	2,650	332	1,982	3,440	885	4,323
Oak City	20	4	24	70	18	88
Panguitch	80	16	96	410	105	515
Spring City	20	4	24	60	15	75
U.C.F.A. total	12,840	2,584	15,424	49,260	11,075	60,335
Sub-total	35,370	3,094	18,464	60,150	13,874	74,024
Northern Division total	72,480	10,720	83,200	225,930	42,370	268,300

Customer	Summer Season Accepted	Summer Season Additional	Summer Season Total	Winter Season Accepted	Winter Season Additional	Winter Season Total
Southern Division						
Arizona						
Arizona Elec. Power Coop. /3	3,430	/1	3,430	270	/1	270
Colorado River Indian Agency	80	/1	80	/4	—	—
Electrical District No. 2	1,170	2,537	3,707	470	/1	470
Electrical District No. 6	710	1,186	1,896	/4	—	—
Maricopa County M.W.C.D.	650	1,226	1,876	/4	—	—
Mesa	540	6,269	6,809	/4	—	—
Navajo Tribal Utility Authority	280	1,326	1,606	120	1,980	2,100
Roosevelt Irr. Dist.	580	940	1,520	/4	—	—
Roosevelt Water Conservation Dist.	280	1,140	1,420	/4	—	—
Thatcher	60	/1	60	30	/1	30
Wellton-Mohawk I.D.D.	30	994	1,024	20	693	713
Yuma Proving Ground	50	132	182	30	218	248
Sub-total	3,860	15,750	21,610	840	2,891	3,731
Nevada						
Div. of Colo. River Resources	3,190	/1	3,190	1,820	3,149	4,969
Southern Division total	9,050	15,750	24,800	2,660	6,040	8,700
GRAND TOTAL	81,530	26,470	108,000	228,590	48,410	277,000

/1 Did not request additional peaking power.
/2 Applied for additional peaking power beyond March 1, 1976, deadline.
/3 Includes Mohave Electric Cooperative.
/4 Rejected peaking power.

[FR Doc.76-24713 Filed 8-24-76;8:45 am]

NATURAL SCIENCES ADVISORY COMMITTEE FOR FISH AND WILDLIFE AND PARKS

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Natural Sciences Advisory Committee for Fish and Wildlife and Parks will be held on September 10 and 11 in the Superintendent's Conference Room, Mammoth Hot Springs, Yellowstone National Park.

The purpose of the Advisory Committee is to advise the Secretary of the Interior with regard to the planning and execution of the fish and wildlife research and habitat preservation programs and natural history scientific research programs.

The members of the Advisory Committee are as follows:

Dr. Durward L. Allen (Chairman), Lafayete, Indiana
Dr. A. Starker Leopold, Berkeley, California
Dr. Frank C. Bellrose, Havana, Illinois
Dr. Eric G. Bolen, Sinton, Texas
Dr. Clark Hubbs, Austin, Texas
Dr. Laurence R. Jahn, Washington, D.C.
Dr. F. Wayne King, Bronx, New York
Dr. Willard D. Klimstra, Carbondale, Illinois
Dr. Robert T. Lackey, Blacksburg, Virginia
Mr. John L. Spinks, Jr., (Executive Secretary), Washington, D.C.

Meetings will commence at 9 a.m. on September 10 in the Superintendent's Conference Room, Yellowstone Park Headquarters. Agenda items include:

Introductory remarks by Assistant Secretary Reed
Review of Predator Research Program of the U.S. Fish and Wildlife Service
Review of Cooperative Wildlife Research Unit Program, U.S. Fish and Wildlife Service

The meeting will continue, commencing 9:00 a.m. on September 11, in the Superintendent's Conference Room, Yellowstone Park Headquarters. Agenda items include:

National Wildlife Refuge System—Implementation of Recommendations of 1968 Leopold Report, Fish and Wildlife Service
Fisheries Management Program, Yellowstone National Park, National Park Service
Natural Fire Management, Yellowstone National Park, National Park Service
Status, Management, and Possible Reintroductions of *Canis lupus irremotus*
National Park Service, Fish and Wildlife Service
Consideration of Agenda and Confirmation of Dates for next Committee Meeting

The meetings will be open to the public, but facilities and space to accommodate members of the public are limited, and it is expected that not more than 20 people will be able to attend.

Any member of the public may file with the Advisory Committee a statement in writing concerning any of the matters to be discussed. Persons desiring further information concerning this meeting or who wish to file written statements may contact Mr. John L. Spinks, Jr., Office of the Assistant Secretary of Interior for Fish and Wildlife and Parks, Washington, D.C., at 202 343-6767.

Minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3153, Interior Building, Washington, D.C., and in the Superintendent's Office, Yellowstone Park Headquarters.

Dated: August 19, 1976.

JOHN L. SPINKS, Jr.,
Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc.76-24822 Filed 8-24-76;8:45 am]

TASK FORCE ON THE AVAILABILITY OF FEDERALLY-OWNED MINERAL LANDS

Change of Location of Public Hearings

Notice is hereby given that the location of the public hearings being held by the Department of the Interior's Task Force on the Availability of Federally-Owned Mineral Lands, September 15 and 16 at 9 a.m., has been changed from the Department of the Interior's South auditorium to the auditorium of the Main Interior Building at 18th and C Streets, NW.

Hearings in Salt Lake City, Utah, September 8 and 9, will be held at the Salt Palace, as originally scheduled.

DENNIS SACHS,
Chairman,
Deputy Assistant Secretary.

AUGUST 18, 1976.

[FR Doc.76-24810 Filed 8-24-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

BOULDER 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 Boulder Planning Unit, Forest Service Report Number USDA-FS-R1-04-DES-Adm R1-76-22.

The environmental statement concerns a proposed land use plan for Boulder Planning Unit, Boundary County, Idaho. Approximately 58,000 acres are included in the planning unit of which 55,640 acres are National Forest land. This plan allocates resources and specifies land use prescriptions for National Forest land only. Resource information for lands in other ownership is also included for owners/managers to use as they wish.

With the exception of State or private holdings generally located along the north and west boundaries of the planning unit, most of the National Forest ownership is contiguous. The proposed plan would emphasize timber management for three of the five management units, big game winter range for a fourth, and wildlife and recreation values for a fifth. Critical grizzly bear habitat, which occurs in two management units, would not be developed.

Sizeable undeveloped areas exist within and contiguous to the Boulder unit. Planning processes for this unit included a wilderness evaluation of this total undeveloped acreage. Under the proposed plan for Boulder no portion of the undeveloped areas within this unit would be studied for possible inclusion in the National Wilderness Preservation System. However, much of the unit's currently undeveloped areas, 24,120 acres out of a possible 39,800, would remain in an undeveloped state.

This draft environmental statement was transmitted to CEQ on August 18, 1976.

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

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA Forest Service, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

USDA Forest Service, Bonners Ferry Ranger District, Route No. 1, Box 390, Bonners Ferry, ID 83805.

A limited number of single copies are available upon request to Forest Supervisor Ralph Kizer, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

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

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

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Ralph Kizer, Idaho Panhandle National Forests, P.O. Box 310, Coeur d' Alene, ID 83814.

Comments must be received by October 18, 1976 in order to be considered in the preparation of the final environmental statement.

RALPH D. KIZER,
Forest Supervisor.

AUGUST 18, 1976.

[FR Doc.76-24888 Filed 8-24-76;8:45 am]

SOUTH FOURCHE 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 South Fourche Planning Unit, Ouachita National Forest, Arkansas, USDA-FS-R8-DES (Adm.)-76-08.

This environmental statement concerns the proposed management direction and resource allocation for the South Fourche Unit, Ouachita National Forest.

This draft environmental statement was transmitted to CEQ on August 16, 1976.

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

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Road, NW., Room 804, Atlanta, Georgia 30309.
USDA, Forest Service, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

A limited number of single copies are available upon request to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901.

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

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

Comments concerning the proposed action and requests for additional information should be addressed to Alvis Z. Owen, Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Federal Building, Hot Springs, Arkansas 71901. Comments must be received by October 16, 1976 in order to be considered in the preparation of the final environmental statement.

ALVIS Z. OWEN,
Forest Supervisor.

AUGUST 16, 1976.

[FR Doc.76-24806 Filed 8-24-76;8:45 am]

THOMPSON CREEK LAND USE PLAN FOR THE WHITE RIVER NATIONAL FOREST

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 Thompson Creek Land Use Plan for the White River National Forest. The Forest Service report number is USDA-FS-R2-FES (Adm) FY-76-12.

The environmental statement concerns a proposal to revise the existing multiple use plan for the Thompson Creek area of the White River National Forest.

This draft environmental statement was transmitted to CEQ on August 18, 1976.

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

USDA Forest Service, So. Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.
USDA, Forest Service, White River National Forest, Old Federal Building, P.O. 948, Glenwood Springs, CO 81601.
USDA, Forest Service, Sopris Ranger District, Main & Weant, P.O. Box 248, Carbondale, CO 81623.

A limited number of single copies are available upon request to Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601.

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

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

Comments concerning the proposed action and requests for additional information should be addressed to Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601. Comments must be received by October 18, 1976, in order to be considered in the preparation of the final environmental statement.

JOHN C. SMITH,
Acting Forest Supervisor.

AUGUST 18, 1976.

[FR Doc.76-24840 Filed 8-24-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, September 14, 1976, at 9 a.m. in Room 1096, 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, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, 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 Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export license applications within the Office of Export Administration and recommend areas where improvements can be made.

The agenda for the meeting is:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Status review of parameters format.

(4) Presentation by Donald Sackman: Administrative information system/industry certification.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any ime before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington D.C. 20230, telephone: A/C 202–377–4196.

Dated: August 20, 1976.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-24910 Filed 8-24-76;8:45 am]

PRESIDENT'S EXPORT COUNCIL

Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C., App. I, (Supp IV, 1974), notice is hereby given that a meeting of the President's Export Council Task Force on Export Promotion will be held on September 16, 1976 from 9 a.m. to 4:30 p.m. in Conference Room 3817 of the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230.

The Council Task Force was established in accordance with the provisions of Executive Order 11753 of December 20, 1973 (38 FR 34983) and the Federal Advisory Committee Act. The objectives of the Task Force will be that of reviewing export promotion programs and activities of the Department of Commerce and developing recommendations, including proposals for new programs, in this area for Export Council consideration.

The purpose of this meeting will be to receive the recommendations of the Task Force sub-groups on Data Collection, Communicating with Exporters and Communicating with Customers of Exporters and initiate the preparation of the Task Force report to the Export Council.

The meeting is open to the public and approximately 10 seats will be available on a first-come, first-served basis. Inquiries may be addressed to Mr. Friedrich R. Crupe, Executive Secretary of the President's Export Council, U.S. Department of Commerce, Domestic and International Business Administration, Bureau of International Commerce, Washington, D.C. 20230 (telephone 202–377–2373).

Copies of minutes of the meeting will be available on request.

Any member of the public who wishes to file a written statement with the Task Force may do so before or after the meeting.

Dated: August 19, 1976.

ROBERT G. SHAW,
Acting Deputy Assistant Secretary for International Commerce.

[FR Doc.76-24853 Filed 8-24-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0303; DESI 8564]

HIGH MOLECULAR WEIGHT DEXTRAN 6 PERCENT

Withdrawal of Approval of New Drug Applications

In a notice (DESI 8564; Docket No. FDC-D-333 (now Docket No. 76N-0303)) published in the FEDERAL REGISTER of May 27, 1971 (36 FR 9670), the Commissioner of Food and Drugs offered an opportunity for hearing on his proposal to issue an order withdrawing approval of the following drug products containing dextran, which is used as a blood volume expander. Approval is now being withdrawn, effective September 7, 1976.

NDA 11-951; 6 Percent Dextran; Cooper Laboratories, Inc., 1259 Route 46, Parsippany, NJ 07054.

NDA 9-310; Plasran 6 Percent; Mead Johnson Laboratories, Division of Mead Johnson & Co., 2404 Pennsylvania St., Evansville, IN 47721.

NDA 8-858; Dextran Injection 6 Percent; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, OH 45215.

The basis of the proposed action was that here was lack of substantial evidence that the drug products are effective for certain of their labeled claims, and that the applications had not been supplemented to remove the less-than-effective claims from the labeling.

Neither the holders of the new drug applications nor any other person filed a written appearance of election as provided by the notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.31), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications Nos. 8-858, 9-310, and 11-951 and all amendments and supplements applying thereto, is withdrawn effective September 7, 1976.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: August 16, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-24846 Filed 8-24-76;8:45 am]

MEDICAL DEVICE CLASSIFICATION PANELS

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the formal establishment by the Commissioner of Food and Drugs on August 9, 1976, of the following medical device classification panels specifically authorized by the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) which amended the Federal Food, Drug, and Cosmetic Act ("the act"):

Anesthesiology Device Classification Panel.
Cardiovascular Device Classification Panel.
Dental Device Classification Panel.
Ear, Nose, and Throat Device Classification Panel.
Gastroenterological and Urological Device Classification Panel.
General and Plastic Surgery Device Classification Panel.
General Hospital and Personal Use Device Classification Panel.
Neurological Device Classification Panel.
Obstetrical and Gynecological Device Classification Panel.
Ophthalmic Device Classification Panel.
Orthopedic Device Classification Panel.
Physical Medicine Device Classification Panel.
Radiological Device Classification Panel.

The function of these panels is to review and evaluate data concerning the safety and effectiveness of medical devices currently in use and to advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risk to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the

act; advise on the necessity to ban a device; and respond to requests from the agency to review and to make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

These panels are exempt from section 14 of the Federal Advisory Committee Act as stated in section 513(b)(1) of the act (21 U.S.C. 360c(b)(1)), and these charters will remain in effect until amended or terminated by the Commissioner.

These newly established panels supersede the following device review panels listed with their dates of establishment:

Panel on Review of Anesthesiology Devices, established on October 3, 1972;
Panel on Review of Cardiovascular Devices, established on March 22, 1972;
Panel on Review of Dental Devices, established on October 3, 1972;
Panel on Review of Ear, Nose, and Throat Devices, established on October 15, 1973;
Panel on Review of Gastroenterological and Urological Devices, established on April 16, 1973;
Panel on Review of General and Plastic Surgery Devices, established on October 15, 1973;
Panel on Review of General Hospital and Personal Use Devices, established on October 15, 1973;
Panel on Review of Neurological Devices, established on October 15, 1973;
Panel on Review of Obstetrical and Gynecological Devices, established on April 16, 1973;
Panel on Review of Ophthalmic Devices, established on October 15, 1973;
Panel on Review of Orthopedic Devices, established on April 25, 1972;
Panel on Review of Physical Medicine (Physiatry) Devices, established on October 15, 1973;
Panel on Review of Radiological Devices, established on October 15, 1973.

Dated: August 20, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24850 Filed 8-24-76;8:45 am]

MEDICAL DEVICE CLASSIFICATION PANELS

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the formal establishment by the Commissioner of Food and Drugs on August 10, 1976, of the following medical device classification panels specifically authorized by the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) which amended the Federal Food, Drug, and Cosmetic Act ("the act"):

Clinical Chemistry Device Classification Panel.
Clinical Toxicology Device Classification Panel.
Hematology Device Classification Panel.
Immunology Device Classification Panel.
Microbiology Device Classification Panel.
Pathology Device Classification Panel.

The function of these panels is to review and evaluate data concerning the safety and effectiveness of medical devices currently in use and to advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risk to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the act; advise on the necessity to ban a device; and respond to requests from the agency to review and to make recommendations on specific issues or problems concerning the safety and effectivenes of devices.

These panels are exempt from section 14 of the Federal Advisory Committee Act as stated in section 513(b)(1) of the act (21 U.S.C. 360c(b)(1)), and these charters will remain in effect until amended or terminated by the Commissioner.

Dated: August 20, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-24849 Filed 8-24-76;8:45 am]

[Docket No. 76N-0246; DESI 11730]

MEPERIDINE HYDROCHLORIDE AND PROMETHAZINE HYDROCHLORIDE INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 11730; Docket No. FDC-D-440 (now Docket No. 76N-0246)) published in the FEDERAL REGISTER of July 11, 1972 (37 FR 13563), the Food and Drug Administration (FDA) announced its conclusions that the drug product described below is (1) effective as a preanesthetic medication and as an adjunct to local or general anesthesia; (2) possibly effective for the analgesic claims made for it (because of a lack of evidence that promethazine contributed to the analgesic effectiveness of meperidine) and for use as an antiemetic; and (3) lacking substantial evidence of effectiveness for its amnesic action. The notice also offered an opportunity for a hearing concerning the indication concluded at that time to lack substantial evidence of effectiveness. The FDA has reconsidered the information available with respect to the various analgesic claims for which the product was regarded as possibly effective and it is concluded that the drug is effective as an analgesic (and sedative) in preanesthetic medication. The manufacturer of the drug has deleted from the labeling all of the other possibly effective claims and the indication stated to lack substantial evidence of effectiveness. No person has submitted any data in support of the remaining possibly effective indications and those indications are now reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and sets forth the conditions for marketing the drug for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before September 24, 1976.

The notice that follows does not pertain to the indication stated in the notice of July 11, 1972, to lack substantial evidence of effectiveness. No person requested a hearing concerning it and it is no longer allowable in labeling. Any such product labeled for that indication is subject to regulatory action.

NDA 11-730; Mepergan Injection containing meperidine hydrochloride and promethazine hydrochloride; Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19101.

Wyeth Laboratories supplemented the new drug application to modify the effective indications, to state that the fixed combination was effective as a preanesthetic medication when both analgesia and sedation were indicated. The supplement was approved on June 11, 1973.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for the indications evaluated as possibly effective in the notice of July 11, 1972.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated

supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

As a preanesthetic medication when analgesia and sedation are indicated. As an adjunct to local and general anesthesia.

3. *Marketing status.* a. Marketing of such drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before October 26, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1 (c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), and 21 CFR 300.50, demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subjects to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 24, 1976, a written notice of appearance and request for hearing, and (2) on or before October 26, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 11730, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences—National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 16, 1976.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.76-24848 Filed 8-24-76;8:45 am]

Health Services Administration

ARIZONA

Poll of Physicians; Correction

In FR Doc. 76-23881 appearing at page 34665 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

[FR Doc.76-24925 Filed 8-24-76;8:45 am]

ILLINOIS; PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Intention To Enter Into Agreement

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act (42 USC 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Chicago Foundation for Medical Care for PSRO Area III, which area is designated a Professional Standards Review Organization area in 42 CFR 101.17.

The Secretary has determined that the Chicago Foundation for Medical Care is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Illinois, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area III of the State of Illinois.

As stipulated in its Articles of Incorporation, the principal officers of the Chicago Foundation for Medical Care are:

NAME AND OFFICE HELD

1. Andrew J. Brislin, M.D., President.
2. Maynard I. Shapiro, M.D., Vice President.
3. Audley F. Connor, Jr., M.D., Treasurer.
4. Richard L. Jenson, D.O., Secretary.

The official address of the corporation is 10 South Riverside Plaza, Suite 1558, Chicago, Illinois 60606.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area III of the State of Illinois who objects to the Secretary entering into an agreement with the Chicago Foundation for Medical Care, on the grounds that this organization is not representative of the doctors in such area may, on or before September 24, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 11,657 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area III of the State of Illinois. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Chicago Foundation for Medical Care is representative of such doctors in the area; Provided that pursuant to section 108(b) of Pub. L. 94-182, the provisions of section 1152(f) (42 USC 1320c-1(f)), relating to notification and polling, as described above, shall not apply where: (1) The membership association or organziation representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 18, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-25078 Filed 8-24-76;8:45 am]

INDIANA

Poll of Physicians; Correction

In FR Doc. 76-23883 appearing at pages 34665-34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24926 Filed 8-24-76;8:45 am]

LOUISIANA

Poll of Physicians; Correction

In FR Doc. 76-23884 appearing at page 34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24927 Filed 8-24-76;8:45 am]

NORTH CAROLINA

Poll of Physicians; Correction

In FR Doc. 76-23886 appearing at page 34666 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24928 Filed 8-24-76;8:45 am]

VIRGINIA

Poll of Physicians; Correction

In FR Doc. 76-23888 appearing at page 34667 in the FEDERAL REGISTER of August 16, 1976, the first sentence of the third full paragraph is corrected by adding the words "or osteopathy" immediately following the words "doctors of medicine" and immediately before the word "engaged".

Dated: August 20, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-24929 Filed 8-24-76;8:45 am]

Office of Education

ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

Notice of public meeting of the Advisory Council on Women's Educational Programs.

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the Special Committee on Rural Women of the Advisory Council on Women's Educational Programs will be held from 9 a.m. to 5 p.m. September 10 and 11, 1976, at Mabry Hall of the State Department of Education, Don Gaspar Street, Santa Fe, New Mexico.

The Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) advise the Commission with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the

allocation of any funds pursuant to section 408 of Pub. L. 93–380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; and (d) develop criteria for the establishment of program priorities.

The meeting of the Special Committee on Rural Women will be open to the public. The agenda for the meeting will include (1) a public consultation session on educational equity for rural girls and women in the Southwest, from 9 a.m. to 5 p.m. on September 10 and from 9 a.m. to 3 p.m. on September 11; (2) a Committee discussion of the information gathered at the consultation session from 3 p.m. to 5 p.m. on September 11.

Records will be kept of all Council proceedings and will be available at the Council offices at Suite 821, 1832 M Street, NW., Washington, D.C.

Signed at Washington, D.C., on August 18, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.76–24913 Filed 8–24–76;8:45 am]

ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

Closing Date for Receipt of State Plans and Applications for the Transition Quarter Appropriation

Notice is hereby given that, pursuant to the authority contained in section 842 of the Education Amendments of 1974 (20 U.S.C. 246), State plans or proposals to develop State plans for a program of financial assistance to local educational agencies to assist such agencies in the provision of free public education and applications for reimbursement for the development or administration of such plans or proposals are being accepted by the U.S. Office of Education, that a closing date has been set for the receipt of such plans or proposals and applications for reimbursement from the funds made available for section 842 by Pub. L. 94–303, approved June 1, 1976. In addition, a table of maximum reimbursement entitlements for States is contained in this Notice at paragraph C. The President, by message of July 28, 1976, has requested Congress to rescind the Transitional Quarter appropriation for this program. The Office of Education reaffirms the reasons stated in the President's rescission message as to why this program should not be funded. However, should these funds be available for obligation at the end of the rescission period, it will be necessary to be able to process applications in a timely manner in order to obligate funds by September 30, 1976.

A. *Submission of plans, proposals and reimbursement applications.* A State plan or proposal and a reimbursement application must be received by the U.S. Office of Education on or before September 24, 1976 in order to be considered for funding under the appropriation available for the period July 1, 1976 to September 30, 1976. A proposal to develop a State plan must be accompanied by a schedule of activities which will provide that the State plan developed pursuant to the proposal will be submitted to the Office of Education before July 1, 1977. States shall submit State plans and proposals under cover of a presentation in conformance with applicable regulations in Part 156, Title 45 of the Code of Federal Regulations.

(1) Plans, proposals and reimbursement applications sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.572. An application sent by mail will be considered to be received on time by the Application Control Center if:

(a) The plan, proposal, or reimbursement application was sent by registered or certified mail not later than September 20, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(b) The plan, proposal, or reimbursement application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(2) A plan, proposal, or reimbursement application to be hand delivered must be taken to the Office of Education Application Control Center, Rm. 5673, Regional Office Building Three, 7th & D Streets, S.W., Washington, D.C. Hand delivered plans, proposals, or reimbursement applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Plans, proposals and reimbursement applications will not be accepted after 4:00 p.m. on September 24, 1976.

B. *Program information and forms.* Information and application forms may be obtained from the Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

C. *Table of maximum reimbursement entitlements.* Paragraph (c) (1) of section 842 of the Education Amendments of 1974 establishes a maximum reimbursement schedule for States in the development or administration of State plans meeting the statutory and regulatory requirements under that section. The schedule is based upon the ratio of the population of each State to the population of all the States, with the further limitation that no State shall receive less than $100,000 and no State shall receive more than $1,000,000. The following table sets forth the maximum amount that each State may be reimbursed, based upon appropriations sufficient to pay full entitlements. In the event that the funds appropriated for Section 842 for the period July 1, 1976 to September 30, 1976 are insufficient to satisfy the maximum reimbursement entitlements, as calculated under the provisions of 45 CFR 156.6(a), then the entitlements shall be calculated under the provisions of 45 CFR 156.6 (b), (c), and (d).

State	*Amount*
Alabama	$241,739
Alaska	100,000
Arizona	179,723
Arkansas	175,690
California	1,000,000
Colorado	195,281
Connecticut	220,307
Delaware	110,344
Florida	440,015
Georgia	298,802
Hawaii	122,484
Idaho	119,942
Illinois	574,171
Indiana	317,911
Iowa	210,270
Kansas	184,368
Kentucky	232,053
Louisiana	249,934
Maine	131,030
Maryland	264,934
Massachusetts	339,211
Michigan	484,631
Minnesota	256,203
Mississippi	187,349
Missouri	294,200
Montana	117,356
Nebraska	152,593
Nevada	110,212
New Hampshire	120,468
New Jersey	405,931
New Mexico	134,098
New York	876,379
North Carolina	320,628
North Dakota	112,929
Ohio	555,983
Oklahoma	202,557
Oregon	183,886
Pennsylvania	604,018
Rhode Island	126,165
South Carolina	206,677
South Dakota	114,902
Tennessee	266,896
Texas	611,731
Utah	136,728
Vermont	105,566
Virginia	300,249
Washington	238,189
West Virginia	163,243
Wisconsin	285,172
Wyoming	100,921

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and regulations governing Assistance to States for State Equalization Plans (45 CFR Part 156), published in the FEDERAL REGISTER on August 1, 1975, at 40 FR 32329.

(20 U.S.C. 246)

(Catalog of Federal Domestic Assistance, Number 13.572; Assistance to States for State Equalization Plans)

Dated: August 23, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.76–25050 Filed 8–24–76;8:45 am]

Office of the Secretary

HOME HEALTH CARE

Public Hearings

This is a Notice to announce the plans of the Department of Health, Education, and Welfare to conduct a series of public hearings on issues in home health, and to encourage widespread participation by interested and knowledgeable individuals, public and private groups and organizations, and Federal, State, and local government agencies.

Date: Monday, September 20 and Tuesday, September 21, 1976.
Time: 9 a.m. to 6 p.m.
Place: Americana Hotel, 801 7th Ave. between 52nd and 53rd Streets, New York, New York.
Person to Contact: Mr. Robert O'Connell (212/264–3620), Department of Health, Education, and Welfare, Room 3835 Federal Building, 26 Federal Plaza, New York, N.Y. 10007.

Date: Tuesday, September 21 and Wednesday, September 22, 1976.
Time: 9 a.m. to 6 p.m.
Place: Cibola Inn, 1601 East Division, Arlington, Texas 76010.
Person to Contact: Mr. Jerry Stephens or Mr. Weldon Grundy (214/655–3338), Department of Health, Education, and Welfare, Room 1135, 1200 Main Tower, Dallas, Texas 75202.

Date: Wednesday, September 22 and Thursday, September 23, 1976.
Time: 9 a.m. to 6 p.m.
Place: Atlanta Hilton, Courtland and Harris Streets, Atlanta, Georgia.
Person to Contact: Mr. Joe Juska (404/526–5001), Department of Health, Education, and Welfare, Room 434, 50 Seventh Street, N.E., Atlanta, Georgia 30323.

Date: Thursday, September 23 and Friday, September 24, 1976.
Time: 9 a.m. to 6 p.m.
Place: Holiday Inn, 300 East Ohio Street, Chicago, Illinois.
Person to Contact: Ms. Arline Bredin (312/353–7801), Department of Health, Education, and Welfare, 35th Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Date: Thursday, September 30 and Friday, October 1, 1976.
Time: 9 a.m. to 6 p.m.
Place: Convention Center, 1201 South Figueroa, Room 217–A, Los Angeles, California.
Person to Contact: Mr. Allen Marer (415/556–1961), Department of Health, Education, and Welfare, Room 427 Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

Instructions to Witnesses

Those individuals desiring to comment during a particular hearing should register prior to the meeting either by writing or telephoning the contact person in the city in which they wish to be heard, or they may register in person at the hearing room on either day of the hearing. Preference will be given to those who register in advance but efforts will also be made to hear those who register on either day of the hearing. Persons who register or who submit written comments should provide their name, address, telephone number and, if appropriate, the organization they represent. An organization will be permitted to make an oral presentation at only one of the five hearings. All speakers will be limited to five minutes of oral presentation.

Since the oral presentation for any one person will be limited, written comments are encouraged so that they may be introduced into the record of the hearings. In addition, those who will not be able to attend a hearing may submit written comments to the appropriate contact person no later than the second day of the hearing. It is requested that ten (10) copies of each set of written comments be furnished, but the furnishing of a lesser number of copies will in no way affect the consideration given. Equal consideration will be given to oral and written comments.

Transcripts of the hearings and materials submitted for each hearing will be available for public inspection in the Office of Public Affairs, Room 647D HEW Building (South Portal), 200 Independence Avenue, S.W., Washington, D.C. 20201, and in the Office of Public Affairs in each of the following Department of Health, Education and Welfare Regional Offices:

REGION I:

Room 2411, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

REGION II:

Room 3835, Federal Building, 26 Federal Plaza, New York, New York 10007.

REGION III:

Room 10400, 3535 Market Street, Philadelphia, Pennsylvania 19101.

REGION IV:

Room 434, 50 Seventh Street, NE., Atlanta, Georgia 30323.

REGION V:

35th Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

REGION VI:

Room 1100, 1200 Main Tower Building, Dallas, Texas 75202.

REGION VII:

Room 612C, 601 East 12th Street, Kansas City, Missouri 64106.

REGION VIII:

10th Floor, 1961 Stout Street, Denver, Colorado 80202.

REGION IX:

Room 401, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

REGION X:

Room 6132, Arcade Plaza, 1321 Second Avenue, Seattle, Washington 98101.

Purpose of the Hearings

During the next year, the Department will give further consideration to several important issues in home health care and will take necessary action to modify Medicare (Title XVIII, Social Security Act) and Medicaid (Title XIX, Social Security Act) regulations and further develop Federal policy concerning home health services. Public participation and comment are vital to these Departmental efforts and such participation is invited early in the process.

The Department considers these hearings to be an essential step in the evolution of a more uniform, coordinated, and rational approach to the Federal financing of home health care. Public participation at this stage of the process will contribute to (1) the identification of specific local, State and national concerns regarding home health care, particularly as related to Federal financing efforts; (2) the further clarification of critical issues affecting the development of administrative, regulatory, and legislative approaches; and (3) an increased awareness and sensitivity on the part of the Department to the public's views in this area.

It should be noted that in this volume of the Federal Register, (FR Doc. 76–24915) final Medicaid regulations are issued by the Department, through the Social and Rehabilitation Service, to remove certain restrictions and ambiguities regarding persons eligible to receive home health services and to specify the types of services States must provide (i.e., nursing, home health aide, and supplies and equipment). Provisions related to increased participation by proprietary home health agencies and participation of single-service agencies, which were contained in the notice of proposed rule making of August 21, 1975 (40 CFR 36702), have been omitted from the final regulations and are included as issues for discussion at these hearings.

The hearings are expected to produce a report which will be transmitted to the Secretary (HEW) for use in determing the future direction of Departmental efforts in home health care. Other activities to be undertaken by the Department are: (1) The continuation of efforts to achieve greater uniformity between the Medicare and Medicaid programs, as exemplified by the publication of the revised Medicaid regulations on home health services; (2) the development of a plan for increasing public attention to the problems and issues surrounding home health care, and for fostering media participation in the discussion of the issues; (3) the conduct of in-depth analyses of home health issues, with particular attention to the impact of reimbursement procedures and regulatory requirements on the delivery and utilization of services; (4) the implementation and careful monitoring of HEW-supported home health projects; and, if necessary, (5) the development of legislative proposals covering desired programmatic improvements.

Topics for Discussion

The Department seeks to determine its role in home health care as a part of the broader health care delivery system. In relation to this objective, the following issues are set forth as a general framework for the hearings, and should be viewed as a guide in the preparation of oral and written comments. Participants may choose to comment on as many of the issues as desired, and additional issues may be persented as well. Private citizens who wish to be heard, and who do not choose to speak to any one of the issues listed, are invited to comment on the basis of personal knowledge of, and experience with home health care.

In considering the issues listed below, the following working definition of home health care may be used: services of physicians, nurses, social workers, therapists, home health aides, and medical equipment and supplies, delivered to a patient in his place of residence.

1. *The Significance of Home Health Care.* 1.1 To what extent is home health care an effective alternative to inappropriate institutional care by: a) preventing or delaying institutionalization; b) allowing individuals to be discharged from an institution and still obtain necessary services; or c) providing a less costly alternative to inappropriate institutional care?

1.2 To what extent does home health care prevent illness, disability, and dependency, and promote, maintain or restore health (i.e. what is its effectiveness apart from its impact on institutionalization)?

1.3 What type of individual is more appropriately cared for through home health care?

2. *Community Need for Home Health Services.* 2.1 What is the extent of community need for home health services and other in-home support services such as transportation and escort services, friendly visiting, home-delivered meals, homemaker services, chore services, etc.?

2.2 What effective measures are there to determine a community's overall needs for home health services?

2.3 How can a community determine whether existing resources are adequate to meet those needs?

2.4 If significant unmet need for home health services exists, is this attributable to lack of eligible providers, restrictions on recipient eligibility or restrictions on services that are reimbursable?

2.5 If existing resources do not meet existing needs, what steps should be taken?

2.6 Are there barriers to the acceptance and continued use of home health services by the physician and other providers and by consumers? If so, what are they and how may they be surmounted?

3. *Eligibility for Care and Extent of Coverage under Titles XVIII (Medicare), XIX (Medicaid), and XX (Social Services).* 3.1 What health and support services should be included in the benefits under Titles XVIII, XIX and XX?

3.2 Should home health care be defined in terms of services or patient needs?

3.3 Should income criteria be used to determine eligibility for home health services? If so, what?

3.4 Should there be limitations regarding length of care and type of service? If so, what?

3.5 Should other limitations be placed on federally-financed home health services? If so, what?

3.6 What Federal programs should pay for which kinds of services?

3.7 Should benefits be assured for special groups, for example, the developmentally disabled, the mentally ill, the terminally ill, etc.? If so, how?

4. *Home Health Service Development.* 4.1 What are and should be the roles of Federal, State, and local governments and community agencies and organizations in the initial development, expansion, and operation of home health programs?

4.2 What are and should be the roles of Federal, State, and local governments in planning, and regulating in-home services (including home health services) through the Health Planning Act (Pub. L. 93–641) and other mechanisms?

4.3 What Federal, State, and local government statutory and regulatory restrictions on the development of in-home services (including home health services) currently exist; and what is their impact?

4.4 What is the appropriate role for consumers in the planing and development of home health services?

4.5 Are there better ways to organize and finance home health and other long-term care services than the approaches currently in use?

4.6 Are there barriers to the acceptance, continued use, and financing of home health care from a local perspective? From a State or Federal perspective? If so, what can and should be done to eliminate these barriers?

5. *Home Health Services Delivery.* 5.1 What types of agencies should provide and be reimbursed for home health services (i.e., public, voluntary, private nonprofit, proprietary)?

5.2 What types of personel should provide home health services? How much supervision is needed and by whom? What licensure or certification requirements should be considered for home health personnel?

5.3 How can economy in the organization and distribution of home health resources, and efficiency in the delivery of home health services, be encouraged and maintained? What measures should be taken to contain costs?

5.4 How should home health agencies coordinate their services with other health care providers and existing social and support services in the community such as transportation, home-delivered meals, homemaker services, etc.?

5.5 What other alternatives to inappropriate institutional care should be developed (e.g., day care, day hospitals, etc.)?

5.6 What strategies should be employed to assure adequate coordination of resources and services at the local level, including ways to provide services to medically underserved populations in urban and rural areas?

5.7 How should statewide coordination of such services be attained?

6. *Quality Assurance.* 6.1 Are present health care and administrative standards for home health services delivery appropriate, enforceable and measureable in terms of outcomes of care; If not, how should they be modified;

6.2 What should be the role of mechanisms such as Profesional Standards Review Organizations, or Medical Review in determining the quality of home health services;

6.3 What mechanisms are there to prevent fraud and abuse in home health care?

6.4 Should licensure of home health agencies be considered as a means of assuring quality? If so, at what level should it be carried out?

6.5 Should accreditation of home health agencies be considered at this time? If so, by whom?

6.6 What difficulties do home health agencies participating in both Titles XVIII and XIX encounter in administering the program standards?

6.7 What need is there for basic and continuing technical, health professional and managerial training for all home health agency personnel?

7. *Reimbursement.* 7.1 Can and should reimbursement policies (e.g., those related to eligibility and benefits) be more consistent among all private and public third-party payors?

7.2 Should reimbursement be on a per visit, per diem, prospective, retrospective, or other basis?

7.3 What changes are needed in Federal reimbursement policies to contain costs? Do the policies and procedures of non-governmental reimbursement sources require modification? If so, what modifications?

7.4 Should in-home services under Title XX be mandated on a statewide basis to supplement Title XIX?

7.5 For purposes of Federal reimbursement, who should be permitted to authorize home health services (i.e. physicians, physician extenders, nurse practitioners, others)?

Dated: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

[FR Doc.76-24916 Filed 8-24-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-518-DR; Docket No. N-76-623]

VERMONT

Amendment to Notice of Major Disaster

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary of Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 13, 1976, the President amended his major disaster declaration of August 5, 1976, as follows:

I hereby amend my August 5, 1976, declaration of a "major disaster" for the State of Vermont to read as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from severe storms, high winds, and flooding, beginning about July 11, 1976, and from severe storms and flooding associated with Hurricane Belle, beginning about August 9, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Vermont.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development, Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. E. Paul Hartzell, HUD Region I, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Vermont to have been adversely affected by this declared major disaster:

The counties of:

Addison	Orange
Bennington	Orleans
Caledonia	Rutland
Chittenden	Washington
Franklin	Windham
Lamoille	Windsor

Dated: August 13, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.76–24857 Filed 8–24–76;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N–76–616]

ALTO VILLAGE, ET AL.

Hearing

In the matter of: Alto Village, Lakeside Corporation and East Lakeside Corporation and Maurice H. Blaugrund, President and Director, OILSR No. 0–0425–36–10 (A–B), Docket No. 76–221–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Alto Village, Lakeside Corporation and East Lakeside Corporation and Maurice H. Blaugrund, President and Director, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Alto Villages, located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 16, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on November 16 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 26, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 17, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24858 Filed 8–24–76;8:45 am]

[Docket No. N–76–620]

CAMELOT, UNIT 1 ET AL.

Hearing

In the matter of: Camelot, Unit 1, Camelot of Ruidoso, Inc. and Karl N. Stephenson, President, OILSR NO. 0–3049–36–143, Docket No. 76–196–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Camelot, Unit 1, Camelot of Ruidoso, Inc. and Karl N. Stephenson, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued July 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Camelot, Unit 1, located in Lincoln County, New Mexico, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 13, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washintgon, D.C., on November 1, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 4, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default in the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–24862 Filed 8–24–76;8:45 am]

[Docket No. N–76–618]

EMERALD LAKES, ET AL.

Hearing

In the matter of: Emerald Lakes, James B. Rabold, President and Unidel Corporation, OILSR NO. 0–0258–44–8 and (A–H), Docket No. 76–205–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Emerald Lakes, James B. Rabold, President, and United Corporation, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of Interstate Land Sales Full Disclosure Act (Pub. L. 9–448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued July 27, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Emerald Lakes, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 9, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW, Washington, D.C., on September 27, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before August 30, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24860 Filed 8-24-76;8:45 am]

[Docket No. N-76-621]

GLENDALE YEAROUND, ET AL.

Hearing

In the matter of: Glendale Yearound, The Glendale Corporation and Ludwig Rudel, President, OILSR No. 0-1752-44-84 and (A-C), Docket No. 76-173-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Glendale Yearound, The Glendale Corporation and Ludwig Rudel, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of Interstate Land Sales Full Disclosure Act (Pub. L. 9-448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1745(b)(1) and 1720. 125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Glendale Yearound, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 71456, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 1, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 3, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24863 Filed 8-24-76;8:45 am]

[Docket No. N-76-617]

GREENWOOD ACRES, ET AL.

Hearing

In the matter of: Greenwood Acres, Sincavage Lumber Company and William Sincavage, President, OILSR NO. 0-2360-44-143, Docket No. 76-211-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Greenwood Acres, Sincavage Lumber Company and William Sincavage, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 22, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Greenwood Acres, located in Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on November 10, 1976 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 20, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 17, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24859 Filed 8-24-76;8:45 am]

[Docket No. N-76-622]

GRIZZLEY PARK ET AL.

Hearing

In the matter of: Grizzley Park, Thomas H. Porter and Peggy A. Porter d.b.a. Mountain Retreat Company, OILSR NO. 0-2554-04-38, Docket No. 76-235-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Grizzley Park, Thomas H. Porter and Peggy A. Porter d.b.a. Mountain Retreat Company, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued August 4, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Grizzley Park, located in El Dorado County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 12, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 13, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 15, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 18, 1976.

By the Secretary.

JAMES W. MASTA,
Administrative Law Judge.

[FR Doc.76-24864 Filed 8-24-76;8:45 am]

[Docket No. N-76-619]

SUNSET VALLEY ET AL.

Hearing

In the matter of: Sunset Valley, Sunset Valley, Inc. and Robert Keasler, President, OILSR No. 0-1145-42-7, Docket No. 76-148-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Sunset Valley, Sunset Valley, Inc. and Robert Keasler, President, authorized agent and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 19, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Sunset Valley, located in Cherokee County, Oklahoma, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 27, 1976 in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 12, 1976 at 2 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 14, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 19, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-24861 Filed 8-24-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 29490, 29500, 29565, 29567, 29569; Order 76-8-111]

PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC.

Tariffs Containing New Air Fares Over the North Atlantic; Order of Deferral

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of August, 1976.

On June 28, 1976 and July 22, 1976, Trans World Airlines, Inc. (TWA) and Pan American World Airways, Inc. (Pan American), respectively, filed tariffs establishing new transatlantic air fares for transportation commencing November 1, 1976.[1] Complaints against the TWA proposal have been filed by Pan American, the member carriers of the National Air Carrier Association (NACA), and the Department of Transportation (DOT). All of the complainants have requested that the tariffs be suspended and investigated. TWA filed a consolidated answer to the complaints. Complaints against the Pan American proposal have been filed by TWA, National Airlines, Inc. (National), NACA, and DOT. Pan American has filed an answer.

TWA's Proposal

TWA's proposal would increase first-class fares; establish a single-factor, year-around normal economy-class fare; consolidate the present 14/21-day and 22/45-day excursion fares into a 14/45-day excursion fare with 2 stopovers available at $25 each; retain the present APEX fares but with more liberal conditions; and introduce at the APEX levels a new advance-purchase inclusive-tour fare (APIT) available for 14/21 day travel during the peak season and 7/21 days during the basic (off-peak) season. All group fares—affinity, incentive, and inclusive-tour group fares as well as youth fares—would expire under their own terms effective October 31, 1976. TWA's proposed fare levels and related conditions are detailed in the attachment.[2]

In support of its filing TWA states that its proposal represents a basis for resolving the present impasse in IATA fare negotiations while at the same time providing the traveling public with low-cost scheduled-service fares totally free of group requirements. TWA alleges that reducing the number of fares and the complexity of the fare structure will better enable the individual traveler to comprehend his fare options and to choose the fare that most adequately fills his needs; will eliminate unneeded and uneconomic fares; and, along with some upward adjustment in fare levels, will assist TWA to realize a profitable scheduled-service operation. TWA estimates a pre-tax profit of $5.3 million with the proposed structure versus an $18.6 million loss if the present structure is continued. The carrier estimates a return on investment of 6.7 percent under the proposal versus a negative 3.4 percent under status quo fares. Under both fare assumptions, load factors are expected to improve over the historical 1975 results of 53.6 percent to 57.4 percent under present fares and to 58.7 percent under the proposed fares.

As noted previously all of the complainants request suspension and investigation of TWA's proposal. Pan American, while endorsing TWA's objectives, contends the fare structure will not result in revenue improvement. Pan American argues that the levels for the APEX and the APIT fares are unnecessarily low and that TWA's projected increases in normal economy-fare traffic are unrealistic. The DOT commends TWA for its efforts to revise the structure; however, it alleges that TWA has failed to provide data which is critical to an evaluation of its proposal and that additional supporting data must be submitted.[3] In the event the data required to justify the proposal are not provided, the tariffs should be suspended. NACA alleges that the tariffs should be suspended because the normal

[1] Trans World Airlines, Inc., International Local and Joint Passenger Fares Tariff No. F-11, C.A.B. No. 305, issued June 28, 1975, and Passenger Fares Tariff No. PF-6, C.A.B. No. 70, Air Tariffs Corporation, Agent, issued July 22, 1976.

[2] Filed as part of original document.

[3] DOT filed a motion to submit a late-filed document which is hereby granted.

economy-fare levels are unreasonably high while the APIT and APEX fares are unreasonably low.

In its consolidated answer TWA avers that NACA's contentions, that TWA's proposal would reduce discount fares and that the proposed normal-promotional fare differentials are improper, are false; that the problems raised by DOT cannot be solved now and that TWA's justification is adequate; and that Pan American fails to show that TWA's proposal will not improve revenues and fails to give any other reason for suspension.

PAN AMERICAN'S PROPOSAL

Pan American would increase first-class fares; establish a single-factor, year-around normal economy fare with limited free stopovers and a weekend surcharge; and provide three 14/45-day excursion fares, with no stopovers, at various levels depending on the time of purchase—no advance purchase, 30 days, and 60 days. In addition, Pan American would extend the peak season from three to four months. As with TWA's filing Pan American proposes elimination of all group and youth fares. The proposed fares and related conditions are shown in the attachment.[4]

In support of its filing, Pan American alleges that its proposal presents a logical and simple structure, easily marketable and understandable by sellers and purchasers of air transportation alike; that the structure would be at a compensatory level under prevailing regulatory standards; and that it would enable carriers, after years of unsatisfactory financial results, to offer their services on a reasonably compensatory basis. Pan American forecasts that with status quo fares, its operating profit would be $17 million and its net income would be $3 million producing a rate of return on investment of 6 percent with a 56 percent passenger load factor. The proposed package, Pan American alleges, would increase operating profit to $46 million and improve net income to $19 million for a 12 percent rate of return with a 52 percent seat factor.[5]

Insofar as the proposed scheduled-service fare structure is concerned, NACA's complaint is directed to Pan American's proposed normal economy fares which it alleges are unreasonably high, unjustly discriminatory, and unlawful, and which should be suspended pending investigation. TWA requests suspension on the grounds that the promotional fares proposed are not set at low enough levels and as a consequence significant diversion of scheduled-service traffic to charter services will occur. Comparing Pan American's proposal with its own, TWA estimates that the Pan American fare structure (including the charter-transfer facility) would have the effect of reducing passengers by 16 percent and revenues by 9 percent. A similar comparison with status quo fares, TWA alleges, would reduce passengers by 14 percent and revenues by 3 percent. National objects to Pan American's proposal on the grounds that it does not contain an attractive, low-cost, individual promotional fare. DOT generally supports the various requests for suspension and investigation.

In its consolidated answer, Pan American alleges, in response to the NACA complaint, that at most there is a 9.5 percent variance between total economic costs including a 12 percent return on investment and its proposed normal economy fares and that its proposal will not complicate the fare structure as alleged by TWA.

Upon consideration of the carriers' tariff filings and their justifications in support of those filings, the complaints, answers, and all other relevant matters, we have decided to take no action with respect to the tariff filings at this time. Our action herein is not to be construed as a final action on North Atlantic fare issues for the period after November 1, 1976, but rather an action of deferral in order that our views may be made known on both carrier proposals and with the expectation that additional U.S.-and foreign-carrier proposals will be considered within the IATA framework before a final proposal on North Atlantic fares for the period after November 1 will be submitted. Having in mind our statutory authority to take suspension action against these tariffs at any time in the future, we believe our present action is a proper course of action and that it accomplishes the objective sought by TWA which requests prompt consideration of its proposal to "provide the catalyst that is needed to bring about a sound IATA fare agreement for the transaltantic travel market."

Both Pan American and TWA are to be commended for their efforts to bring about a simplified fare structure, a structure easily understood by both buyers and sellers of air transportation and geared to individual rather than group sales, thus eliminating the potential for abuses which have long been associated with group fares. The present structure of nine distinct fares with varying conditions geared to age, group travel, inclusive tours, and affinity groups would be replaced with a total of five fares all geared to individual travel with charges for stopovers and with appropriate advance-purchase and penalty conditions on usage of the lowest-level fares. We favor the Pan American proposal insofar as it would more closely relate economy fares to costs by limiting the presently unlimited free stopovers to one free stopover in each direction. In addition, no stopovers would be permitted on Pan American's three 14/45-day excursion fares. On the other hand, TWA's 14/45-day excursion-fare proposal would permit 2 stopovers at $25 each, which does not appear unreasonable. Board fare-structure pronouncements have long called for movement in the direction of additional payment for more costly circuitous and broken-journey travel, and we are encouraged by this aspect of Pan American's and TWA's filings.

TWA proposes a 14–22/90-day advance-purchase excursion fare and a 7–14/21-day advance-purchase inclusive-tour fare (APIT). The latter fare, the APIT, has, in our view, the potential of significant diversion from higher-rated fares, especially in the basic season when the fare would be available for a 7- to 21-day duration and require only a 30-day advance purchase and a minimum ground package of only $100. We also have serious reservations about the potential for abuses associated with inclusive-tour fares and question the economic vability of this type fare because of the unresolved question of who puts the ground packages together and at what cost. In sum, while we tend to favor the Pan American structure of excursion fares, the Board would approve promotional fares which include charges for stopovers as TWA proposes as well as such fares with a prohibition on stopovers such as Pan American proposes. Much more economic detail as to the costs associated with TWA's advance-purchase inclusive-tour fare and its significant potential diversion from higher-rated fares would be required before we could consider approval.

Turning now to the proposed fare levels, we shall focus on the two proposals for normal economy fares and advance-purchase fares. By Order 76–6–180, June 18, 1976, the Board suspended tariffs of both Pan American and TWA which proposed increases to normal economy fares in varying amounts. Earlier, by Order 76–4–175, April 30, 1976, the Board disapproved an IATA agreement which would have increased normal fares in greater amounts than unilaterally proposed by the two carriers. The Board's disapprovals were based on the carriers' failure to demonstrate differences in the costs of transporting an economy-class passenger which warranted charging that passenger up to twice the amount charged certain promotional-fare passengers. The Board continues to believe that present normal economy-class-fare passengers pay fares well in excess of the costs of providing the service. In the instant case both Pan American and TWA propose to increase normal economy fares. TWA would charge a $700 round-trip, year-round fare, New York-London, compared with the $584, $626, and $764 currently in effect during the winter, shoulder, and peak seasons, respectively. Based on IATA's North Atlantic normal economy-class traffic distribution in 1974 the average fare to be charged, at today's levels, would equal $652—$48 be-

[4] Pan American also proposes to revise its charter rules and permit the carriage of charter groups on scheduled service. This proposal, called the "charter transfer facility" by Pan American, is being dealt with separately.

[5] Pan American's results include $5.5 million in revenue from charter transfer passengers and the reduction in passenger load factor results from altering its economy class seating configuration from 9 abreast to 10 abreast.

low TWA's proposal.[6] To Rome TWA proposes a normal economy fare of $934 which represents an increase of $77 over present average fares. While Pan American proposes a lesser increase than does TWA, ($674 vs. $700 New York-London round trip), the Pan American proposal represents potential increases even more severe than those proposed by TWA. First, TWA would retain the existing scheme of free stopovers and no weekend surcharges. On the other hand, Pan American, although proposing a New York-London level only $26 below TWA, would limit stopovers and would charge $15 each way for weekend travel.[7] Thus, both proposals would significantly increase normal economy fares which, in our view, are already set well above compensatory levels.

Two additional points warrant comment. Both Pan American and TWA propose a single year-round economy fare and two- rather than three-tier promotional-fare pricing. The Board has in the past approved the carriers' efforts to alleviate the problems of traffic peaking through differentiated seasonal pricing, and full justification from the carriers would be necessary before such a fundamental change could be accepted. Also, both carriers propose significant increases in first-class fares. We have no difficulty with the level of these fares *per se*. However, to the extent that efforts are made to continue to set the level of excess-baggage charges to first-class fares, and significant progress is not made in implementing our decision in Docket 24869, Baggage Allowance Tariff Rules in Overseas & Foreign Air Transportation, we very well might not be able to approve the increases.

The APEX fares proposed by Pan American are set at relatively high levels which indicate that carrier's obvious reliance on the "charter-transfer facility" (see fn. 3) as its lowest scheduled-service promotional fare. Were the charter-transfer facility not implemented, Pan American might well revise its APEX fare proposals. On the other hand, TWA's proposed advance-purchase fares appear abnormally low during the basic off-peak season especially considering the diversion possibilities from other higher-rated fares. In addition, TWA's limitation of use of the APIT and APEX fares to a maximum one-third of weekly economy seats over a given route does not sufficiently restrict usage of these fares. In its justification TWA expects 43 percent of its total passengers to avail themselves of these fares. This 43 percent is probably understated considering the passenger load factors projected. The levels of $325 to London and $402 to Rome during the basic season provide discounts significantly in excess of 50 percent from the proposed normal economy fares and their use would represent savings to the one-way passenger (who would otherwise be required to fly at a normal economy fare) of $25 to London and $65 to Rome. The undercut from normal economy round-trip fares would be twice that, or $50 to London and $130 to Rome. Even if the present normal economy fares were to be retained, TWA's proposed low fares during the basic season would not entirely correct this undercut situation although it would be significantly ameliorated. We further note that TWA's proposal represents only marginal increases over the present below-cost APEX fares to London and reductions from the present APEX fares to Rome.

Neither carrier has made any effort to demonstrate that the various fare levels contained in its proposal are cost-related. Rather each carrier estimates usage of each fare in its proposed structure to produce a bottom-line profit figure for comparison with what it expects with status quo fares. While we are unqualifiedly convinced that the fare structure can and should be simplified with fares geared to individual rather than group travel and with free stopovers curtailed, which both carriers are proposing, we are equally convinced that normal economy fares are already excessive in relation to cost and that promotional fares must be set at levels and must be adequately restricted so as to limit diversion and yield dilution and to insure that only truly generative promotional fares are included in the structure.

In view of the foregoing, we would expect the carriers to take steps to revise their tariff filings sufficiently well in advance of November 1, 1976 or to reach an early agreement within IATA which is acceptable and approved by the Board for implementation on November 1, 1976. In the event that no acceptable agreement is reached within IATA and the carriers do not refile tariffs more in line with our views herein, we will take whatever suspension or other action we may then deem appropriate.

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

It is ordered, That: 1. Action be and hereby is deferred on the complaints filed by Pan American World Airways, Inc., the member carriers of the National Air Carrier Association, and the Department of Transportation in Dockets 29500 and 29490 requesting suspension and investigation of tariffs filed by Trans World Airlines, Inc. proposing transatlantic fares for sale beginning November 1, 1976;

2. Action be and hereby is deferred on the complaints filed by Trans World Airlines, Inc., the member carriers of the National Air Carrier Association, and National Airlines, Inc., and on the request of the Department of Transportation in Dockets 29565, 29567, and 29569, for suspension and investigation of tariffs filed by Pan American World Airways, Inc. proposing transatlantic air fares for sale beginning November 1, 1976; and

3. Copies of this order shall be served on Trans World Airlines, Inc., Pan American World Airways, Inc., National Airlines, Inc., the National Air Carrier Association, the Department of Transportation, and the International Air Transport Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24905 Filed 8-24-76;8:45 am]

[6] Of the total normal economy-fare passengers flying the North Atlantic in 1974, 35 percent, 35 percent, and 29 percent flew in the winter, shoulder, and peak seasons, respectively. The weighted average of such travel, based on present fares, is $652, New York-London round trip.

[7] We do not intend by this, however, to discourage Pan American's commendable movement to limit the number of stopovers which can be made at the normal economy fare without additional payment, and to charge for weekend travel to even out peaking.

[Docket 29519; Order No. 76-8-109]

TRANS WORLD AIRLINES, INC. AND COMPAGNIE NATIONALE AIR FRANCE

Bulk Specific Commodity Rate; Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of August, 1976.

By Tariffs filed July 12, 1976 effective August 11, 1976, Trans World Airlines, Inc. (TWA) proposed to reduce from 61 cents to 57 cents per kilogram the specific commodity rate (SCR) for bulk carriage of horseflesh (Item 0670), tendered in minimum-sized shipments of 5,000 kilograms, from New York to Paris. In addition, by tariffs filed July 28, 1976 for effect August 27, 1976, Compagnie Nationale Air France (Air France) has filed to meet TWA's horseflesh rates citing arguments in support that are substantially similar to TWA's arguments set forth herein.[1] Seaboard World Airlines, Inc. (Seaboard) has filed a complaint requesting suspension and investigation of TWA's proposed revision.

In support of its filing, TWA contends that under present rates for horseflesh, Montreal enjoys a 4-cents-per-pound (8-cents-per-kilogram) advantage over New York; that with single large-sized shipments such as horseflesh,[2] small rate differentials can influence a shipper's routing; and that U.S. carriers are losing a considerable share of this traffic to carriers who move horseflesh via Montreal using a combination of air-truck rates. TWA claims that reducing the present 4-cents differential to approximately 2 cents per pound will provide both a satisfactory alternative rate and service for U.S. shippers and an acceptable revenue return per pallet position for the carrier. The carrier esti-

[1] Trans World Airlines, Inc., Tariff C.A.B. 230, 16th Revised Page 69, and Air Tariff Corporation, Agent, C.A.B. No. 50, 14th Revised Page 234.

[2] TWA states that its single horseflesh shipments have ranged from 30,000 lbs. (13,609 kgs.) to 42,500 lbs. (19,278 kgs.) during the last few months and averaged 34,590 lbs. (15,690 kgs.) during 1975.

mates that, with this rate change, over 10 million pounds of a total 22 million pounds of horseflesh now originating in the U.S. will move through U.S. gateway points rather than through Canadian gateway points.

In support of the reasonableness of the reduction, TWA claims that horseflesh is so dense that the average per pallet return at the proposed rate would be greater than the average per pallet return both from horseflesh carried in charter service and from average-density traffic carried in scheduled service. Thus, the carrier maintains that increased carriage of horseflesh, used as filler traffic on scheduled service, can bring about better use of aircraft space since more pallet positions will be occupied, and can make a significant contribution to recovery of fully allocated costs per flight since fewer tons of higher-rated normal-density traffic would be needed.

In its complaint against the rate, Seaboard states that the reduction is contrary to past Board policy statements concerning undue carrier reliance on heavily discounted SCRs. In addition, while not arguing for a further rate reduction, Seaboard considers that TWA's proposal is senseless as it still leaves Montreal with a rate advantage, will generate no additional traffic, and will achieve nothing but dilution of TWA's revenue since it is clearly uneconomic based upon TWA's own cost data. Lastly, Seaboard contends that TWA has provided no support for its estimates of horseflesh traffic that would be diverted to U.S. gateways from Canada under its proposed rate.

In its reply [3], TWA claims Seaboard's complaint is without merit and should be dismissed. The carrier reiterates its arguments concerning the diversionary and generative aspects of the present and proposed rates, and states that although the reduced rate approximates the present rate available at Boston, horseflesh does not move through Boston due to inadequate freighter and/or wide-bodied capacity. The carrier further argues that Seaboard's charges that the reduced rate is uneconomic are invalid since Seaboard's conclusions were reached based on an analysis of yields and costs per ton-mile; that it is inappropriate to use cost/revenue per ton-mile to measure profitability when the per pallet and per plane-mile revenue can be determined; and that the reduced rate is economic.

Upon full consideration of the tariff filings, the carriers' justifications and reply, Seaboard's complaint, and all other relevant factors, the Board has determined to dismiss the complaint and permit the filings to become effective.

While TWA's arguments are not entirely persuasive and the question is close, the fact remains that there is a large 8-cents-per-kilogram differential between the New York-Paris and Montreal-Paris horseflesh rates and that no carrier has disputed the allegation that movement of horseflesh by air is extremely sensitive to differences in transportation costs. In view of all this, it is plausible that U.S. horseflesh traffic has diverted to Montreal in significant quantities and that some adjustment in the New York rate is needed to regain a share of this traffic for U.S. carriers. TWA's reduction of this differential by half to 4 cents per kilogram falls short of fully equalizing the New York and Montreal rates, but appears to be a reasonable compromise which could aid in regaining some of the lost traffic to U.S. carriage, and could make some contribution to improved U.S. carrier economics.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 1002 thereof,

It is ordered, That: 1. The complaint of Seaboard World Airlines, Inc. in Docket 29519 be and hereby is dismissed; and

2. The motion of Trans World Airlines, Inc. for leave of file an otherwise unauthorized document in Docket 29519 be and hereby is granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-24904 Filed 8-24-76;8:45 am]

[3] TWA's reply was filed with a motion for leave to file an unauthorized document, which will be granted.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

TASK FORCE ON DEMONSTRATION PROJECTS AS A COMMERCIALIZATION INCENTIVE

Cancellation of Meeting

AUGUST 20, 1976.

Notice is hereby given of the cancellation of the meeting of the Task Force on Demonstration Prodjects as a Commercialization Incentive of August 27, 1976, which was published in the FEDERAL REGISTER August 5, 1976, 41 FR 32777.

K. DEAN HELMS,
Acting Advisory Committee Management Officer.

[FR Doc.76-24920 Filed 8-24-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on October 4, 1976, the FM broadcast applications listed in the attached Appendix below will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list below or with any other application on file by the close of business on October 1, 1976, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 1, 1976. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix below by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: August 10, 1976.

Released: August 17, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

BPH-9720 NEW PATTERSON, NEW YORK
PATTERSON BROADCASTING CORP.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 1.11 KW; HAAT: 460 FT.

BPH-9841 NEW BOZEMAN, MONTANA
NORTHERN SUN CORPORATION
REQ: 93.7 MHZ; CHANNEL NO. 229C
ERP: 100 KW; HAAT: 221 FT.

BPH-9862 WORK STATE COLLEGE, PENNSYLVANIA
STATE COLLEGE COMMUNICATIONS CORP.
HAS: 96.7 MHZ; CHANNEL NO. 244A
ERP: 3 KW; HAAT: 78 FT. (LIC)
REQ: 96.7 MHZ; CHANNEL NO. 244A
ERP: .225 KW; HAAT: 919 FT.

BPH-9900 NEW DEMING, NEW MEXICO
LUNA COUNTY B/CTING CO.
REQ: 94.3 MHZ; CHANNEL NO. 232A
ERP: 3 KW; HAAT: 195 FT.

BPH-9902 NEW HILO, HAWAII
CHRISTIAN BROADCASTING ASSOCIATION
REQ: 97.1 MHZ; CHANNEL NO. 246C
ERP: 100 KW; HAAT: -98 FT.

BPH-9903 NEW PALM SPRINGS, CALIFORNIA
GRAY-SCHWARTZ BROADCASTING
REQ: 100.9 MHZ; CHANNEL NO. 265A
ERP: .575 KW; HAAT: 619 FT.

BPH-9904 NEW PANA, ILLINOIS
PANA BROADCASTING CORPORATION
REQ: 100.9 MHZ; CHANNEL NO. 265A
ERP: [illegible] KW; HAAT: 292 FT.

BPH-9907 NEW GILMER, TEXAS
DANIELS BROADCASTING, INC.
REQ: 95.3 MHZ; CHANNEL NO. 237A
ERP: 1.4 KW; HAAT: 420 FT.

BPH-9908 WIVY-FM JACKSONVILLE, FLORIDA
JACKSONVILLE BROADCASTING CORP.
HAS: 102.9 MHZ; CHANNEL NO. 275C
ERP: 29 KW; HAAT: 205 FT. (LIC)
REQ: 102.9 MHZ; CHANNEL NO. 275C
ERP: 60 KW; HAAT: 572 FT.

BPH-9909 NEW EUNICE, LOUISIANA
TRI-PARISH B/CTING CO., INC.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: .2 KW; HAAT: 105.6 FT.

BPH-9910 NEW BERRYVILLE, VIRGINIA
BERRYVILLE MEDIA GROUP
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.

BPH-9913 NEW COLUMBIA, SOUTH CAROLINA
OASIS MEDIA LIMITED
REQ: 103.1 MHZ; CHANNEL NO. 276A
ERP: 3 KW; HAAT: 300 FT.

BPH-9914 NEW JEFFERSONTOWN, KENTUCKY
PUBLICAST COMMUNICATIONS, INC.
REQ: 101.7 MHZ; CHANNEL NO. 269A
ERP: 3 KW; HAAT: 300 FT.

BPH-9915 NEW LEWISBURG, WEST VIRGINIA
LEWISBURG FM BROADCASTERS
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.
(ALLOCATED TO RONCEVERTE, WV.)

BPH-9917 NEW FRANKFORT, MICHIGAN
BENZIE COUNTY COMMUNICATIONS, INC.
REQ: 99.3 MHZ; CHANNEL NO. 257A
ERP: 3 KW; HAAT: 300 FT.

BPH-9918 NEW LAKE VILLAGE, ARKANSAS
JACK A. CARPENTER
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 3 KW; HAAT: 300 FT.

BPH-9920 KBRE-FM CEDAR CITY, UTAH
NEW ERA BROADCASTING COMPANY
HAS: 94.9 MHZ; CHANNEL NO. 235C
ERP: 25.5 KW; HAAT: -160 FT. (LIC)
REQ: 94.9 MHZ; CHANNEL NO. 235C
ERP: 25.3 KW; HAAT: 1681 FT.

BPH-9921 NEW BETHLEHEM, WEST VIRGINIA
RADIO WHEELING, INC.
REQ: 105.5 MHZ; CHANNEL NO. 288A
ERP: 3 KW; HAAT: 300 FT.
(ALLOCATED TO MOUNDSVILLE, WV.)

BPH-9923 NEW ASHLAND, OREGON
FAITH TABERNACLE, INC.
REQ: 101.7 MHZ; CHANNEL NO. 269A
ERP: 3 KW; HAAT: -1298 FT.

BPH-9924 NEW PRENTISS, MISSISSIPPI
JEFF DAVIS BROADCASTING SERVICE
REQ: 98.3 MHZ; CHANNEL NO. 252A
ERP: 1 KW; HAAT: 94 FT.

BPH-9926 NEW MARIPOSA, CALIFORNIA
MARIPOSA BROADCASTING, INC.
REQ: 96.3 MHZ; CHANNEL NO. 242B
ERP: 1.1 KW; HAAT: 2079 FT.

BPH-9928 WTWE MANNING, SOUTH CAROLINA
CLARENDON COUNTY BROADCASTING CO.
HAS: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 160 FT. (LIC)
REQ: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 300 FT.

BPH-9929 KDES-FM PALM SPRINGS, CALIFORNIA
TOURTELOT BROADCASTING COMPANY
HAS: 104.7 MHZ; CHANNEL NO. 284B
ERP: 20 KW; HAAT: -600 FT. (LIC)
REQ: 104.7 MHZ; CHANNEL NO. 284B
ERP: 41.5 KW; HAAT: 543 FT.

BPH-9930 WKPT-FM KINGSPORT, TENNESSEE
HOLSTON VALLEY BROADCASTING CORP.
HAS: 98.5 MHZ; CHANNEL NO. 253C
ERP: 45 KW; HAAT: 960 FT. (LIC)
REQ: 98.5 MHZ; CHANNEL NO. 253C
ERP: 100 KW; HAAT: 1260 FT.

BPH-9931 NEW PRICE, UTAH
EASTERN UTAH BROADCASTING COMPANY
REQ: 98.3 MHZ; CHANNEL NO. 252A
ERP: 3 KW; HAAT: -144 FT.

BPH-9932 NEW LIVINGSTON, MONTANA
YELLOWSTONE B/CTING SERVICES, INC.
REQ: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: -245 FT.

BPH-9934 NEW LAKE ARROWHEAD, CALIFORNIA
ARROWHEAD BROADCASTING CORPORATION
REQ: 103.9 MHZ; CHANNEL NO. 280A
ERP: .087 KW; HAAT: 1486 FT.

BPH-9937 NEW HIGH SPRINGS, FLORIDA
COUNTRY BROADCASTING COMPANY
REQ: 104.9 MHZ; CHANNEL NO. 285A
ERP: 3 KW; HAAT: 300 FT.

BPH-9938 KDUX-FM ABERDEEN, WASHINGTON
ABERDEEN BROADCASTING CO.
HAS: 104.7 MHZ; CHANNEL NO. 284C
ERP: 48 KW; HAAT: 155 FT. (LIC)
(OCEAN SHORES, WASHINGTON)
REQ: 104.7 MHZ; CHANNEL NO. 284C
ERP: 31.3 KW; HAAT: 361 FT.
(ABERDEEN, WASHINGTON)

BPH-9948 NEW GAYLORD, MICHIGAN
MAUMEE VALLEY BROADCASTING ASS'N.
REQ: 95.3 MHZ; CHANNEL NO. 237A
ERP: 1.8 KW; HAAT: 371 FT.

BPH-9949 NEW ST. IGNACE, MICHIGAN
MAUMEE VALLEY BROADCASTING ASS'N.
REQ: 102.3 MHZ; CHANNEL NO. 272A
ERP: 3 KW; HAAT: 300 FT.

BPH-9952 WDAS-FM PHILADELPHIA, PENNSYLVANIA
MAX M. LEON, INC.
HAS: 105.3 MHZ; CHANNEL NO. 287B
ERP: 50 KW; HAAT: 185 FT. (LIC)
REQ: 105.3 MHZ; CHANNEL NO. 287B
ERP: 3.31 KW; HAAT: 872 FT.

BPH-9954 NEW BASTROP, LOUISIANA
HAGAN BROADCASTING, INC.
REQ: 100.1 MHZ; CHANNEL NO. 261A
ERP: 3 KW; HAAT: 182 FT.

BPH-9955 NEW PLYMOUTH, NORTH CAROLINA
RALPH D. EPPERSON
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 2.6 KW; HAAT: 326 FT.

BPH-9956 NEW SLATON, TEXAS
FAITH BROADCASTING SERVICE
REQ: 92.7 MHZ; CHANNEL NO. 224A
ERP: 3 KW; HAAT: 300 FT.

BPH-9957 KWHO-FM SALT LAKE CITY, UTAH
RADIO STATION KWHO
HAS: 93.3 MHZ; CHANNEL NO. 227C
ERP: 37 KW; HAAT: -93 FT. (LIC)
REQ: 93.3 MHZ; CHANNEL NO. 227C
ERP: 13 KW; HAAT: 3650 FT.

BPH-9965 NEW MINEOLA, TEXAS
A-C CORPORATION
REQ: 96.7 MHZ; CHANNEL NO. 244A
ERP: 3 KW; HAAT: 300 FT.

BPH-9967 NEW AZTEC, NEW MEXICO
BASIN BROADCASTING COMPANY
REQ: 94.9 MHZ; CHANNEL NO. 235C
ERP: 30 KW; HAAT: 429 FT.

BPH-9971 KSND SPRINGFIELD-EUGENE, OREGON
STERLING RECREATION ORGANIZATION CO.
HAS: 93.1 MHZ; CHANNEL NO. 226C
ERP: 2.6 KW; HAAT: 81 FT. (LIC)
REQ: 93.1 MHZ; CHANNEL NO. 226C
ERP: 26.7 KW; HAAT: 814 FT.

BPH-9972 KSUM-FM ONTARIO, CALIFORNIA
MEDIA MANAGEMENT CO., INC.
HAS: 93.5 MHZ; CHANNEL NO. 228A
ERP: 3 KW; HAAT: 400 FT. (LIC)
REQ: 93.5 MHZ; CHANNEL NO. 228A
ERP: 3 KW; HAAT: 89 FT.

BPH-9974 KTYL TYLER, TEXAS
OIL CENTER BROADCASTING CO.
HAS: 93.1 MHZ; CHANNEL NO. 226C
ERP: 4.8 KW; HAAT: 380 FT. (LIC)
REQ: 93.1 MHZ; CHANNEL NO. 226C
ERP: 100 KW; HAAT: 468.2 FT.

BPH-9977 NEW ALLIANCE, NEBRASKA
QUIVEN O. FORTNER & ROBERT V. HILL
REQ: 92.1 MHZ; CHANNEL NO. 221A
ERP: 3 KW; HAAT: 300 FT.

BPH-9980 NEW BETHANY, MISSOURI
JERRELL A. SHEPHERD
REQ: 95.9 MHZ; CHANNEL NO. 240A
ERP: 3 KW; HAAT: 300 FT.

BPH-9981 NEW HERMISTON, OREGON
HERMISTON BROADCASTING CO.
REQ: 99.3 MHZ; CHANNEL NO. 257A
ERP: 3 KW; HAAT: 78 FT.

BPH-9996 KLSN BROWNWOOD, TEXAS
G.B.E., INC.
HAS: 99.3 MHZ; CHANNEL NO. 257A
ERP: .7 KW; HAAT: 115 FT. (LIC)
REQ: 104.1 MHZ; CHANNEL NO. 281C
ERP: 25 KW; HAAT: 206 FT.

BPH-10111 NEW HEALDSBURG, CALIFORNIA
CARROLL E. BROCK
REQ: 92.9 MHZ; CHANNEL NO. 225B
ERP: 18 KW; HAAT: 730 FT.

BMPH-14866 WBJH TRENTON, NEW JERSEY
WBUD, INC.
HAS: 101.5 MHZ; CHANNEL NO. 268B
ERP: 20 KW; HAAT: 130 FT. (LIC)
HAS: 101.5 MHZ; CHANNEL NO. 268B
ERP: 20 KW; HAAT: 120 FT. (CP)
REQ: 101.5 MHZ; CHANNEL NO. 268B
ERP: 50 KW; HAAT: 120 FT.

BMPH-14875 KRKE-FM ALBUQUERQUE, NEW MEXICO
GAYLORD BROADCASTING CO., INC.
HAS: 94.1 MHZ; CHANNEL NO. 231C
ERP: 1.6 KW; HAAT: -150 FT. (LIC)
HAS: 94.1 MHZ; CHANNEL NO. 231C
ERP: 3.5 KW; HAAT: -155 FT. (CP)
REQ: 94.1 MHZ; CHANNEL NO. 231C
ERP: 8.14 KW; HAAT: 4104 FT.

BMPH-14876 KNCY-FM NEBRASKA CITY, NEBRASKA
THE KNCY RADIO CORP.
HAS: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: 125 FT. (CP)
REQ: 97.7 MHZ; CHANNEL NO. 249A
ERP: 3 KW; HAAT: 300 FT.

BPED-2146 NEW CHESTER, PENNSYLVANIA
WIDENER COLLEGE
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2210 NEW BAINBRIDGE, OHIO
KENSTON LOCAL SCHOOL DISTRICT
REQ: 88.3 MHZ; CHANNEL NO. 202D
TPO: .01 KW.

BPED-2215 NEW RICHMOND, VIRGINIA
UNIVERSITY OF RICHMOND
REQ: 90.1 MHZ; CHANNEL NO. 211D
TPO: .01 KW.

BPED-2239 NEW PRAIRIE VIEW, TEXAS
PRAIRIE VIEW A & M UNIVERSITY
REQ: 88.3 MHZ; CHANNEL NO. 202C
ERP: 50 KW; HAAT: 402 FT.

BPED-2245 NEW CAROLINA, PUERTO RICO
CHRISTIAN BROADCASTING CORP.
REQ: 90.5 MHZ; CHANNEL NO. 213B
ERP: 25 KW; HAAT: 1861 FT.

BPED-2246 NEW ELKTON, MARYLAND
MARANATHA BIBLE INSTITUTE, INC.
REQ: 88.3 MHZ; CHANNEL NO. 202A
ERP: 3 KW; HAAT: 260.6 FT.

BPED-2248 NEW ELON COLLEGE, NORTH CAROLINA
ELON COLLEGE
REQ: 89.3 MHZ; CHANNEL NO. 207D
TPO: .01 KW.

BRED-2252 WVXU-FM CINCINNATI, OHIO
XAVIER UNIVERSITY
HAS: 91.7 MHZ; CHANNEL NO. 219D
ERP: .065 KW; HAAT: 650 FT. (LIC)
REQ: 91.7 MHZ; CHANNEL NO. 219B
ERP: 6.39 KW; HAAT: 683 FT.

BPED-2254 NEW NEW ORLEANS, LOUISIANA
NEW ORLEANS BAPTIST THEOLOGICAL SEM.
REQ: 90.7 MHZ; CHANNEL NO. 214D
TPO: .01 KW.

BPED-2259 KVIT DALLAS, TEXAS
RESEARCH EDUCATIONAL FOUNDATION, INC
HAS: 91.7 MHZ; CHANNEL NO. 219C
ERP: .78 KW; HAAT: 69 FT. (LIC)
REQ: 91.7 MHZ; CHANNEL NO. 219C
ERP: 100 KW; HAAT: 786 FT.

BPED-2260 NEW MONROE, MICHIGAN
MONROE PUBLIC SCHOOLS
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2261 NEW UTICA, NEW YORK
SYRACUSE UNIV. UTICA COLLEGE BRANCH
REQ: 90.7 MHZ; CHANNEL NO. 214D
TPO: .01 KW.

BPED-2264 NEW BOXFORD, MASSACHUSETTS
MASCONOMET REGIONAL SCHOOL SYSTEM
REQ: 88.3 MHZ; CHANNEL NO. 202A
ERP: .710 KW; HAAT: 19 FT.

BPED-2265 NEW LAKE HAVASU CITY, ARIZONA
ROYAL RANGER TRAILBLAZER OUTPOST #67
REQ: 88.3 MHZ; CHANNEL NO. 202D
TPO: .01 KW.

BPED-2267 WKTL STRUTHERS, OHIO
BD. OF EDUC., STRUTHERS CTY SCH. DIST
HAS: 90.7 MHZ; CHANNEL NO. 214A
ERP: .91 KW; HAAT: 26 FT. (LIC)
REQ: 90.7 MHZ; CHANNEL NO. 214A
ERP: 14.9 KW; HAAT: 23 FT.

BPED-2272 NEW SODUS, NEW YORK
SODUS CENTRAL SCHOOL
REQ: 89.5 MHZ; CHANNEL NO. 208D
TPO: .01 KW.

BPED-2276 NEW LANCASTER, PENNSYLVANIA
LANCASTER BIBLE COLLEGE
REQ: 90.3 MHZ; CHANNEL NO. 212A
ERP: 1.06 KW; HAAT: 87.5 FT.

BPED-2281 KAVS THIEF RIVER FALLS, MINNESOTA
AREA VOCATIONAL TECHNICAL INSTITUTE
REQ: 90.1 MHZ; CHANNEL NO. 211A
ERP: 1.8 KW; HAAT: 82 FT.

BPED-2359 KDVS DAVIS, CALIFORNIA
UNIVERSITY OF CALIFORNIA
HAS: 91.5 MHZ; CHANNEL NO. 218D
TPO: .01 KW. (LIC)
REQ: 90.3 MHZ; CHANNEL NO. 212B
ERP: 5 KW; HAAT: 149 FT.

BMPED-1291 NEVL MEMPHIS, TENNESSEE
SOUTHERN COMMUNICATION VOLUNTEERS
HAS: 90.3 MHZ; CHANNEL NO. 212D
TPO: .01 KW. (CP)
REQ: 89.9 MHZ; CHANNEL NO. 210C
ERP: 6.3 KW; HAAT: 279 FT.

[FR Doc.76-24896 Filed 8-24-76;8:45 am]

[Docket No. 20824; File No. BPH-9300]

WILLIAM HENRY BRITT

Designating Application for Hearing on Stated Issues

In reference application of William Henry Britt, Lubbock, Texas, Docket No. 20824, File No. BPH-9300, Requests: 102.5 MHz, Channel 273; 29.15 kW; 436 feet; for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned application of William Henry Britt (Britt) for a construction permit for a new commercial FM broadcast station at Lubbock, Texas.

2. Analysis of Britt's financial documentation indicates that he will require $85,663 to construct his proposed facility and operate for one year, itemized as follows:

Equipment	$15,876
Loan curtailments	5,843
Interest on loan	4,674
Miscellaneous	9,290
Working capital (1st-yr.)	49,980
Total	85,663

To meet this requirement, Britt intends to rely upon existing capital, a bank loan, and anticipated revenues. However, it does not appear that these funds are, in fact, available to him. Since Britt's balance sheet fails to segregate current liabilities from long-term liabilities, as required by the instructions in section III of the application (FCC Form 301), the staff has been unable to determine the amount of capital available. Although Britt has indicated his intention to apply for a bank loan from the Lubbock National Bank, he has submitted no letter of commitment from that bank nor from any other financial institution. Finally, Britt has not submitted any advertising commitments in support of his intent to rely upon anticipated revenues. Rather, he has submitted a letter from a Webster and Harris Advertising Agency of Lubbock stating that it would consider placement of advertising for its clients on Britt's proposed station. However, such a letter from an advertising agency in lieu of advertising commitments, as required by the instructions to section III of the application, is insufficient. Therefore, a financial issue will be specified.

3. In addition, Britt has failed to comply with the requirements of the "Primer on the Ascertainment of Community Problems by Broadcast Applicants", 27 FCC 2d 650, 21 RR 2d 1501 (1971). Based upon the information contained in Britt's demographic material, it does not appear that he has surveyed leaders of all significant groups within his proposed community of service. "Voice of Dixie, Inc.", 45 FCC 2d 1027, 29 RR 2d 1127 (1974). For example, Britt states that the "principal business opportunities in Lubbock county are centered around agricultural business," including farming and farm related industries (e.g., farm machinery, fertilizer, and related farm products.) However, Britt has consulted no agricultural leaders nor leaders of farm related industries. In addition to Britt's omission of agricultural leaders, he has also excluded industrial leaders, religious leaders, professional leaders, and leaders of students and youth despite the fact that Lubbock is the home of Texas Tech University, one of Texas' largest universities. Further, it does not appear that all of Britt's community leader consultations were conducted by principals or management-level employees, as required by question and answer 11(a) of the "Primer".

4. In his application, as amended, Britt has ascertained the existence of 13 community problems. However, his entire programming proposal in response to these problems consists of one 15-minute program entitled, "Twist the Action"

which will be broadcast three times daily, three days per week. Britt's attempt to correlate one program with all of Lubbock's ascertained community problems and needs is so vague and overly general as to reflect but a token effort to comply with the requirements of the "Primer Southeast Arkansas Radio, Inc.," 47 FCC 2d 835, 30 RR 2d 769 (1974). Therefore, a "Suburban" [1] issue will be included.

5. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

6. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether William Henry Britt is financially qualified to construct and operate as proposed.

2. To determine the efforts made by William Henry Britt to ascertain the community needs and problems of the area to be served and the means by which the applicant proposes to meet those needs and problems.

3. To determine, pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

7. *It is further ordered*, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

8. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: August 9, 1976.

Released: August 17, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-24895 Filed 8-24-76;8:45 am]

[1] Suburban Broadcasters, 30 FCC 1021, 20 RR 951 (1961).

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01084	The West Hartlepool Steam Navigation Company Limited: *Granteyhall.*
01088	Schulte & Gruns, Kingstrasse 2: *Lucie Schulte.*
01150	Chevron Transport Corporation: *Elmer R. Peterson.*
01181	Smith Sorensen Tankrederi A/S: *Orion.*
01252	Aktieselskapet Havtor: *Havprins.*
01425	Johnston Warren Lines Limited: *Nova Scotia.*
01817	The Clan Line Steamers Limited: *Clan MacLeod.*
02013	Granges AB: *Adak, Anaris, Arvidsjaur, Raunala, Avafors, Aurivaara.*
02146	Pittston Marine Transport Corporation: *Cortland.*
02198	The Peninsular and Oriental Steam Navigation Company: *Busiris.*
02295	The Great Eastern Shipping Co., Ltd.: *Jag Anand.*
02473	Irish Shipping Ltd.: *Irish Stardust.*
02492	Interstate Oil Transport Co.: *Ocean 250, Ocean 135, Ocean 115, Ocean 96, Ocean 90, Ocean 80, Interstate No. 52, Interstate No. 53, Interstate No. 50, Interstate No. 48, Interstate No. 34, Interstate No. 30, Offshore 2401, Argoil 185, Interstate No. 19, Interstate No. 12, Interstate No. 17, Argoil 150, Argoil 160, Argoil 130, Chem Ten, Chesapeake, Interstate No. 8, Interstate No. 1, Argoil 105, R.T.C. No. 51, Interstate 54, Interstate 55, Interstate 36, Elk River, Interstate 72, Ocean States, Ocean 190, Interstate 71, Atlantic 28, York River, Ocean 155, Tide 119, Interstate 37, Interstate 35, Argoil 175, Interstate 70, Interstate 29, Ocean 255, Interstate 38.*
02715	Allied Towing Corporation: *Hot Oil 17, ATC-141.*
02831	Ednasa Company Ltd.: *Robina, Lorina, Louisana, Lamaria, Lindana, Lalinda, Lisana, Lennia, Losina, Larina, Lafumina, Lynda, Lissa, Larissa, Lasinda, Lilliana.*
02889	Showa Kaiun K.K.: *Tonen Maru.*
02952	Blandford Shipping Co., Ltd.: *Bamford, Bedford, Castleton Bulford Bideford Boxford.*
03068	Pacific Shipping Company Limited: *Loi Kim.*
03214	Saleninvest AB: *Sea Song.*
03293	Maritime Fruit Carriers Company Limited: *Mandarincore.*
03447	K.K. Kyokuyo: *Kyo Maru No. 15, Kyo Maru No. 23, Kyo Maru No. 25.*
03477	Nissui Kaiun K.K.: *Seiko Maru, Soyokaze Maru, Toko Maru, Hakukaze Maru, Matsukaze Maru, Hokko Maru, Asakaze Maru.*
03508	Taiyo Gyogyo K.K.: *Azumar Maru No. 8.*
03513	Tanda Sangyo Kisen Kabushiki Kaisha: *Seiran Maru.*
03521	Tokushima Kisen Kaisha, Ltd.: *Tokusei Maru.*
93595	Artagan Shipping Company Limited: *Artiba.*
03645	Tidewater Morgan City Inc.: *Tide Mar 21, Tide Mar 20.*
03692	Marmac Corporation: *WGH-14.*
04358	Holland Bulk Transport B.V.: *Ameland.*
04503	Okutsu Suisan K.K.: *Zenkomaru No. 18.*
04569	Marasia S.A.: *Pacifico.*
04767	Texaco Inc.: *Texaco Illinois.*
04768	Texaco Overseas Tankship Limited: *Texaco Durham.*
04770	Texaco Panama Inc.: *Texaco Missouri.*
05098	EXXO Tankers Inc.: *ESSO Libya.*
05265	Oceanostar Compania Maritima S.A.: *Valencia.*
05526	Eastern Shipping Lines, Inc.: *Eastern Meteor.*
05578	Baltic Shipping Company: *Alapajevkles, Arkhangelskles, Nikolai Krylenko, Nikolai Tjuljpin, Iuljam Foster, Alexandr Pushkin, Chernyakhovsk, Krasnogvardejsk, Krasnovraljsk, Olyga Ulyanova Dmitrij Ulyanov, Karachaevo Cherkessija, Vereya, Ilovaisk, Akademik Rikachev, Alecandr Ulianov, Valerian Kuibyshev, Nikolaj Pogodin.*
06074	Quinto Navigation Corporation: *Island Engineer.*
06950	Syra Compania Maritima S.A.: *Syra.*
06952	Far East Shipping Co., Ltd.: *Mercury Gas.*
07141	Miyagi Ken: *Miyagi Maru.*
07374	Ocean Tramping Company Limited: *Mingchang, Nebula, Weili, Kailok.*
07817	Yick Fung Shipping and and Enterprises Co. Ltd.: *China Sea, Steed.*
07990	Partrederiet Proctor VI: *Pacific Proctor.*
08176	Esso Italiana Spa.: *Esso Napoli.*
08414	I.F.R. Services Limited: *Newcastle Clipper, Labrador Clipper, Lapland.*
08765	Landmo Shipping Services Limited: *Bonnydale.*
09074	Zuito Shipping Co., Ltd.: *Toko Maru.*
09164	Aquanaves, C.A.: *Aquanaves II.*
09206	Societe Navale Chargeurs Delmas Vieljeux: *Delchim Bearn.*
09580	Tiana Shipping Co., Ltd.: *Sea Trader.*
09623	Sea Goblin, Inc.: *Sea Goblin.*
09997	Robina Shipping Co., S.A.: *Wisteria, Sunny Pioneer, Atlantic Pioneer.*
10260	Hollywood Marine, Inc.: *T-220.*
10332	Fukujin Kisen Kabushiki Kaisha: *Matsufukujin Maru.*

Certificate No.	Owner/operator and vessels
10369---	Monarch Cruise Lines, Inc.: *Monarch Sun.*
10675---	Gilbralter Strait Shipping Inc.: *Fedtrade.*
10772---	Daiwa Line S.A.: *Michaelson Queen, Count Albatross, Atlantic Albatross, Tokelau.*
11011---	Power Corporation of Canada Ltd.: *Eskimo.*
11065---	C & M Shipping Co., S.A.: *Gloria Takeshi.*
11271---	China Merchants Steam Navigation Co. Ltd.: *Hai Hui.*
11286---	Binion Marine Service, Inc.: *ETT-105.*
11291---	Hull Investments Limited: *Manoora, Kanimbla.*
11498---	Herald Shipping Co., Ltd.: *Gomasa*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24771 Filed 8-24-76;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Issuances

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01016---	C. Clausen Dampskibsrederi A/S: *Linda Clausen, Helene Clausen.*
01233---	Buries Markes Ltd.: *La Selva.*
01330---	Shell Tankers (U.K.) Ltd.: *Limopsis.*
01425---	Johnston Warren Lines Ltd.: *Tropic.*
01426---	Kuwait Shipping Co.: *Ibn al Haitham, Ibn al Nafees, Ibn al Atheer.*
01449---	The Cairn Line of Steamships Ltd.: *Saxon Prince.*
01613---	Reardon Smith Line Ltd.: *Eastern City.*
01755---	Hugo Stinnes: *Pampero.*
01758---	Chotin Transportation, Inc.: *NMS 1802.*
01805---	Suisse Atlantique Societe d'Armement Maritime S.A.: *Los Andes, Lavaux.*
01889---	Gazocean Armement: *Pythagore.*
01935---	Partnership between Steamship Co. Svendborg Ltd. and Steamship Co. of 1912 Ltd.: *Anders Maersk, Arild Maersk.*
02145---	Memphis Boat Refueling Service, Inc.: *CE 62.*
02344---	Empresa Lineas Maritimas Argentinas S.A.: *Catamarca II.*
02453---	The Turnbull Scott Shipping Co. Ltd.: *Sandgate.*
02462---	Hellenic Lines Ltd.: *Hellenic Patriot.*
02497---	Transworld Drilling Co.: *Transworld Rig 64.*
02560---	Aethalia Shipping Corp.: *Island Sky.*
02654---	Neuenfelder Reederei H. J. Wesch kg.: *Scol Trident.*
02836---	The Scindia Steam Navigation Co., Ltd.: *Jalaputra.*
02844---	Gloria Bahama, Ltd.: *Albion.*
02877---	Nippon Yusen Kabushiki Kaisha: *Kasuga Maru.*
02975---	Venture Shipping (Managers) Ltd.: *Summit Venture, American Venture.*
02977---	J. Ray McDermott & Co., Inc.: *McDermott Tidelands 010.*
03434---	Hoko Suisan K.K.: *Yashima Maru, Ebisu Maru, Shintoku Maru No. 26.*
03482---	Ryutsu Kaiun K.K.: *Mikata Maru.*
03484---	Sanko Kisen K.K.: *Eastern Dale, World Eminence.*
03517---	Tokyo Kaiji Kabushiki Kaisha: *Yucaly.*
03564---	A/S Mosvolds Rederi: *Mospoint.*
03680---	Murphy Pacific Marine Salvage Co.: *Gear.*
03692---	Marmac Corp.: *KS-101, Jane Houghland, JGH-33, WGH-10, RWH-43.*
03836---	Splosna Plovba: *Kranj.*
93878---	Ingram Barge Co.: *Sam M. Fleming.*
03918---	Mobile Shipping & Transportation Co.: *Mobil Hawk.*
04150---	Jan C. Uiterwyk Co., Inc.: *Susie U, Vera U.*
04172---	Eklof Marine Corp.: *E-16, E-24.*
04199---	Commercial Oil Carriers Ltd.: *Solana.*
04228---	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Mineral Belgium, Mol.*
04285---	Western Contracting Corp.: *Western Condor.*
04417---	Howaldt Schiffahrts-K.G.: *Paula Howaldt Russ.*
04768---	Texaco Overseas Tankship Ltd.: *Texaco London.*
04961---	Solar Navigation Corp.: *Andromachi.*
05098---	Esso Tankers Inc.: *Esso Saint Petersburg.*
05520---	Union Carbide Corp.: *USL-494, USL-601, USL-498.*
05559---	Maryland Shipbuilding & Drydock Co.: *Valerie F.*
05624---	Perusahaan Pertambangan Minyak Dan Gas Bumi Negara: *Permina Samudra XIV.*
05736---	Flota Cubana de Pesca: *Rio Contra Maerstre, Rio Mayabeque.*
06248---	Commercial Corp. "Sovrybflot": *Kvant.*
06290---	Dockside Elevators, Inc.: *S-24, Mr. Bert.*
06389---	Sears Oil Co., Inc.: *Rome Sears.*
06721---	Kooil Industrial Co. Ltd.: *O Dae Yang No. 202, Endeavourers No. 7.*
06806---	Korea Marine Transport Co. Ltd.: *Royal Sapphire.*
06818---	Globus Reederei GMBH Hamburg: *Sa Sabie.*
06995---	Novorossisk Shipping Co.: *Apsheron.*
06996---	Akita Senpaku K.K.: *Akitsushima Maru.*
07019---	Allied Shipping International Corp.: *Astron.*
07307---	Nagashiki Kisen K.K.: *Kamishio Maru.*
07458---	Galissa Compania Maritima S.A.: *Galissa.*
07640---	Exxon Co. U.S.A.: *CTCO 194-25, CTCO 195-25, TTC-1, Exxon Barge No. 312, Exxon Barge No. 313, Exxon Barge No. 333.*
08390---	The Interlake Steamship Co.: *James R. Barker.*
08584---	The Mogul Line Ltd.: *Jana Priya, Jana Vijay.*
08931---	American River Transportation Co.: *Ardyce Randall.*
08990---	Compagnie Navale des Petroles: *Rigel, Cassiopee, Betelegeuse.*
09094---	Lambert Brothers Shipping Ltd.: *Temple Hall.*
09096---	Dong Won Industrial Co. Ltd.: *Dong Won No. 51.*
09206---	Societe Navale Chargeurs Delmas-Vieljeux: *Lucien Delmas.*
09408---	Partenreederei M.S. Woermann Sanaga: *Sanaga.*
09724---	Kagaya Matsuei: *Yachiyo Maru No. 26.*
09785---	San Diego Transportation Co.: *450-5.*
09792---	United Fair Agencies Ltd.: *Grand Universe, San Polluz.*
10260---	Hollywood Marine Inc.: *B-524.*
10314---	Edipsos Compania Naviera S.A.: *Kallimachos.*
10454---	West Coast Carriers Ltd.: *Fortune Carrier.*
10552---	F. Laeisz Maritime & Trading Co., Ltd.: *Josefa, Eva Maria, Vanessa.*
10768---	South Caribbean Shipping Co., Ltd.: *Stavros, G.L.*
10769---	North Caribbean Shipping Co., Ltd:. *Tina.*
10771---	Alexandria Shipping and Navigation Co.: *Al Anoud, Kuwait, Gada.*
10813---	Benitses Shipping Corp.: *Vassilis.*
10834---	Transports, Inc.: *Southern Isle.*
11065---	C & M Shipping Co. S.A.: *Glory Universe, Glory Friendship.*
11082---	Interocean Management Corp.: *Maryland.*
11211---	Princeland Maritime Corp.: *Euro Princess.*
11256---	Field-Swire Drilling Co.: *Pacific Driller.*
11267---	Hae Woi Industrial Co. Ltd.: *Espoir No. 103, Espoir No. 105.*
11276---	Petula Shipping Co. Ltd.: *United Fortune.*
11277---	Caribe Tugboat Corp.: *MM 366.*
11289---	Sajo Industrial Co. Ltd.: *Oryong No. 31.*
11301---	SBB, Stahl-Und Blech-Bau GmbH: *Matthias III.*
11339---	Eastern Street Maritime Co. S.A.: *Eastern Street.*
11345---	Norfolk Shipping Ltd.: *Aster.*
11351---	Sea Containers (Cyprus) Ltd.: *Deckship Arabella.*
11361---	Boston Tow Boat Co.: *Harold Smith.*
11372---	Crowley Maritime International S.A.: *Barge H-32.*
11384---	Frendo A/S: *Frendo Carib.*
11409---	Himmelman Shipping Ltd.: *O.K. Service.*
11421---	Karavos Compania Naviera S.A. Panama: *Swede Tonia.*
11422---	Dorycnium Shipping Corp.: *Swede Pride.*
11449---	Mare Shipping Co. Ltd.: *Eurco Faith.*
11462---	Reinante Oceanica Armadora S.A. Panama: *St. Vincent.*
11466---	Lee-Vac, Ltd.: *S & H No. 1, GW 50, Z-61, H & S No. 3, H & S No. 2, GW 701, Z-71, Z-112, Z-110, Z-111, UMI 1807B, Z101, Minnesota, Z-120, Z-122, Domar 2502, Ceco 2501, Domar 2503, Domar 6501.*
11477---	Jackson Towing Co., Inc.: *LRL-109.*
11479---	Marvel Shipping Co. S.A.: *Angelina.*
11482---	IO Shipping Co. S.A.: *IO.*
11486---	Oriental Central America Lines Inc.: *Hongkong Success.*
11487---	Selefkos S.A. of Panama: *Arta.*
11488---	Poong Yang Industrial Co.: *Poong Yang No. 2.*

Certificate No.	Owner/operator and vessels
11490	United Overseas Container Services Inc.: *Oriental Statesman.*
11492	Wakamatsu Kaiun Kabushiki Kaisha: *Wakatake Maru.*
11493	A/S Shipping Enchant: *Emanuel.*
11496	Transworld No. 3 Tanker Services Inc.: *Brazilian Faith.*
11497	Alto Pool S.A.: *Dimitris P. Lemos.*
11498	Herald Shipping Co. Ltd.: *Gomasa.*
11499	Firstmark Maritime Co. Ltd.: *Michelle F.*
11500	Reina Guilermina Compania de Navegacion S.A. Panama: *Apex.*
11502	Transportes Del Mar: *Isla de San Andres.*
11504	Transportes de Liquidos SNA Andres Ltd.: *Jacqueline.*
11505	Tokuei Kaiun Yugen Kaisha: *Tokuei Maru No. 27.*
11506	Pacific Bulk Carriers: *Argosy Pacific.*
11507	Gavaly Caribe S.A.: *Marissa I.*
11508	Endymion Shipping Corp.: *Gaudeamus.*
11509	Southern Seas Navigation Ltd.: *Messiniaki Floga.*
11510	Taeping Overeas Services, Inc.: *Taeping.*
11511	Seth Shipping Corp.: *Jade.*
11513	Sissy Steamship Co. Ltd.: *Archipelagos.*
11515	Palmer Barge Line Inc.: *APT 300, APT 301.*
11517	Tunegoro Shoji: *Daiki Maru No. 8.*
11520	Noah Naviera Corp. S.A.: *Seed Leaf, Fortune Leaf.*
11522	Green Mariner Corp.: *Gladiator.*
11523	Irano-British Ship Service Co. Ltd.: *Shoush, Semnan, Shadgan, Minab, and Nokran.*
11524	St. Godric's Shipping Co. Ltd.: *Caricom Adventurer.*
11526	Sockabo Transports Inc.: *REB 1901, and REB 1902.*
11528	Stolt Spirit Inc.: *Stolt Spirit.*
11529	Ssangyong Shipping Co. Ltd.: *Gayong.*
11530	Glory Maritime Ltd.: *Aquaglory.*

By The Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24912 Filed 8-24-76;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Gladys C. Moreno, 215 SW. 17th Avenue, Miami, FL 33135.

Eui Man Kim, 147-30 38th Avenue, Apt. No. 1D, Flushing, NY 11354.

Air Sea Forwarding Corp., 115-52 Lefferts Blvd., Jamaica, NY 11420, Officers: Joseph Cacici, President/Treasurer, Donna M. Cacici, Vice Pres./Secretary, Bernard Mazzocchi, Vice Pres./Traffic, Ruth Loeffler, Vice Pres./Traffic.

Bratt International (Thomas W. Bratt, dba), 406 Waters Street, Baltimore, MD 21202.

By the Federal Maritime Commission.

Dated: August 20, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-24911 Filed 8-24-76;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 271]

ARKANSAS POWER & LIGHT CO.

Order Granting Withdrawal of Application for Change in Land Rights and Vacating Order Providing for Hearing

AUGUST 18, 1976.

On October 30, 1972, Arkansas Power & Light Company (AP&L), licensee for the Carpenter and Remmel Project No. 271,[1] filed an application for change in land rights at Project No. 271. The application sought Commission approval of a proposed conveyance of 100 acres of Electric Island and 16.2 acres of Little Goat Island, both located in the project's Lake Hamilton reservoir, to the City of Hot Springs, Arkansas. The City in turn proposed to grant a 50 year lease for the two islands to a private individual, who planned extensive development of a resort/recreational complex. AP&L stated in its application that, following Commission approval of the conveyance, it would amend Exhibit R of its application for new license for Project No. 271, currently pending before the Commission, to reflect the proposed new recreational development at Electric and Little Goat Islands.

Before us now is a motion filed on April 7, 1976, by which AP&L seeks to withdraw the above-described application. For the reasons stated below, and subject to the conditions imposed by this order, we find it appropriate to grant AP&L's motion.

PROCEDURAL BACKGROUND

The confusing procedural background of the instant application dates back to February 4, 1970, when AP&L filed its application for new major license for Project No. 271.[2] Subsequently, AP&L filed a number of applications for change in land rights, including that which AP&L now seeks to withdraw. On September 10, 1973, the Commission issued three orders, which approved changes in land rights at Project No. 271 to allow the construction and maintenance of effluent outfall lines for a motel complex and two residential subdivision.[3]

In a fourth order issued on September 10, 1973, we expressed our concern with "the practice of allowing increased use of project lands and waters on a piecemeal basis rather than being related to a comprehensive consideration of the capacity of the project lands and waters to serve known and forseeable [sic] public uses * * *."[4] Pursuant to that concern, we noted the pending application for change in land rights involving the transfer of portions of Electric and Little Goat Islands to the City of Hot Springs, and referred that application to hearing with other existing applications for easements or other permission to utilize project lands and waters, so that they could be considered in light of a comprehensive analysis of the project lands and waters as a whole.

DISCUSSION

In support of its motion to withdraw the Electric and Little Goat Islands application, AP&L states that the time limits of its offer to donate the property to the City of Hot Springs have expired, and further, that the City has informed AP&L that financing for the proposed development is no longer feasible and, for the foreseeable future, cannot be obtained. In view of these allegations, and in view of the substantial opposition to the proposed development voiced by local citizens following public notice and the uncertain effect of such development on a fish hatchery maintained by the Arkansas Game and Fish Commission near Electric Island, we have no objection to withdrawal of the application.

In an order issued September 9, 1975, we considered an application for change in land rights at Project No. 271, filed subsequent to the order providing for hearing.[5] We decided that the original hearing order encompassed only applications involving project lands and waters then before the Commission, and that applications filed after September 10, 1973, would be considered in light of the underlying policy of the September 10, 1973 hearing order, to determine whether consolidation within the hearing is appropriate.

Aside from AP&L's application for new license, the only application filed prior to September 10, 1973, that will be left before the Commission following withdrawal of the Electric and Little Goat Islands proposal will be an application for approval of an easement filed on December 4, 1966. This application seeks approval of an easement granted by AP&L to the Union Carbide Corporation for placement of intake and outflow facilities to serve a vandium processing plant at Lake Catherine. The application proposes no additional construction, and

[1] Project No. 271 is located on the Ouachita River in Garland County, Arkansas, near the City of Hot Springs.

[2] The original license for Project No. 271 expired on February 6, 1973. Since that time, the project has been maintained and operated under annual licenses.

[3] Orders Approving Change in Land Rights, Arkansas Power and Light Co., Project No. 271, 50 F.P.C. 687, 692, 695 (1973).

[4] Order Providing for Hearing, Arkansas Power and Light Co., Project No. 271, issued September 10, 1973, slip op. at 1 (unreported).

[5] Order Denying Motion for Severance and Granting Application for Easement, Arkansas Power & Light Co., Project No. 271, issued September 9, 1975, slip op. at 1, 54 F.P.C. ---- (1975).

therefore is not within the ambit of the concern which prompted our hearing order in this proceeding. Accordingly, with the withdrawal of the Electric and Little Goat Islands application there being no applications for change in land rights for which a hearing on comprehensive uses of project lands and waters might be held, we find it appropriate to vacate the Order Providing for Hearing of September 10, 1973. The intent of that Order, however, remains our policy respecting the use of project lands and waters in relation to a comprehensive consideration of their capacity to serve known and foreseeable public uses. To this extent, any future applications which might result in intensified use of the project's resources will be evaluated from a comprehensive resource utilization perspective. We reserve the right, also, to provide for hearing on AP&L's application for new license or on any future applications that come before us, should a hearing be found necessary or appropriate.

In Exhibit R of its application for new license for Project No. 271, AP&L stated that its proposed plans for project recreation included development of Electric Island; in fact, according to the application, "Electric Island is the largest single projected recreational development of the project." The application that AP&L now withdraws included the detailed proposal for development of Electric Island. This being so, we believe that AP&L should reassess its Exhibit R to consider what, if any, recreational development at the project should be proposed in lieu of the development proposed in the withdrawn application. If appropriate, AP&L should then file a revision to the pending Exhibit R.

The Commission finds: (1) It is appropriate for purposes of the Federal Power Act and in the public interest to grant the motion of Arkansas Power & Light Company to withdraw the application for change in land rights, which application was filed on October 30, 1972, and proposed to convey 100 acres of Electric Island and 16.2 acres of Little Goat Island, located in Lake Hamilton, to the City of Hot Springs, as hereinafter provided.

(2) It is appropriate for purposes of the Federal Power Act to vacate the Order Providing for Hearing in this proceeding, issued September 10, 1973.

The Commission orders: (A) The motion of Arkansas Power & Light Company to withdraw its application for change in land rights, as described in paragraph (1), above, is hereby granted.

(B) Arkansas Power & Light Company shall reassess the pending Exhibit R of its application for new license for Project No. 271 to determine what, if any, alternative recreational development should be proposed in lieu of that which was proposed at Electric and Little Goat Islands by the withdrawn application and, if appropriate, shall file a revision to the Exhibit R to propose such alternative recreational development.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24837 Filed 8-24-76;8:45 am]

[Docket No. ER76-151]

DELMARVA POWER & LIGHT CO.

Order Granting Amendment to Motion To Intervene and Extending Procedural Dates

AUGUST 17, 1976.

On September 29, 1975, Delmarva Power and Light Company and its subsidiaries (Delmarva) tendered for filing, pursuant to § 35.13(b)(4)(ii), proposed changes in the intercompany Power Supply Agreement. By order issued October 31, 1975, the Commission accepted for filing and suspended the proposed changes, established procedures, and allowed the intervention of the Public Service Commission of Maryland (Maryland). The Commission also granted intervention to the Public Service Commission of the State of Delaware (Delaware), the State Corporation Commission of the State of Virginia (Virginia), and the People's Counsel of the Maryland Public Service Commission (People's Counsel) by separate orders dated December 4, 1975, December 18, 1975, and May 18, 1976, respectively.

On June 29, 1976, Delaware filed its direct evidentiary presentation[1] and an amended notice of intervention along with direct evidence relating to the new issues raised in the Amendment.[2] On July 8 and July 9, 1976, Maryland and Virginia, respectively, filed objections to Delaware's Amendment to Motion to Intervene and both requested that it be stricken along with Delaware's testimony relating thereto. In the alternative, both requested that the procedural dates in this proceeding be postponed to allow all parties an opportunity to prepare testimony on the issues raised by Delaware. Delmarva, on July 9, 1976, and staff, on July 14, 1976, filed responses to Delaware's motion.

Although all parties except staff basically objected to the amendment, their main concern involved the extension of procedural dates. All parties have filed their direct evidence and the hearing is now scheduled to begin on August 27, 1976.[3]

It is clear that the changes proposed in the Amendment have an impact upon the distribution of costs of Delmarva's generating and transmission plant among the three states. Although including these issues will mean that additional time will be required for the parties to file supplemental testimony thereby prolonging the case, it is more appropriate to include them in this docket than, as Delaware has stated in its reply, to institute "a new docket merely to raise these questions" which would result in "needless expense, delay, and, moreover, confusion" in the resolution of the questions raised by the initial petition.

After a careful review of the issues in this proceeding, we will grant the Amendment to the Motion to Intervene and extend the procedural dates as hereinafter ordered.

The Commission finds: (1) Good cause exists to grant the Public Service Commission of the State of Delaware's Amendment to its Motion to Intervene filed on June 29, 1976.

(2) Good cause exists to extend the procedural dates as hereinafter ordered.

The Commission orders: (A) The Public Service Commission of the State of Delaware's Amendment to its Motion to Intervene filed on June 29, 1976, is hereby granted.

(B) The procedural dates in the above matter are modified as follows:

Service of Company's Revised Case, August 26, 1976.
Service of Supplemental Intervenor Testimony, September 10, 1976.
Service of Supplemental Staff Testimony, September 24, 1976.
Service of Company Rebuttal, October 8, 1976.
Hearing, October 26, 1976.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24827 Filed 8-24-76;8:45 am]

[Docket Nos. E-9453 and ER76-648]

DUKE POWER CO.

Order Adopting Settlement and Terminating Proceeding

AUGUST 17, 1976.

By order of June 18, 1975, we suspended the rate filing of Duke Power Company (Duke) in this proceeding. By order of May 27, 1976, we suspended Duke's filing of a revised schedule to its agreement with Yadkin, Inc., Docket No. ER76-648, and consolidated Docket Nos. E-9453 and ER76-648 since they involved "equivalent" rates. Settlement negotiations among Duke and the customers have ripened into an uncontested settlement, which was certified to us by the Administrative Law Judge on June 15, 1976. On July 16, 1976, the Commission staff filed comments on the settlement agreement favoring the settlement with one minor adjustment with regard to interest on leased nuclear fuel in Account 518. On July 30, 1976, Duke and the Joint Intervenors filed a joint response to the Commission staff's comments indicating their concurrence with staff's revision of the fuel adjustment clause provided the base cost of fuel were changed from .7923¢/kilowatt-hour to .8018¢/kilowatt-hour.

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[1] Rate of return was the only issue raised in its original notice of intervention.

[2] The issues raised by Delaware in its Amendment include the overall rate of return, cost of money component, fixed charge rate, the return on production materials and supplies, construction work in progress with allowances for funds used during construction, renaming the Power Supply Agreement and treatment of the impact of depreciation on tax expense.

[3] Originally, the hearing was scheduled to begin on July 27, 1976. On July 21, 1976, Staff filed a motion to extend the procedural dates. This motion was granted on July 26, 1976.

Based on our review of the record in these proceedings, including the settlement agreement itself, the filings, documents and pleadings submitted, we conclude that the settlement agreement represents a reasonable resolution of the issues in the proceeding in the public interest, and that accordingly the settlement should be approved, subject to the above modification.

The Commission finds: The settlement agreement certified by the Presiding Judge to the Commission in this docket, should be approved and made effective, as hereinafter ordered.

The Commission orders: (A) The settlement agreement certified by the Presiding Judge in this docket on June 15, 1976, is hereby approved and made effective.

(B) Within 30 days from the date of this order, Duke shall file with the Commission revised rate schedule supplements applicable to the customers served in Docket Nos. E–9453 and ER76–648 in conformity with the terms of the settlement agreement approved herein. Duke's filing should include a revision of the fuel clause to make it consistent with the requirements of 18 CFR 35.14, with the base cost of fuel changed from .7923¢/kilowatt-hour to .8081¢/kilowatt-hour.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, against Duke or any person or party.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24828 Filed 8–24–76;8:45 am]

[Docket Nos. RP72–150 (Rate Design), RP73–104, RP74–57, and RP75–39]

EL PASO NATURAL GAS CO.

Filing of Stipulation and Agreement

AUGUST 17, 1976.

Take notice that on August 6, 1976, El Paso Natural Gas Company (El Paso) filed with the Commission a Stipulation and Agreement (Stipulation) which proposes to dispose of all issues in the above-captioned rate proceedings.

El Paso states that the Stipulation has the support of all parties to these proceedings, including the Commission's Staff, on all issues except three: (1) The rate design issue related to Rate Schedule A–1–X; (2) the rate treatment for payments made to owners of special overriding royalty interests; and (3) El Paso's proposal to supplement its Reserve for Exploration. El Paso states further that these three issues have been left for determination by the Commission following initial decision thereon by the Presiding Administrative Law Judge, and that the parties have agreed to briefing dates for the three issues.

Copies of the Stipulation are on file with the Commission and are available for public inspection. Any person desiring to comment on the matters contained therein should file such comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 27, 1976. Any reply comments should be filed on or before September 3, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–24829 Filed 8–24–76;8:45 am]

[Docket No. ER76–830]

MISSISSIPPI POWER & LIGHT CO.

Tariff Change

AUGUST 17, 1976.

Take notice that Mississippi Power & Light Company on July 30, 1976, tendered for filing in accordance with Section 35.13 of the Commission's Regulations proposed changes in its FPC Electric Service Tariff to Electric Power Associations, FPC Rate Schedules No. 123, 124, 125 165, 166, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 181, 182, 184, 185, 186, 188, 189, 190, 191, 192, 194, 196, 197, 198, 199, 200, 201, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 216, 218, 219, 220, 222, 223, 224, 225, 226, 227, 231, 232, 233, 238 and to municipal electric utilities FPC Rate Schedules No. 39, 87, 88, 93, and 238. The proposed changes would increase revenues $3,406,000 based on the 12 months period ending December 31, 1976.

The Company states that the tariff changes requested are necessary to reflect its cost of service for the projected period. In support thereof the company states that it earned a rate of return of 7.58 percent on its sales for resale to electric power associations and 7.63 percent on its sales for resale to municipal electric utilities in the calendar year 1975, and that the projected rate of return under the present electric service tariff for the 12 months ending December 31, 1976, for sales for resale to the electric power associations is 7.24 percent and for sales to the municipal electric utilities is 7.22 percent.

The company is also requesting that construction work in progress (CWIP) be included in the rate base in the proceeding.

Copies of the filing were served upon the customers receiving services under the above listed FPC Rate Schedules and upon the Mississippi Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1976. 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.76–24830 Filed 8–24–76;8:45 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE AND COORDINATING COMMITTEE

Determination and Certification With Respect to Renewal

The Chairman of the Federal Power Commission has determined that renewal of the terms of the Executive Advisory Committee and the Coordinating Committee of the National Power Survey to a date not later than December 31, 1976, is necessary in the public interest in connection with the performance of duties imposed on the Commission by law.

The notice is published pursuant to Commission General Order No. 464, issued December 19, 1972, 38 FR 1083, as amended by Commission General Order No. 464–A, issued August 2, 1974, and authorities referred to therein, 39 FR 28929. See also Office of Management and Budget. Advisory Committee Management, Circular A–63, Revised, March 27, 1974, 30 FR 12389, as amended July 19, 1974.

The Executive Advisory Committee was established by Commission order, dated August 11, 1972, 37 FR 24213, and the Coordinating Committee by order, dated November 2, 1972, 37 FR 23868. These orders refer to the Commission order issued June 29, 1972, 37 FR 13380, which announced initiation of the National Power Survey, authorized formation of advisory committees, and established procedures therefor. By order issued December 19, 1972, 37 FR 28661, the Commission amended its earlier orders to conform with the requirements of the subsequently enacted Federal Advisory Committee Act, 86 Stat. 770.

The continued existence of these two committees is desirable during preparation of the Commission report. Specifically, the Executive Advisory Committee will be solicited for its views and comments regarding the staff report, while the Coordinating Committee is the remaining link between the Commission staff and technical advisory committees whose work, in some cases, may form the basis for Commission action; these technical advisory committees have expired.

The Commission continues or reestablishes these committees in accordance with the terms of this order, and the following Commission orders:

Order Authorizing the Establishment of National Power Survey Advisory Committees and Prescribing Procedures, issued June 29, 1972, 37 FR 13380.

Order Establishing National Power Survey Executive Advisory Committee and Designating Initial Membership and Chairmanship, issued August 11, 1972, 37 FR 24213.
Order Establishing National Power Survey Coordinating Committee and Designating Initial Membership and Chairmanship, issued November 2, 1972, 37 FR 23868.
Order Amending National Power Survey Orders issued December 19, 1972, 37 FR 28661.
General Order No. 464–A, issued August 2, 1974, 39 FR 28929.
Order Renewing National Power Survey Executive Advisory Committees, issued August 7, 1974, 39 FR 29233.
Order Renewing National Power Survey Coordinating Committee, issued January 13, 1975, 39 FR 3250.
Order Renewing National Power Survey Executive Advisory Committee and Coordinating Committee, issued June 3, 1976, 41 FR 23246.

By Notice of Determination and Certification with Respect to Renewal with Respect to Renewal of National Power Survey Advisory Committees, dated July 30, 1974, 39 FR 27608, the Chairman of this Commission has determined and certified that the renewal of the aforesaid advisory committees of the National Power Survey for the period set forth herein is necessary in the public interest in connection with the performance of duties imposed upon the Commission by law. The Office of Management and Budget, Advisory Committee Management, has ascertained that the renewal of the aforesaid advisory committees of the National Power Survey is in accord with the requirements of the Federal Advisory Committee Act, 86 Stat. 770, 773–4.

1. *Purposes.* The purposes of the Executive Advisory Committee of the National Power Survey, as renewed herein, are as set forth in the Commission's order of August 11, 1972, Paragraph 1, Purpose, and that Paragraph is hereby incorporated by reference herein. The purposes of the Coordinating Committee of the National Power Survey, as renewed herein, are as set forth in the Commission's order of November 2, 1972, Paragraph 1, Purpose, and that Paragraph is hereby incorporated by reference herein.

It is anticipated that the continuance of these National Power Survey Advisory Committees for the period ending December 31, 1976, will facilitate the conclusion of the Commission's work on the current phase of the continuing National Power Survey.

2. *Membership.* The Chairman, Secretary and other members of the Executive Advisory Committee, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix below. The Chairman, coordinating representatives, secretaries and other members of the Coordinating Committee established herein, as selected by the Chairman of the Commission with the approval of the Commission, are designated in the appendix below.

3. *Selection of Future Committee Members.* All future Executive Advisory Committee members, and persons designated to act as Committee Chairmen shall be selected and designated by the Chairman of the Commission with the approval of the Commission: *Provided, however,* The Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary. All future Coordinating Committee members and persons designated to act as Committee chairmen, coordinating representatives, and secretaries shall be selected and designated by the Chairman of the Commission with the approval of the Commission: *Provided, however,* The Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission's order issued June 29, 1972, as amended by Commission order issued December 19, 1972, and by Order Further Amending National Power Survey Orders, August 7, 1974, are hereby incorporated by reference herein:

3. Conduct of Meeting.
4. Minutes and Records.
5. Secretary of the Committee.
6. Location and Time of Meetings.
7. Advice and Recommendations offered by the Committee.

5. The National Power Survey Executive Advisory Committee and the Coordinating Committee renewed by this order shall terminate not later than December 31, 1976.

6. The Secretary of the Commission shall file with the Chairman, Committee on Commerce, United States Senate, Chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Library of Congress, copies of this order along with the Order Further Amending National Power Survey orders, issued concurrently herewith, as constituting charters of the National Power Survey Advisory Committees renewed by this order.

7. This order shall take effect immediately upon the issuance thereof and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Chairman: Shearon Harris, Chairman, Carolina Power and Light Company.
Secretary: Bernard B. Chew, Chief, Division of Power Surveys and Analyses, Federal Power Commission.
Members:
Edward E. Cobb, General Manager, Huntsville Utilities.
Michael E. Collins, General Manager, Wakefield Municipal Light Department.
D. C. Cook, President, American Electric Power Company, Inc.
J. E. Corette, Chairman of the Board, Montana Power Company.
Gordon R. Corey, Vice Chairman, Commonwealth Edison Company.
Leo A. Daly, President, Leo A. Daly Company.
William E. Dean, Association of Illinois Electric Cooperatives.
Paul Donovan, President, Donovan, Hamester, & Rattlen, Inc.
William M. Elmer, Chairman of the Board, Texas Gas Transmission Corporation.
Bernard Falk, President, National Electrical Manufacturers Assn.
T. J. Galligan, Jr., President, Boston Edison Company.
R. F. Gilkeson, Chairman, Philadelphia Electric Company.
J. L. Grahl, General Manager, Basin Electric Power Cooperative.
Lt. General William C. Gribble, Chief of Engineers, Department of the Army.
Dr. David A. Hamil, Administrator, Rural Electrification Administration.
John D. Harper, Chairman, Aluminum Company of America.
Edwin I. Hatch, President, Georgia Power Company.
Maurice F. Hebb, Jr., Vice President, System Engineering, Florida Power Corporation.
Durwood W. Hill, General Manager, Nebraska Public Power District.
Jack K. Horton, Chairman of the Board, Southern California Edison Company.
Timothy L. Jenkins, Chairman, The MATCH Institution.
Ms. Virginia H. Knauer, Director, Office of Consumer Affairs.
Donald C. Lutken, President, Mississippi Power and Light Company.
William A. Lyons, Chairman and Chief Executive Officer, New York. State Electric and Gas Corporation.
D. Bruce Mansfield, President, Ohio Edison Company.
Paul Martinka, Vice President, Coal Supply, American Electric Power Service Corporation.
Marshall McDonald, President, Florida Power and Light Company.
T. Justin Moore, Jr., President, Virginia Electric and Power Co.
Dr. Laurence I. Moss, Consultant.
Dr. Bruce Netschert, Vice President, National Economic Research Associates.
G. W. Nichols, President and Chief Executive Officer, New England Electric System.
Arthur L. Padrutt, Wisconsin Public Service Commission.
Dr. Ruth Patrick, Curator and Chairman, Dept. of Limnology, Academy of Natural Sciences of Philadelphia.
Russell W. Peterson, Chairman, Council on Environmental Quality.
Charles H. Pillard, President, International Brotherhood of Electrical Workers.
John G. Quale, resident, Wisconsin Electric Power Company.
Dr. Henry J. Ramey, Jr., Department of Petroleum Engineering, Stanford University.
William P. Reilly, President, Arizona Public Service Company.
P. H. Robinson, Chairman, Houston Lighting and Power Company.
Dr. Robert C. Seamans, Jr., Administrator, Energy Research and Development Administration.
Raymond J. Sherwin, Superior Court Hall of Justice, Fairfield, California.
Shermer L. Sibley, Chairman of the Board, Pacific Gas and Electric Company.
M. Frederik Smith, Rockefeller Associates.
Irwin M. Stelzer, President, National Economic Research Associates.
Louis Strong, General Manager, Kentucky Rural Cooperatives Corporation.
W. C. Tallman, President, Public Service Company of New Hampshire.
W. Reid Thompson, Chairman of the Board and President, Potomac Electric and Power Company.
Russell E. Train, Administrator, Environmental Protection Agency.
Alvin W. Vogtle, Jr., President, The Southern Company.
Aubrey J. Wagner, Chairman, Tennessee Valley Authority.

Colston E. Warne, President, Board of Directors, Consumers Union of the U.S., Inc.
M. Frank Warren, President, Portland General Electric Company.
Ben T. Wiggins, Chairman, Georgia Public Service Commission.
Jack L. Wilkins, Chairman, National Electric Reliability Council.
Charles E. Wyckoff, President, National Rural Electric Cooperative Assn.

NATIONAL POWER SURVEY COORDINATING COMMITTEE

Chairman: Shearon Harris, Chairman, Carolina Power and Light Company.
Secretary: Daniel G. Lewis, Assistant Director for Research and Development, Office of Energy Systems, Federal Power Commission.

Members:

Gordon R. Corey, Vice Chairman, Commonwealth Edison Company.
Maurice F. Hebb, Jr., Vice President, System Engineering, Florida Power Corporation.
Paul D. Martinka, Vice President, Coal Supply, American Electric Power Service Corporation.
Bruce Netschert, Vice President, National Economic Research Associates.
Paul Donovan, President, Donovan, Hamester and Rattien.
Irwin M. Stelzer, President, National Economic Research Associates.

[FR Doc.76-24743 Filed 8-19-76;1:02 pm]

[Docket Nos. E-7700, etc.]

NEW ENGLAND POWER CO.

Cost of Service; Tax Normalization

AUGUST 17, 1976.

By order of November 30, 1973, in these dockets, we approved a rate settlement relating to certain rates of the New England Power Company (NEPCO) 50 FPC 1729. On January 30, 1976, NEPCO filed a motion to consolidate these 3 dockets with Docket Nos. E-8641, E-8251, E-8169, E-8476[1] and ER76-304 and ER76-317, and for designation of a Presiding Judge to hear the Issue of Normalization. NEPCO's motion in Docket Nos. E-7700, E-7729, E-7800, E-8641, E-8251, E-8169 and E-8476 was denied by operation of law 18 CFR 1.12(e).

Our order of November 30, 1973, recognized that the settlement did not include a reserved issue relating to "the reduction in Federal income taxes resulting from the deduction for tax purposes of actual interest charges allocated to NEPCO's investment in construction work in progress." 50 FPC 1729, 1730-1731.

The reserved issue was the subject of 3 Commission orders, Order 530 40 FR 26981, Order 530-A 41 FR 3849, and Order 530-B 41 FR 28474. Pursuant to Order 530-B the tax deduction due to construction work in progress taken for tax purposes but capitalized in the cost of utility plant for book purposes is a tax timing difference which may be normalized by a public utility.

The Commission finds: It is necessary and appropriate for the purposes of the Federal Power Act that these dockets be terminated and that NEPCO be permitted pursuant to Order 530-B to normalize the interest expense deduction related to construction work in progress.

The Commission orders: (A) The issue reserved by our earlier order 50 FPC 1729, 1730-1731 has been resolved by Order 530-B which permits NEPCO to normalize. These proceedings are hereby terminated.

(B) The Secretray shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24831 Filed 8-24-76;8:45 am]

[Docket No. CP71-273]

SOUTHERN NATURAL GAS CO.

Extension of Time

AUGUST 16, 1976.

On July 29, 1976, Southern Natural Gas Company filed a motion to extend the date fixed by Order issued October 16, 1975, for facilities certificated in this proceeding to be constructed and placed in service.

Upon consideration, notice is hereby given that the date on which facilities are to be constructed and placed in service in the above-designated docket is extended to and including April 16, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24825 Filed 8-24-76;8:45 am]

[Docket No. ER76-629]

TAMPA ELECTRIC CO.

Compliance Filing

AUGUST 17, 1976.

Take notice that on August 2, 1976 Tampa Electric Company (Tampa) tendered for filing a revised page 1 of Supplement No. 1 to its Rate Schedule FPC No. 5 (Schedule WR-1). Tampa states that the purpose of this revision is to comply with the Commission's letter order of July 1, 1976 requiring Tampa to submit a fuel adjustment clause in the format specified in Section 35.14 of the Commission's Regulations. The effective date shown on the tendered page 1 is July 8, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1976. 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.76-24832 Filed 8-24-76;8:45 am]

[Docket Nos. CP60-94, etc.]

TENNESSEE GAS PIPELINE CO.

Application To Amend

AUGUST 16, 1976.

Take notice that on August 2, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed pursuant to Section 7(c) of the Natural Gas Act an application to amend certain of the Commission's orders issued September 19, 1963, October 1, 1965, June 22, 1970, January 29, 1971, and October 31, 1974, in Docket Nos. CP60-94, CP66-20, CP70-185, CP69-222 (Phase II), and CP-74-318, respectively, which orders among other things, authorized Tennessee to serve Connecticut Natural Gas Corporation (Connecticut Natural) a contracted demand volume of 36,794 Mcf per day under Tennessee's Rate Schedule CD-6 and The Connecticut Gas Company (Connecticut Gas) and the Hartford Electric Light Company (HELCO) a combined maximum contract quantity of 39,631 Mcf per day under Tennessee's Rate Schedules G-6 and GS-6, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Tennessee states that the purpose of the application to amend is (1) to reflect the acquisition by Connecticut Natural, an existing CD-6 customer, of the gas distribution facilities and properties of Connecticut Gas and HELCO; (2) to reflect the assignment by Connecticut Gas and HELCO to Connecticut Natural of their gas sales contracts with Tennessee for the Derby-Shelton, Norwalk, Winsted, Stamford and Torrington service areas, which contracts provide for service by Tennessee to Connecticut Gas and HELCO under Rate Schedules GS-6 and G-6; and (3) to request authorization for service by Tennessee to Connecticut Natural at each of such service areas, in addition to the service areas of Connecticut Natural presently being served by Tennessee, under Rate Schedule CD-6 and under a single new gas sales contract providing for a contracted demand volume of 76,425 Mcf per day, at the daily volume limits and at the delivery points set forth in such new gas sales contract.

It is indicated that the proposed consolidation of gas sales contracts would allow Connecticut Natural the flexibility to operate its distribution system so as to maximize the use of pipeline natural gas by its high priority residential and small commercial customers, thereby reducing the requirements during winter periods for supplemental gas sources such as propane-air. Tennessee states

[1] On June 25, 1975 and February 3, 1976, Presiding Administrative Law Judge Levant issued Initial Decisions in Docket Nos. E-8641, E-8476, E-8251, and E-8169.

that Connecticut Natural is not requesting any increase in maximum contract quantities presently authorized for the Connecticut Natural, Connecticut Gas and HELCO service areas combined.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before September 3, 1976, filed with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24826 Filed 8-24-76;8:45 am]

[Docket No. ER76-847]

UNION ELECTRIC CO.

Letter Agreement

AUGUST 17, 1976.

Take notice that on August 9, 1976, Union Electric Company (Union) tendered for filing a Letter Agreement establishing a new delivery point under the Interchange Agreement dated March 27, 1968, as amended, between Associated Electric Cooperative, Inc. and Union. Union states that the new delivery point will provide support to Associated's system. Union requests that the Letter Agreement become effective on the in service date of the delivery point of which Union will notify the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be be filed on or before August 31, 1976. 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.76-24833 Filed 8-24-76;8:45 am]

[Docket No. ER76-851]

UNION ELECTRIC CO.

Amendatory Agreement

AUGUST 17, 1976.

Take notice that on August 9, 1976, Union Electric Company (Union) tendered for filing an Amendatory Agreement to the Interchange Service Contract dated July 18, 1967 between the City of Columbia, Missouri and Union. Union states that said Amendatory Agreement establishes an additional connection between the parties to cover contingencies and expected load growth.

Union requests that the Amendatory Agreement become effective on the in-service date of the connection of which Union will notify the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1976. 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.76-24834 Filed 8-24-76;8:45 am]

[Docket No. CP76-469]

UNITED GAS PIPE LINE CO.

Application

AUGUST 17, 1976.

Take notice that on August 4, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-469 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to use up to 19,900 Mcf per day of its 200,000 Mcf per day reserved capacities in the pipeline systems of Stingray Pipeline Company (Stingray) and Natural Gas Pipeline Company of America (Natural) to transport gas to be purchased by Sea Robin Pipeline Company (Sea Robin) in Blocks 532, 533, and 586, West Cameron Area, offshore Louisiana, to a point onshore near Texaco Inc.'s Henry Plant in Vermilion Parish Louisiana where Applicant's and Natural's facilities Interconnect, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Sea Robin has or expects to acquire the right to purchase 41.67 percent of the reserves underlying Block 586, West Cameron Area, and that Sea Robin proposes in Docket No. CP76-418[1] to construct facilities to transport gas for itself and others from the producers' platform to a point of interconnection with Stingray's system in Block 595, West Cameron Area. Applicant states further that Sea Robin has purchased 3.335 percent of the reserves underlying Blocks 532 and 533, West Cameron Area. Stingray would transport Sea Robin's gas for Applicant's account, in accordance with Stingray's Rate Schedule T-2, to the northern terminus of its system near Holly Beach, Louisiana, where Natural would take the gas for further transportation for the account of Applicant to the Henry Plant delivery point in accordance with Natural's Rate Schedule X-48. At the Henry Plant delivery point Sea Robin would sell one-half of the gas to each of Applicant and Southern Natural Gas Company.

The application states that in return for the right to utilize a portion of Applicant's reserved capacities in the Stingray and Natural systems, Sea Robin would reimburse Applicant for a pro rata share of the monthly charges paid by Applicant to Stingray and Natural. Further, it is stated, Applicant would credit the revenues from Sea Robin against its own cost of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own revew of the matter finds that a grant of the certificate is required by the public conven-

[1] Notice published July 30, 1976 (41 FR 31947).

lence 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 to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-24835 Filed 8-24-76;8:45 am]

[Docket No. CP76-471]

UNITED GAS PIPE LINE CO.

Application

AUGUST 17, 1976.

Take notice that on August 4, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-471 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain metering and compression facilities in Calcasieu Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate three 3,100 horsepower turbine-driven centrifugal compressor units and a multiple 12-inch tube meter station and related station piping in Calcasieu Parish where the existing pipeline facilities of Transcontinental Gas Pipe Line Corporation (Transco) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), intersect. The application shows the estimated cost of these facilities to be $5,496,700, which cost would be financed from funds on hand.

Applicant states that it has or expects to obtain commitments to purchase gas attributable to reserves underlying a substantial number of blocks located in the High Island Area, offshore Texas, to be served by the proposed pipeline system to be constructed by High Island Offshore System (HIOS). Said gas, it is stated, would be transported from various points in the High Island Area to a point in West Cameron Block 167, offshore Louisiana, by HIOS pursuant to a transportation agreement, dated February 15, 1976, between HIOS and Applicant. It is indicated that at the northern terminus of the HIOS system in West Cameron Block 167, U-T Offshore System (U-TOS) would take delivery of the offshore Texas gas Applicant expects to purchase and would transport said gas to a point of interconnection onshore with existing facilities of Transco near Johnson's Bayou, Cameron Parish, Louisiana, in accordance with the terms of a transportation agreement, dated February 15, 1976, between U-TOS and Applicant.

Applicant asserts that by agreement, dated February 15, 1976, between it and Transco, Transco agreed to transport Applicant's offshore Texas gas from the terminus of the U-TOS system north through its existing system to a proposed point of interconnection near Starks, Calcasieu Parish, Louisiana, with an existing 30-inch pipeline owned by Tennessee. Further, it is stated that pursuant to a letter, dated June 16, 1976, Tennessee has agreed to transport Applicant's gas from the interconnection with Transco to various mutually agreeable existing points of interconnection between the systems of Applicant and Tennessee.

Applicant indicates that the proposed metering and compression facilities are necessary to enable Applicant to effect deliveries to Tennessee since Tennessee's facilities are operated at a higher line pressure than the adjacent facilities of Transco.

Applicant states that the proposed facilities would materially assist it in meeting its urgent customer requirements by enabling it to deliver new gas supplies to Tennessee for ultimate redelivery to its existing pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisison's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commisison 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.76-24836 Filed 8-24-76;8:45 am]

FEDERAL RESERVE SYSTEM

BANKERS TRUST NEW YORK CORP.

Order Denying Acquisition of Bank

Bankers Trust New York Corporation, New York, New York ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares of The First National Bank of Mexico, Mexico, New York ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by Bank, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization in the State of New York, controls nine banks with aggregate deposits of approximately $10.4 billion, representing approximately 7.7 percent of the total deposits in commercial banks in New York.[1] Acquisition of Bank ($9.8 million in deposits) would increase Applicant's share of the total commercial bank deposits in the State by 0.01 of one percent and would not significantly increase the concentration of banking resources in New York.

Bank ranks eleventh among the 15 banking organizations located in the Syracuse banking market (approximated by the western half of Madison County and all of Onondaga and Oswego Counties) and controls approximately 0.7 of one percent of total market deposits. The closest branch of any of Applicant's banking subsidiaries to Bank is located approximately 25 miles southeast of Bank in the same banking market. While there is some existing competition between Applicant's banking subsidiaries and Bank, the amount of such competition that would be eliminated as a result of this proposal does not appear to be significant. Similarly, the effects of the proposal on potential competition do not appear to be significant. Bank is one of the smaller banks in the market, and its acquisition by Applicant would not raise significant barriers to entry by other organizations not presently in the

[1] All banking data are as of December 31, 1975.

market. Therefore, on the basis of the facts of record, the Board concludes that consumption of the proposal would not have significant adverse effects on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Bank are generally satisfactory.[2]

As the Board has stated on a number of occasions, a bank holding company should be a source of financial and managerial strength for its subsidiaries. With regard to the financial and managerial resources and future prospects of Applicant, information in the record, including all bank examination information available to the Board, indicates that Applicant has been experiencing financial difficulties that have detracted from its overall financial condition and lessened its ability to serve as a source of strength for its subsidiaries. The subject application by its very nature would to some extent impose an additional burden on Applicant's operations. In these circumstances, it is the Board's view that Applicant's resources should be directed toward developing and maintaining strong and efficient operations within its existing structure. Accordingly, the Board concludes that considerations related to the financial and managerial aspects of Applicant's proposal weigh against approval of the application.

There is no evidence to indicate that the banking needs of the community to be served are not being met currently. Applicant states that the proposed transaction would allow Bank to offer additional services to its customers, including trust and investment services, international banking services, savings incentive plans and underwriting and advisory services for municipalities. While convenience and needs considerations appear to be consistent with approval of the application, they are not sufficient, in the Board's judgment, to outweigh the aforementioned adverse banking factors reflected in the record. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

[2] In connection with this proposal, Applicant indicates that it intends to finance the proposed transaction through the issuance of $1.9 million in promissory notes maturing over a 13 year period and that Bank's earnings alone will be sufficient to retire the debt while maintaining an adequate capital position for Bank. On the basis of the facts of record and its analysis of the proposal, however, the Board is unable to conclude that Applicant's assumptions are correct and that the financing of the proposal solely from Bank's earnings would not result in a deterioration of Bank's capital position.

By order of the Board of Governors,[3] effective August 18, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24879 Filed 8-24-76;8:45 am]

INDUSTRIAL LOAN AND INVESTMENT CO.

Formation of Bank Holding Co.

Industrial Loan and Investment Company, Sedalia, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 87.67 percent of the voting shares of Bank of Ionia, Ionia, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Industrial Loan and Investment Company, Sedalia, Missouri has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the business of an industrial loan and investment company in Sedalia, Missouri, and to continue to engage in the sale of credit related insurance associated with loans made by Applicant. Notice of the application was published on June 30, 1976 in the Sedalia Democrat, a newspaper circulated in Sedalia, Missouri.

Applicant states that it will continue to engage in the activities of an industrial loan and investment company and will continue to engage in the sale of insurance that is directly related to extensions of credit by Applicant. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 19, 1976.

Board of Governors of the Federal Reserve System, August 18, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24880 Filed 8-24-76;8:45 am]

[3] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson and Partee. Absent and not voting: Governor Lilly.

OLD NATIONAL BANCORPORATION

Order Approving Acquisition of Shares of Old National Life Insurance Co.

Old National Bancorporation (formerly Washington Bancshares, Inc.), Spokane, Washington ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire shares of Old National Life Insurance Company, Phoenix, Arizona ("Company"), a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's lending subsidiaries in the State of Washington. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 24634). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act.

Applicant, the fifth largest banking organization in Washington, controls two subsidiary banks with aggregate deposits of approximately $605.5 million, representing approximately 6.1 percent of the total deposits in commercial banks in the State.[1] Applicant also engages, through nonbank subsidiaries, in equipment leasing, mortgage banking and servicing, investment advising and insurance agency activities.

Company will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance in connection with extensions of credit by Applicant's lending subsidiaries. Company will be formed as an Arizona insurance corporation and will be qualified to underwrite insurance di-

[1] All banking data are as of December 31, 1975.

rectly only in Arizona. Accordingly, the insurance sold by Applicant's lending subsidiaries will be directly underwritten by an unaffiliated insurance company qualified to do business in Washington, and will thereafter be assigned or ceded to Company under a reinsurance agreement. Since Applicant proposes to engage in this activity de novo, consummation of the transaction would not have any significant adverse effects on existing or potential competition in any relevant market.

Credit life and credit accident and health insurance are generally made available by banks and other lenders and are designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR 225.4(a) (10) n. 7)

Applicant has stated that following consummation of the proposed acquisition, Company will offer the several types of credit-related insurance that it will reinsure at premium rates ranging from 3.3 percent to 20.0 percent below the maximum allowable rates in the State of Washington for example, reducing term joint life insurance and level term joint life insurance will be offered at rates 12.0 and 18.8 percent, respectively, below the maximum allowable rates. In addition, credit accident and health insurance will be offered at rates 5 percent below the statutory maximum. Applicant has committed to similar rate reductions for each type of insurance coverage that Company will underwrite. The Board is of the view that Applicant's proposed reductions in insurance premiums are procompetitive and in the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco.

By order of the Board of Governors,[3] effective August 18, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-24881 Filed 8-24-76;8:45 am]

GENERAL ACCOUNTING OFFICE

CIVIL AERONAUTICS BOARD AND INTERSTATE COMMERCE COMMISSION; REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 18, 1976. 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 each 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 CAB and ICC forms 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 forms, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of "Application for Operating Authorization (CAB Form 351)." This form is used by the Board to determine whether an applicant should be granted authority to operate as an air freight forwarder. CAB estimates it receives approximately 50 applications a year and that respondent burden averages 15 hours per application.

INTERSTATE COMMERCE COMMISSION

ICC requests an extension no change clearance of Quarterly Report Form CBS, required to be filed by some 65 Class I linehaul railroads, pursuant to Section 20 of the Interstate Commerce Act. Data collected on Form CBS are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 7 hours per report.

ICC requests an extension no change clearance of Annual Report Form MP-2 required to be filed by some 870 Class II and III motor carriers of passengers having annual operating revenues of less than $1 million pursuant to order of the Interstate Commerce Commission 49 CFR 1249.6. Data collected on Form MP-2 are used for economic regulatory purposes. Reports are mandatory and available for use of the public. Reporting burden for carriers to average 2½ hours per report.

ICC requests an extension no change clearance of Annual Report Form W-3 required to be filed by some 105 Class III carriers by water having annual carrier operating revenues of less than $100,000 pursuant to order of the Interstate Commerce Commission 49 CFR 1250.30. Data collected on Form W-3 are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 4 hours per report.

ICC requests an extension no change clearance of Quarterly Report Form RE&I, required to be filed by some 65 Class I line-haul railroads, pursuant to section 20 of the Interstate Commerce Act. Data collected on Form RE&I are used for economic regulatory purposes. Reports are mandatory and available for use of the public. ICC estimates reporting burden for carriers to average 6 hours per report.

ICC requests clearance of a revision to Quarterly Report Form QFR, required to be filed by some 900 Class I and 2600 Class II common and contract motor carriers of property pursuant to section 220 (a) of the Interstate Commerce Act. Data collected on Form QFR are used for economic regulatory purposes. Reports are mandatory and available for use of the public. One minor change has been made on page 11 of Form QFR, a new Item 283 has been added. ICC states this item is part of a routine accounting procedure and is readily available from carriers records and will not add any burden on respondents. Item 283 reads "(2611 through 2661) Total Stockholder's Equity." Previous items 283 through 285 are renumbered 284 through 286. ICC estimates reporting burden to average 4¼ hours per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-24889 Filed 8-24-76;8:45 am]

FEDERAL POWER COMMISSION; 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 re-

[3] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governor Lilly.

ceived by the Regulatory Reports Review Staff, GAO, on August 19, 1976. 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 sponoring 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 FPC report 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 form, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

FEDERAL POWER COMMISSION

The FPC requests clearance of a new Form 108, Questionnaire Schedules For Continuing Review of Rate Schedules Analysis, Filed Rates, Volumes and Quality Conditions. Form 108 will be used by the Commission to (1) give a detailed breakdown of rate schedules on file with the Commission; (2) provide a basis for estimating the revenue impact of nationwide and/or area ratemaking proposals by pricing area, state, purchaser; (3) provide a means of determining the potential effects of periodic price escalations and indefinite price provisions; and (4) monitor changes in gas sales contracts and gas quality and their effect on consumers. The following schedules as part of Form 108 will be filed as shown:

Schedule No.	Frequency	Frequency date
501	Annually	March 31.
502–504	Initially	Before Mar. 31, 1977.
502–504	Event	Application for rate certificate and amendment to the rate schedule.
505	Annually	March 31.
507	Event	As rate changes are requested.

FPC estimates Form 108 will be filed by approximately 888 natural gas producers and that the burden will average approximately 18 hours per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76–24890 Filed 8–24–76;8:45 am]

INTERSTATE COMMERCE COMMISSION; 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 August 19, 1976. See 43 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 form 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 form, comments (in triplicate) must be received on or before September 13, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

INTERSTATE COMMERCE COMMISSION

ICC requests clearance of a revised Annual Financial Report for Class III Common and Contract Motor Carriers of Property, Form M–3, required to be filed by all carriers having annual carrier operating revenues (including interstate and intrastate) of less than $500,000 pursuant to order of the Interstate Commerce Commission 49 CFR 1249.4.

The report form is revised to incorporate the needs of the majority of State regulatory commissions and the Interstate Commerce Commission. Carriers and State commissions will benefit from the use of the same form. Carriers can avoid restructuring similar data for different State reports and State regulatory commissions can reduce printing costs by utilizing the uniform printed report. Reporting burden is reduced on smaller carriers by exempting carriers with operating revenues of $100,000 or less from completing the balance sheet, income statement and other detailed disclosures. A $50,000 revenue exemption was previously used from 1957 to 1975. The corporate ownership disclosure requirement was expanded and a schedule disclosing salaries, wages, and other compensation was added. Household goods operations are now required to be segregated for certain operating statistics and unpaid cargo loss and damage claims must be disclosed. The disclosure requirements on pages 7 and 8 were inserted to more closely align Class I, II and III motor carrier reports. The additional disclosures were added to keep pace with recent changes in Commission accounting rules, satisfy the information needs of the Commission, State regulatory commissions and interested parties. Reports are mandatory and must be filed by some 12,500 carriers. ICC estimates annual reporting burden for carriers with operating revenues of $100,000 or under to be one-half hour, and two hours for carriers whose operating revenues exceed $100,000.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.76–24891 Filed 8–24–76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. F–396]

ADMINISTRATOR, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government in intrastate gas rate proceedings.

2. *Effective date.* This regulation is effective August 9, 1976.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government before the Missouri Public Service Commission involving the filing by the Gas Service Company of Kansas City for new rates for the provision of natural gas (Docket No. 18662).

b. The Administrator, Energy Research and Development Administration, may redelegate this authority to any officer, official, or employee of the Energy Research and Development Administration.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

T. M. CHAMBERS,
Acting Administrator of General Services.

AUGUST 16, 1976.

[FR Doc.76–24807 Filed 8–24–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 17, 1976.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule

12f–1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Albany International Corp. $1.25 Par Capital, File No. 7–4860.
Commonwealth Edison Co. $1.25 Convertible Preferred NPV, File No. 7–4861.
Congoleum Corp. Common $1.00 Par, File No. 7–4862.
Nalco Chemical Co. Common $0.75 Par, File No. 7–4863.
Northwest Telecom Ltd., Common Stock NPV, File No. 7–4864.
Rio Algom Ltd. Common Stock NPV, File No. 7–4865.
Spencer Companies, Inc. Common Stock $1.00 Par, File No. 7–4866.

Upon receipt of a request, on or before August 30, 1976 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24818 Filed 8–24–76;8:45 am]

[File No. 500–1]

IMAGE SYSTEMS, INC.

Suspension of Trading

AUGUST 18, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Image Systems, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 1:05 p. m. (e.d.t.) on August 18, 1976 through August 27, 1976.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24819 Filed 8–24–76;8:45 am]

[812–3902]

RESERVE MANAGEMENT CORP. AND THE RESERVE FUND, INC.

Hearing on Application for Exemption

Reserve Management Corporation ("Management"), and The Reserve Fund, Inc., 810 Seventh Avenue, New York, New York 10019, ("Fund") (collectively, "Applicants"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 30, 1976, pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions of section 15(a) of the Act a proposed retroactive implementation of the Fund's investment advisory contract ("Agreement") with Management. Under that proposal, the Fund would pay to Management approximately $523,030 for investment advisory and other services rendered between July 17, 1975, and October 20, 1975, which the application states as representing the difference between (1) payment in the aggregate amount specified in the Agreement and a separate "service agreement", and (2) the cost, already paid by the Fund, of providing those services.

On May 5, 1976, a notice (Investment Company Act Release No. 9275) was issued of the filing of the application. That notice, which is incorporated herein by reference, gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered.

Certain interested persons have filed requests for a hearing. It appears to the Commission that it is appropriate in the public interest and consistent with the protection of investors to hold a hearing with respect to said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's rules of practice (17 CFR 201.6). Any person desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's rules of practice, setting forth any issues of law or fact which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. Persons filing an application to participate or be heard will receive notice of the date of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act and to an Administrative Law Judge under the Commission's rules of practice.

The Division of Investment Management has advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the proposed retroactive implementation of the Agreement and the payments to Management for certain investment advisory services rendered prior to approval of the Agreement by Fund shareholders would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act;

(2) Whether the Fund's previous investment advisory contract with Management was properly in effect prior to June 1, 1975; if not, whether such invalidity of the previous contract was caused by misconduct on the part of Management or its controlling persons; and, in the latter event, whether the proposed payments to Management are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

(3) Whether the manner in which the Agreement was negotiated and approved by the Fund's directors and ratified by the Fund's shareholders was proper in all respects.

It is further ordered, That at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants and to the persons who have requested a hearing; that notice to all other persons be given by publication of this Notice and Order in the FEDERAL REGISTER; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–24820 Filed 8–24–76;8:45 am]

[812–3902]

RESERVE MANAGEMENT CORP. AND THE RESERVE FUND, INC.

Hearing on Application for Exemption

Reserve Management Corporation ("Management"), and The Reserve Fund, Inc., 810 Seventh Avenue, New York, New York 10019, ("Fund") (collectively, "Applicants"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 30, 1976, pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions

of section 15(a) of the Act a proposed retroactive implementation of the Fund's investment advisory contract ("Agreement") with Management. Under that proposal, the Fund would pay to Management approximately $523,030 for investment advisory and other services rendered between July 17, 1975, and October 20, 1975, which the application states as representing the difference between (1) payment in the aggregate amount specified in the Agreement and a separate "service agreement", and (2) the cost, already paid by the Fund, of providing those services.

On May 5, 1976, a notice (Investment Company Act Release No. 9275) was issued of the filing of the application. That notice, which is incorporated herein by reference, gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered.

Certain interested persons have filed requests for a hearing. It appears to the Commission that it is appropriate in the public interest and consistent with the protection of investors to hold a hearing with respect to said application.

It is ordered, Pursuant to Section 40(a) of the Act, that a hearing on said application under the applicable provisions of the Act be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's rules of practice (17 CFR 201.6). Any person desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's Rules of Practice, setting forth any issues of law or fact which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. Persons filing an application to participate or be heard will receive notice of the date of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of tre Commission designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act and to an Administrative Law Judge under the Commission's rules of practice.

The Division of Investment Management has advised the Commission that it has made a preliminary examination of the application and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the proposed retroactive implementation of the Agreement and the payments to Management for certain investment advisory services rendered prior to approval of the Agreement by Fund shareholders would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act;

(2) Whether the Fund's previous investment advisory contract with Management was properly in effect prior to June 1, 1975; if not, whether such invalidity of the previous contract was caused by misconduct on the part of Management, or its controlling persons; and, in the latter event, whether the proposed payments to Management are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

(3) Whether the manner in which the Agreement was negotiated and approved by the Fund's directors and ratified by the Fund's shareholders was proper in all respects.

It is further ordered, That at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants and to the persons who have requested a hearing; that notice to all other persons be given by publication of this Notice and Order in the FEDERAL REGISTER; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-24821 Filed 8-24-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02-0317]

BOHLEN CAPITAL CORP.

Application for a License

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by Bohlen Capital Corporation (the applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant, with its principal place of business at 30 East 42nd Street, New York, New York 10017 will begin operations with $1,000,000 of paid-in capital and surplus and will be solely owned by Bohlen Industries of North America, Inc. (BINA), which is a wholly owned subsidiary of Bohlen Industrie Aktiengesellschaft (BIAG), a German Corporation.

BIAG, which is principally located at Maximillian Strasse 22, D-8,000, Munich, West Germany, is owned by Messrs Berthold von Bohlen und Halbach and Harold von Bohlen und Halbach who each own 49 percent and 50 percent respectively of the company's stock. Mr. Raiser is President and Director of BIAG.

The officers and directors of the applicant will be as follows:

NAME AND TITLE

Helmut Raiser, 14 Franz-Joseph Strasse, Munich, Germany, Chairman of the Board and Director.

Harvey J. Wertheim, 9 Rawling Drive, Melville, New York 11746, President, Treasurer and Director.

Emilio A. Dominianni, 5 Spring Lake Drive, E. White Plains, New York 10604, Secretary and Director.

Maximo Gonzales, 1 bis rue clement Marot, Paris, France, Director.

John H. French II, 151 East 72nd Street, New York, New York 10023, Director.

The applicant will conduct its operations principally in the New York area and will not concentrate its investments in any particular industry.

Research and Science Investors, Inc., 30 East 42nd Street, New York, New York 10017 (RSI), a privately held venture capital investment company will serve as investment advisor/manager of the Applicant. Messrs. French and Wertheim are president-director and vice president, treasurer, director respectively of RSI. Messrs. Wertheim and French also serve as the President and a Director respectively of Van Rietschoten Capital Corp., a licensed Small Business Investment Company, 30 East 42nd Street, New York, New York 10017.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the SBA Rules and Regulations.

Any person may, on or before September 9, 1976, submit to SBA written comments on the proposed Licensee. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 18, 1976.

GERALD L. FEIGEN,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76-24844 Filed 8-24-76;8:45 am]

CLEVELAND DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Cleveland District Advisory Council will hold a public meeting at 9:45 a.m., Friday, September 17, 1976, in the Bond Court Hotel, 777 St. Clair Avenue, NE, Cleveland, Ohio, to discuss such matters as may be presented by members, staff of the Small Business Administration,

or others present. For further information, write or call S. Charles Hemming, Jr., District Director, U.S. Small Business Administration, 1240 East Ninth Street, AJC Federal Building, Room 317, Cleveland, Ohio 44199, 216/293–4182.

Dated: August 13, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76–24900 Filed 8–24–76;8:45 am]

[License No. 01/01–0018]

MASSACHUSETTS CAPITAL CORP.

Transfer of a Small Business Investment Company License

On April 27, 1976, a Notice of application for a transfer of control of Massachusetts Capital Corporation, a small business investment company, was published in the Federal Register (Vol. 14, No. 82) pursuant to § 107.701 of the Small Business Administration (SBA) Regulations governing small business Administration (SBA) Regulations governing small business investment companies (13 CFR 107.701 (1976)).

Interested parties were given 10 days to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA approves the transfer of control of Massachusetts Capital Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 12, 1976.

DANIEL SCHLESINGER,
Acting Deputy Associate Administrator for Investment.

[FR Doc.76–24902 Filed 8–24–76;8:45 am]

SYRACUSE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Syracuse District Advisory Council will hold a public meeting at 8:30 a.m., Thursday, September 16, 1976, in the Board Room, Manufacturers & Traders Trust Company, 1 M & T Plaza, Buffalo, New York, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Federal Building, Room 1073, Syracuse, New York 13202, 315/951–3460.

Dated: August 13, 1976.

HENRY V. Z HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.76–24901 Filed 8–24–76;8:45 am]

VETERANS ADMINISTRATION

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held in Room 119 of the main Veterans Administration building, 810 Vermont Avenue, NW, Washington, DC, on October 26 and 27, 1976. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on its findings.

The meeting will be open to the public up to the seating capacity of the room from 1:30 to 2 p.m., October 26, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC, (202–389–3702) prior to October 8.

The meeting will be closed from 2 p.m. to 4:45 p.m. October 26 and all day on October 27 for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Pub. L. 92–463 and Sections 552(b)(2) and 552(b)(6) of Title 5, U.S. Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute an invasion of personal privacy.

Dated: August 19, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76–24892 Filed 8–24–76;8:45 am]

federal register

WEDNESDAY, AUGUST 25, 1976



PART II:

FEDERAL ELECTION COMMISSION

■

ESTABLISHMENT OF CHAPTER

Title 11—Federal Elections

CHAPTER I—FEDERAL ELECTION COMMISSION

[Notice 1976-38]

ESTABLISHMENT OF CHAPTER

The Federal Election Commission today publishes regulations which it has adopted to implement the provisions of the Federal Election Campaign Act of 1971, as amended in 1974 and 1976. Commission approval of these regulations occurred on July 27, 29 and 30, 1976, and August 5, 1976. Pursuant to 2 U.S.C. § 438, the regulations have been transmitted to the Congress of the United States. The regulations are not yet effective. Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress for 30 legislative days in accordance with 2 U.S.C. § 438(c), 26 U.S.C. § 9009(c), and 26 U.S.C. § 9039(b).

These regulations were originally published in proposed form on May 26, 1976 (41 FR 21572-21605), on June 25, 1976 (41 FR 26397) and on July 9, 1976 (41 FR 28413). Written comments were received and public hearings were held. The regulations published today will be promulgated in their present form unless disapproved by the Congress under 2 U.S.C. § 438(c), 26 U.S.C. §§ 9009(c) or 9039(b).

Dated: August 19, 1976.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

Chapter I is added to Title 11 of the Code of Federal Regulations to read as follows:

SUBCHAPTER A—GENERAL

PART 100—SCOPE AND DEFINITIONS

Sec.
100.1 Scope.
100.2 Candidate.
100.3 Commission.
100.4 Contribution.
100.5 Support.
100.6 Election.
100.7 Expenditure.
100.8 Federal office.
100.9 File, filed, or filing.
100.10 Identification.
100.11 Occupation.
100.12 Principal place of business.
100.13 Person.
100.14 Political committee.
100.15 Connected organization.
100.16 Political party.
100.17 National committee.
100.18 State.
100.19 State committee, subordinate committee.
100.20 Act.

PART 101—CANDIDATE STATUS AND DESIGNATIONS

101.1 Duration of candidate status.
101.2 Candidate designations.
101.3 Waiver of candidate reporting.

PART 102—REGISTRATION AND ORGANIZATION OF POLITICAL COMMITTEES

102.1 Registration of political committees.
102.2 Forms and filing.
102.3 Change or correction in information.
102.4 Termination of registration.
102.5 Identification number.
102.6 Federal committees and accounts; separation of Federal and non-Federal funds.
102.7 Organization of political committees.
102.8 Receipt of contributions.
102.9 Accounting for conrtibutions and expenditures.
102.10 Petty cash fund.
102.11 Designation of principal campaign committee.
102.12 Authorization of political committees.
102.13 Notice; solicitations of contributions.
102.14 Records; retention.
102.15 Segregated funds.

PART 103—CAMPAIGN DEPOSITORIES

103.1 Notification of the Commission.
102.2 Depositories.
103.3 Deposits and expenditures.
103.4 Vice-Presidential candidate campaign depositories.

PART 104—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

104.1 General.
104.2 Form and content of reports.
104.3 Disclosure of receipt and consumption of in-kind contributions.
104.4 Filing dates.
104.5 Uniform reporting of contributions.
104.6 Uniform reporting of expenditures.
104.7 Allocation of expenditures among candidates.
104.8 Continuous reporting of debts and obligations.
104.9 Waiver of reporting requirements.
104.10 Political committees; cash on hand.
104.11 Members of Congress; reporting exemption.
104.12 Formal requirements regarding reports and statements.
104.13 Sale or use restriction.

PART 105—DOCUMENT FILING

105.1 Place of filing; House candidates and committees.
105.2 Place of filing; Senate candidates and committees.
105.3 Place of filing; Presidential candidates and committees.
105.4 Place of filing; committees and others.
105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Socretary of the Senate to the Commission.

PART 106—ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

106.1 Allocation of expenditures among (or between) candidates and activities.
106.2 Allocation of expenditures among States by candidates for Presidential nomination.
106.3 Allocation of expenses between campaign and non-campaign related travel.
106.4 Allocation of polling expenses.

PART 107—CONVENTION REPORTS

107.1 Reports by municipal and private host committees.
107.2 Reports by political parties.
107.3 Convention reports; time and content of filing.
107.4 Convention expenses; definitions.

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS

108.1 Filing requirements.
108.2 Filing copies of reports of Presidential and Vice Presidential candidates.
108.3 Filing copies of reports by other Federal candidates and committees.
108.4 Filing copies of reports by committees supporting Presidential candidates.
108.5 Time and manner of filing copies.
108.6 Duty of State officers.
108.7 Effect on state law.
108.8 Exemption for the District of Columbia.

PART 109—INDEPENDENT EXPENDITURES

109.1 Definitions.
109.2 Reporting of independent expenditures.
109.3 Certification of independent expenditures.
109.4 Non-authorization notice.
109.5 Reporting of independent contributions.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

110.1 Contributions by persons.
110.2 Contributions by multicandidate committees.
110.3 Affiliated committees; transfers.
110.4 Prohibited contributions.
110.5 Annual contribution limitation.
110.6 Earmarked contributions.
110.7 Party committee expenditures.
110.8 Presidential candidate expenditure limitations.
110.9 Miscellaneous provisions.
110.10 Expenditures by candidates.
110.11 Communications; advertising.
110.12 Honorariums.

PART 111—COMPLIANCE PROCEDURE

111.1 Scope.
111.2 Complaint; filing.
111.3 Initial processing.
111.4 Notification.
111.5 Investigation.
111.6 Commission action.
111.7 Conciliation.
111.8 Disclosure of Commission action.
111.9 Civil proceedings.
111.10 Issuance of subpoena and subpoena duces tecum.
111.11 Depositions.
111.12 Service of subpoenas and notices of deposition.
111.13 Motions to quash.
111.14 Witness fees and mileage.
111.15 Ex parte communications.

PART 112—ADVISORY OPINION PROCEDURE

112.1 Requests for advisory opinions.
112.2 Public availability of requests.
112.3 Written comments on requests.
112.4 Issuance of advisory opinions.
112.5 Reliance on advisory opinions.
112.6 Reconsideration of advisory opinions.

PART 113—OFFICE ACCOUNTS: EXCESS CAMPAIGN FUNDS

113.1 Definitions.
113.2 Use of funds.
113.3 Deposits of funds donated to a Federal or State officeholder.
113.4 Reports of office accounts.
113.5 Contribution and expenditure limitations.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

114.1 Definitions.
114.2 Prohibitions on contributions and expenditures.
114.3 Partisan communications.
114.4 Nonpartisan communications.
114.5 Separate segregated funds.
114.6 Twice yearly solicitations.
114.7 Membership organizations, cooperatives, or corporations without capital stock.

Sec.
114.8 Trade associations.
114.9 Use of corporate or labor organization facilities and means of transportation.
114.10 Extension of credit and settlement of corporate debts.
114.11 Employee participation plans.
114.12 Miscellaneous provisions.

PART 115—FEDERAL CONTRACTORS

115.1 Definitions.
115.2 Prohibition.
115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.
115.4 Partnerships.
115.5 Individuals and sole proprietors.
115.6 Employee contributions or expenditures.

SUBCHAPTER B—PRESIDENTIAL ELECTION CAMPAIGN FUND, FEDERAL FINANCING OF CONVENTIONS

PART 120—GENERAL PROVISIONS

120.1 Scope.
120.2 Definitions.

PART 121—LIMITATION OF EXPENDITURES

SUBPART A—NATIONAL PARTY LIMITATIONS

121.1 Major parties.
121.2 Minor parties.
121.3 Exception.
121.4 Expenditures by agencies and municipal corporations.

SUBPART B—IN-KIND CONTRIBUTIONS BY BUSINESSES

121.5 Discounts by retail business concerns.
121.6 Samples and promotional material.
121.7 In-kind contributions to the host committee.

SUBPART C—DONATION OF FUNDS BY LOCAL BUSINESSES AND LABOR ORGANIZATIONS; ADVERTISING

121.8 Donation of funds to host committee.
121.9 Use of funds by host committee.
121.10 Expenditures by individuals and groups.

PART 122—ENTITLEMENT TO AND DISPOSITION OF PAYMENTS FROM THE FUND

122.1 Major parties.
122.2 Minor parties.
122.3 Adjustment of entitlements.
122.4 Investment of funds.
122.5 Use of funds; candidate and delegate expenses.

PART 123—PAYMENT PROCEDURE FOR PRESIDENTIAL NOMINATING CONVENTIONS

123.1 Optional payments; private contributions.
123.2 Transfer to the fund.
123.3 Information required to qualify for public funds.
123.4 Payment schedule.

PART 124—POST-DISBURSEMENT PROCEDURES

124.1 Repayments.
124.2 Notification of need for repayments.
124.3 Examination and audits.

PART 125—CONVENTION REPORTS

125.1 Reports by municipal and private host committees.
125.2 Reports by political parties.
125.3 Post-convention reports; time and content of filing.
125.4 Committees receiving Federal funds; quarterly reports.
125.5 Convention expenses; definition.

SUBCHAPTER C—PRESIDENTIAL ELECTION CAMPAIGN FUND, PRESIDENTIAL PRIMARY MATCHING FUND

PART 130—DEFINITIONS

Sec.
130.1 Authorized committee.
130.2 Political committee.
130.3 Candidate.
130.4 Commission.
130.5 Matching payment account.
130.6 Matching payment period.
130.7 Primary election.
130.8 Matchable campaign contributions.
130.9 Nonmatchable contributions.
130.10 Qualified campaign expense.
130.11 State.

PART 131—ELIGIBILITY FOR PAYMENTS

131.1 Candidate agreements.
131.2 Candidate certifications; threshold amount.
131.3 Matching payment threshold requirements.
131.4 Matching payments in excess of threshold.
131.5 Candidate entitlements.
131.6 Expenditure limitation.

PART 132—CERTIFICATION AND DISBURSEMENT

132.1 Initial certification.
132.2 Additional certifications.
132.3 Payments and deposits of Presidential primary matching funds.
132.4 Insufficient documentation.
132.25 Certification review and notice.
132.6 Resubmission and hearing opportunity.

PART 133—TERMINATIONS OF PAYMENTS

133.1 Continuation of certification.
133.2 Ineligibility dates defined.
133.3 Use of matching payments; net outstanding campaign obligations.
133.4 Determination of inactive candidacy.
133.5 Determination of active candidacy.
133.6 Reestablishment of eligibility dates.
133.7 Suspension of payments.

PART 134—EXAMINATIONS AND AUDITS; REPAYMENTS

134.1 Audit.
134.2 Repayments.
134.3 Liquidation of obligations; repayment.

SUBCHAPTER D—PRESIDENTIAL ELECTION CAMPAIGN FUND, GENERAL ELECTION FINANCING

PART 140—DEFINITIONS

140.1 Authorized committee.
140.2 Candidate.
140.3 Commission.
140.4 Eligible candidates.
140.5 Fund.
140.6 Major party.
140.7 Minor party.
140.8 New party.
140.9 Political committee.
140.10 Presidential election.
140.11 Qualified campaign expense.
140.12 Expenditure report period.
140.13 Contribution; exclusions.
140.14 Secretary.

PART 141—ELIGIBILITY FOR PAYMENTS

141.1 Candidate agreements.
141.2 Candidate certifications.
141.3 Allowable contributions.

PART 142—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

142.1 Major parties.
142.2 Minor parties.
142.3 Minor and new parties; post-election payments.
142.4 Use of payments.
142.5 Withdrawal by candidate.

PART 143—CERTIFICATION BY COMMISSION

Sec.
143.1 Initial certification.
143.2 Payments from the fund.
143.3 Finality of certification; hearings.

PART 144—REPORTS AND RECORDKEEPING

144.1 Separate reports.
144.2 Allocation of administrative expenses.

PART 145—EXAMINATIONS AND AUDITS; REPAYMENTS

145.1 Audits, records, and investigations.
145.2 Repayments.
145.3 Notification.

PART 146—OTHER EXPENDITURES

146.1 Expenditures by political party committees.

SUBCHAPTER A—GENERAL

PART 100—SCOPE AND DEFINITIONS

Sec.
100.1 Scope.
100.2 Candidate.
100.3 Commission.
100.4 Contribution.
100.5 Support.
100.6 Election.
100.7 Expenditure.
100.8 Federal office.
100.9 File, filed, or filing.
100.10 Identification.
100.11 Occupation.
100.12 Principal place of business.
100.13 Person.
100.14 Political committee.
100.15 Connected organization.
100.16 Political party.
100.17 National committee.
100.18 State.
100.19 State committee, subordinate committee.
100.20 Act.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209 (a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission under Title III of the Federal Election Campaign Act of 1971 (Public Law 92-225), as amended in 1974 (Public Law 93-443), and as amended in 1976 (Public Law 94-283) and is applicable to campaigns for nomination or election to the offices of President and Vice President of the United States; and Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 100.2 Candidate.

An individual is a candidate for Federal office, whether or not elected, whenever any of the following events occur:

(a) The individual has taken the action necessary, under relevant State law, to qualify in a primary, runoff, special or general election convention or caucus; or

(b) The individual has received contributions or made expenditures, or has given his or her consent for any other person to receive contributions or make

expenditures, with a view toward bringing about his or her election; or

(c) If after written notification by the Commission that any other person is receiving contributions or making expenditures on the individual's behalf, the individual fails to disavow this activity by letter to the Commission within 30 days of receipt of the notification.

§ 100.3 Commission.

"Commission" means the Federal Election Comimssion, 1325 K Street, NW., Washington, D.C. 20463.

§ 100.4 Contribution.

(a) "Contribution" means—

(1) A gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office; or for the purpose of influencing the results of a primary election, caucus, or convention held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President. For purposes of paragraph (a),

(i) The term "loan" includes a guarantee, endorsement, and any other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser as well as with a political committee, candidate, or other primary obligor. A loan is a contribution to the extent that the obligation remains outstanding.

(ii) The term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) (A) The term "anything of value" includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b)(2)) or at a charge which is below the usual and normal charge for the items. The amount of a contribution of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the candidate or political committee.

(B) For purposes of this section,

(*1*) "Usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution.

(2) "Usual and normal charge" for any services, other than those provided by an unpaid volunteer, means the hourly or piecework rate charge for the services prevailing at the time the services were rendered.

(2) The donation of all or a portion of the costs of fundraising, such as the cost of a meal as part of a fundraising dinner.

(3) A written contract, promise, or agreement such as a signed pledge card, whether or not legally enforceable, to make a contribution. The contract, promise, or agreement shall be reported as a debt owed to the candidate or committee until it is honored.

(4) A transfer of funds to a political committee or candidate from another political committee, other political organization, or other similar source whether or not such organization is a political committee. The transfer occurs whenever the treasurer or other designated agent of the transferee committee or the candidate obtains control over the funds.

(5) The payment by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to a candidate or political committee without charge. No compensation is considered paid to any employee—

(i) (A) Who is paid on an hourly or salaried basis;

(B) Who is expected to perform duties for an employer for a particular number of hours per period; and

(C) Who engages in political activity during what would otherwise be a regular work period;

if the taken or released time is made up or completed by that employee within a reasonable period; or

(ii) Who is paid on a commission or piecework basis, or is paid only for work actually performed, whose time is considered the employee's own to use as he or she sees fit and who engages in political activity during what would otherwise be normal working hours; or

(iii) Where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

(6) The extension of credit for a length of time beyond normal business or trade practice, unless the creditor has made a commercially reasonable attempt to collect the debt (see § 114.10).

(b) The term "contribution" does not include—

(1) Payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, if the individual does not otherwise become a candidate. If the individual otherwise subsequently becomes a candidate, the payments are contributions, and must be reported with the first report filed by the candidate or the principal campaign committee of the candidate, as appropriate, regardless of the date the payments were made.

(2) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

(3) The rental value of an individual's residence used for campaign-related activity.

(4) The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided without charge by an individual, in rendering voluntary personal services to a candidate on the individual's residential premises, to the extent that the cumulative value of those activities by the individual on behalf of the candidate do not exceed $500 with respect to an election. For purposes of this paragraph a contribution by a married individual shall not be attributed to a spouse.

(5) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign at a charge less than the normal or comparable commercial charge, if the charge for use in a candidate's campaign is at least equal to the cost of food or beverage to the vendor, and the cumulative value of the discounts given by the vendor does not exceed $500 for an election.

(6) Any unreimbursed payments for transportation expenses made by an individual in volunteering services to a candidate, to the extent that the cumulative value of the payments does not exceed $500 for an election. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal living expenses incident to volunteer activity are not contributions.

(7) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized. This paragraph shall not apply in the case of costs incurred by the committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards, posters, and signs.

(8) Any news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other periodical publication unless the facility is owned or controlled by any political party, political committee, or candidate, in which case a news story which (1) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (2) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be a contribution.

(9) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of Part 114, would not constitute an expenditure by the corporation or labor organization.

(10) An honorarium, and related expenses, within the meaning of § 110.12.

(11) Legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for the services is not the regular employer of the individual rendering the services), other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office. For purposes of this paragraph and paragraph 12, a partnership shall be

deemed to be the regular employer of a partner.

(12) Legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for the services is not the candidate, committee, or other regular employer of the individual rendering the services), but amounts paid or incurred for these services shall be reported in accordance with Part 104.

(13) A loan of money by a national or State bank made in accordance with applicable banking laws and regulations, and in the ordinary course of business, but these loans (i) shall be reported in accordance with Part 104; and (ii) shall be considered a loan by each endorser or guarantor, in that proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

(14) A gift, subscription, loan, advance, or deposit of money or anything of value made to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility and which is not for the purpose of influencing the election of any candidate in any particular election for Federal office, except that such a transaction shall be reported in accordance with Part 104.

(15) A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to the recount of the results of a Federal election, or an election contest concerning a Federal election, except when made by an organization subject to the prohibitions of § 114.2.

§ 100.5 Support.

The term "support" means to make a contribution of any amount or value to, or to make an expenditure of any amount or value on behalf of, a candidate or political committee, but see § 102.11(c).

§ 100.6 Election.

"Election" means the process by which individuals, whether opposed or unopposed, seek nomination for election, or election, to Federal office. Specific types of elections, defined below, are included in this definition.

(a) *General election.* "General election" means—

(1) An election held in even numbered years on the Tuesday next after the first Monday in November, or

(2) An election which is held to fill a vacancy in a Federal office (special election) and which is intended to result in the final selection of a single individual to the office at stake.

(b) *Primary election.* (1) "Primary election" means an election—

(i) Which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election, or

(ii) Which is held for the expression of a preference for the nomination of persons for election to the office of President of the United States, or

(iii) Which is held to elect delegates to a national nominating convention.

(2) With respect to individuals seeking Federal office as independent candidates, or without nomination by a major party (as defined in 26 U.S.C. § 9002(6)), the primary election is considered to occur, at the choice of the candidate—

(i) The day prescribed by applicable State law as the last day to qualify for a position on the general election ballot, or

(ii) The date of the last major party primary election, caucus or convention in that State, or

(iii) In the case of non-major parties, the date of the nomination by that party.

(c) *Runoff election.* "Runoff election" means the election held after a

(1) Primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as a nominee for the Federal office sought, or

(2) General election, and prescribed by applicable State law as the means for deciding which candidate should be certified as an officeholder elect.

(d) *Caucus or Convention.* A caucus or convention of a political party which has authority to select a nominee is an election.

(e) *Special election.* "Special election" means an election which is held to fill a vacancy in a Federal office, and which may be a primary, general, or runoff election.

§ 100.7 Expenditure.

(a) "Expenditure" means—

(1) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or to the office of Presidential or Vice Presidential elector; or for the purpose of influencing the result of a primary election, caucus or convention held for the selection of delegates for a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President. For purposes of paragraph (1)—

(i) The term "payment"

(A) Includes payment of any interest on an obligation; and

(B) Includes a guarantee or endorsement by a candidate or a political committee of a loan;

(C) Does not include the repayment of the principal of an outstanding obligation, the proceeds of which constituted a contribution under these regulations, except that the repayment shall be reported.

(ii) The term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) The term "anything of value" includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b)(2)) or at a charge which is below the usual and normal charge for the items. The amount of the expenditure of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the expenditure and the amount charged for the candidate or committee. For purposes of this paragraph,

(A) "Usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution.

(B) "Usual and normal charge" for services, other than those provided by an unpaid volunteer, means the hourly or piecework rate charge for the services prevailing at the time the services were rendered.

(2) A written contract, promise, or agreement, whether or not legally enforceable, to make any expenditure.

(3) A transfer of funds by a political committee to another political committee or candidate. A transfer occurs whenever the treasurer or other designated agent of the transferee committee or the candidate obtains control over the funds.

(4) An independent expenditure, which meets the requirements of Part 109, except that such independent expenditure is to be reported by the person making the expenditure as set forth in Part 109.

(b) The term "expenditure" does not include—

(1) Contributions by an individual from personal funds to a political committee or candidate.

(2) Payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, if the individual does not otherwise subsequently become a candidate. If the individual becomes a candidate, the payments are expenditures, and must be reported with the first report filed by the candidate or the principal campaign committee of the candidate, as appropriate, regardless of the date the payments were made.

(3) Any news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other publication, unless the facility is owned or controlled by any political party, political committee or candidate, in which case a news story which (i) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be an expenditure.

(4) Nonpartisan activity designed to encourage individuals to register to vote or to vote. For purposes of this section, nonpartisan activity means that no ef-

fort is made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.

(5) Any communication by a membership organization to its members or by a corporation to its stockholders or executive or administrative personnel, so long as the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission on FEC Form 7. For the purposes of this paragraph—

(i) "Labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, or dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(A) This definition includes—

(*1*) Individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(2) Individuals following the recognized professions, such as lawyers and engineers.

(B) This definition does not include—

(*1*) Professionals who are represented by a labor organization;

(2) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(3) Former or retired personnel who are not stockholders; or

(*4*) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)–(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–1.

(C) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)–(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–1.

(D) The Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* and the regulations issued pursuant to the Act, 29 CFR 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(iv) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) "Election" means two separate processes in a calendar year, to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, wherever held; the second process is comprised of all general elections for Federal office, wherever held;

(vi) "Corporation" means any separately incorporated entity, whether or not affiliated.

(vii) When the aggregate costs exceed $2,000 per election, all costs of the communication shall be reported on the filing dates provided in § 104.4, and shall include the total amount expended for each candidate supported.

(6) The rental value of an individual's residence used for campaign-related activity.

(7) The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided without charge by an individual, in rendering voluntary personal services to a candidate on the individual's residential premises, to the extent that the cumulative value of those activities by the individual on behalf of a candidate do not exceed $500 with respect to an election. For purposes of this paragraph an expenditure by a married individual shall not be attributed to a spouse.

(8) Any unreimbursed payments for transportation expenses made by an individual in volunteering services to a candidate, to the extent that the cumulative value of the payments does not exceed $500 for an election. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal living expenses incident to volunteer activity are not expenditures.

(9) Any communication by a person which is not made for the purpose of influencing the nomination for election, or election, of an individual to Federal office.

(10) Any payments by the candidate from non-campaign funds for routine living expenses of the candidate which would have been incurred without candidacy, including food and residence.

(11) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized. This paragraph shall not apply in the case of costs incurred by a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising, such as billboards, posters, and signs.

(12) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of Part 114 and 2 U.S.C. § 441b, would not constitute an expenditure by the corporation or labor organization.

(13) (i) Any costs incurred by a candidate or his or her authorized committees in connection with the solicitation of contributions by a candidate who has received Presidential Primary Matching Fund Payments (or a minor new party candidate receiving general election public financing under 26 U.S.C. § 9004), not exceeding 20% of the expenditure limitation applicable to the candidate, but these costs shall be reported under Part 104.

(ii) For purposes of this paragraph, "in connection with the solicitation of contributions" means any cost reasonably related to fundraising activity, including the costs of printing and postage, the production of and space or air time for, advertisements used for fundraising, and the costs of meals, beverages, and other costs associated with a fundraising reception or dinner.

(iii) The fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days of a primary election, convention, or caucus, see § 110.8(c).

(14) Legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for the services is not the regular employer of the individual rendering the services), other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office. For purposes of this paragraph and paragraph (15), a partnership shall be deemed to be the regular employer of a partner.

(15) Legal or accounting services rendered to or on behalf of a candidate or political committee solely for the pur-

pose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for the services is not the candidate, committee, or other regular employer of the individual rendering the services), but amounts paid or incurred for these services shall be reported in accordance with Part 104.

(16) A loan of money by a national or State bank made in accordance with the applicable banking laws, but such a loan shall be made in accordance with § 100.4(b)(13), and shall be reported in accordance with Part 104.

(17) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made with respect to the recount of the results of a Federal election, or an election contest concerning a Federal election, except when made by an organization subject to the prohibitions of § 114.2.

§ 100.8 Federal office.

"Federal office" means the office of President, or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 100.9 File, filed, or filing.

"File," "filed," and "filing" mean with respect to reports and statements required to be filed under this chapter—

(a) Delivery to the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463; the Secretary of the Senate, Washington, D.C. 20510; or the Clerk of the House of Representatives, Washington, D.C. 20515, as required by Part 105, by the close of the prescribed filing date, or

(b) (1) deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than midnight of the day of the filing date, except that pre-election reports so mailed must be postmarked not later than midnight of the twelfth day before the date of the election.

(2) Reports and statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

§ 100.10 Identification.

"Identification" means (a) in the case of an individual, his or her full name, including first name, middle name or initial, if available, last name, and full address of his or principal place of residence, and (b) in the case of any other person, the full name and mailing address.

§ 100.11 Occupation.

"Occupation" means principal job title or position and whether or not self-employed.

§ 100.12 Principal place of business.

"Principal place of business" means the full name under which the business is conducted and the city and state in which the person is employed or conducts business.

§ 100.13 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organiztaion or group of persons.

§ 100.14 Political committee.

"Political committee" means any committee, club, association, or other group of persons which anticipates receiving, or receives contributions, or makes expenditures, totalling more than $1,000 in value during a calendar year, and means any principal campaign committee.

(a) The following are political committees:

(1) *Principal compaign committee.* "Principal campaign committee" means the political committee designated by a candidate as his or her principal campaign committee pursuant to § 101.2.

(2) *Single candidate committee.* "Single candidate committee" means a political committee other than a principal campaign committee which makes or receives contributions or makes expenditures on behalf of only one candidate.

(3) *Multicandidate committee.* "Multicandidate committee" means a political committee which (i) has been registered with the Commission, Clerk, or Secretary for at least 6 months; (ii) has received contributions for Federal elections from more than 50 persons; and (iii) (except for any State political party organization) has made contributions to 5 or more Federal candidates, see § 110.2.

(4) *Party committee.* "Party committee" means a political committee which represents a political party and is part of the official party structure at the national, State, or local level.

(b) A political committee is either an authorized committee or an unauthorized committee.

(1) *Authorized committee.* An "authorized committee" is a political committee which is empowered in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate, or has not been disavowed pursuant to § 100.2(c).

(2) *Unauthorized committee.* An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate, or has been disavowed pursuant to § 100.2(c).

(c) *Affiliated committee.* (1) All authorized committees of the same candidate are affiliated.

(2) All commitees (including a separate segregated fund, see Part 114) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

(i) Application of the rule of this paragraph means that—

(A) All political committees set up by a single corporation and/or its subsidiaries are affiliated;

(B) All political committees set up by a single national or international union and/or its local unions or other subordinate organizations of the national or international union are affiliated;

(C) All of the political committees set up by an organization of national or international unions and all its State and/or local central bodies are affiliated;

(D) All political committees (other than party committees) established by a member organization, including a trade or professional association, see § 114.8(a), and/or by related State and local entities, are affiliated;

(E) All the political committees established by the same person or group of persons are affiliated.

(ii) For organizations not covered by (i) above, indicia of establishing, financing, maintaining, or controlling, include—

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authoriy, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

§ 100.15 Connected organization.

"Connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports the registrant such as a corporation (including one without capital stock), a labor organization, a membership organization, a cooperative, or trade association.

§ 100.16 Political party.

"Political party" means an association, committee, or organization which nominates or selects a candidate for election to any Federal office, whose name appears on an election ballot as the candidate of the association, committee, or organization.

§ 100.17 National committee.

"National committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level.

§ 100.18 State.

"State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 100.19 State committee, subordinate committee.

(a) "State committee" means the organization which, by virtue of the by-

laws of a political party, is responsible for the day-to-day operation of the political party at the State level.

(b) "Subordinate committee of a State committee" means any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State, or any organization under the control or direction of the State committee.

§ 100.20 Act.

"Act" means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974, and 1976, and, unless specifically excluded, includes chapters 95 and 96 of the Internal Revenue Code of 1954 relating to the public financing of Federal elections.

PART 101—CANDIDATE STATUS AND DESIGNATIONS

Sec.
101.1 Duration of candidate status.
101.2 Candidate designations.
101.3 Waiver of candidate reporting.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 101.1 Duration of candidate status.

Once an individual becomes a candidate under § 100.2 and does not have a waiver of candidate reporting under § 101.3, he or she continues to be a candidate for reporting purposes until all debts and obligations for which the candidate is personally obligated arising in connection with the election are extinguished. Candidacy then may be terminated by letter, containing the information required by § 102.4; see § 102.4 for termination of committees.

§ 101.2 Candidate designations.

(a) Within 30 days after attaining candidate status an individual is required to file a Statement of a Candidate for Nomination or Election to Federal Office on FEC Form 2, or file by a letter containing the same information in which such candidate shall—

(1) Designate a principal campaign committee in accordance with § 102.11, and

(2) Designate at least one national or State bank as a campaign depository under § 103.1.

(b) The candidate shall file a Statement of Authorization on FEC Form 2a or by letter containing the same information for any political committee other than a principal campaign committee which will be authorized to accept contributions or make expenditures on behalf of that candidate.

(c) The candidate shall commence filing personal reports of receipts and expenditures in accordance with Part 104, unless a waiver of personal reporting is obtained under § 101.3, or unless reporting is exempted under §§ 104.1(c), 104.4(d)(2), or 104.4(f).

(d) If the candidate, or his or her authorized committee(s), receive contributions designated for the general election prior to the date of the primary election, the candidate or his or her authorized committee(s) shall use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable methods include but are not limited to (1) the designation of separate accounts for each election, caucus, or convention and (2) the establishment of separate books and records for each election.

§ 101.3 Waiver of candidate reporting.

A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states on FEC Form 2 or in a letter that—

(a) Within 5 days after personally receiving a contribution, the candidate will surrender possession of the entire contribution to the treasurer of his or her principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions conveyed by check, money order, or other written instrument shall be consigned directly to the political committee and shall not be cashed or redeemed by the candidate.

(b) The candidate shall not make any unreimbursed expenditures for his or her campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to the candidate's designated principal campaign committee which shall be reported by the committee as a contribution received.

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

PART 102—REGISTRATION AND ORGANIZATION OF POLITICAL COMMITTEES

Sec.
102.1 Registration of political committees.
102.2 Forms and filing.
102.3 Change or correction in information.
102.4 Termination of registration.
102.5 Identification number.
102.6 Federal committees and accounts; separation of Federal and non-Federal funds.
102.7 Organization of political committees.
102.8 Receipt of contributions.
102.9 Accounting for contributions and expenditures.
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102.12 Authorization of political committees.
102.13 Notice; solicitations of contributions.
102.14 Records; retention.
102.15 Segregated funds.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315 (a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 102.1 Registration of political committees.

(a) Each political committee except as specified in paragraphs (b) and (c), shall file a Statement of Organization with the Federal Election Commission, the Secretary of the Senate, or the Clerk of the House, as appropriate, within 10 days after the date of its organization, or within 10 days after the date on which the committee has information which causes it to anticipate receiving contributions or making expenditures exceeding $1,000 in a calendar year for Federal candidates, whichever is later, and, in the case of a principal campaign committee, within 10 days of when it is designated by the candidate.

(b) Each authorized committee shall file the Statement of Organization required by paragraph (a) of this section, and any amendment thereto, or termination thereof required by sections 102.3 or 102.4 of this Part, with the affiliated principal campaign committee. The principal campaign committee shall file a copy of this Statement, amendment, or termination as in paragraph (a) of this section.

(c) A political committee which has previously filed a Statement of Organization with the Commission, the General Accounting Office, the Clerk of the House of Representatives or the Secretary of the Senate, and has not validly terminated is not required to file a new Statement.

§ 102.2 Forms and filing.

(a) The Statement of Organization shall be filed on Federal Election Commission Form 1, which may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. The Statement, to be signed by the treasurer, shall include the following:

(1) The name, address, and type (see § 100.14) of committee;

(2) The names, addresses, and relationships of affiliated and connected organizations (see paragraph (b) of this section);

(3) The area, scope, or jurisdiction of the committee;

(4) The name, address, and committee position of the custodian of books and accounts;

(5) The name, address, and committee position of other principal officers, including the assistant treasurer and assistant chairman (if any) and the officers and members of the finance committee, if any;

(6)(i) The name, address, office sought, and party affiliation of (A) each candidate for Federal office whom the committee is supporting and (B) each candidate whom the committee is supporting for nomination or election to any

other public office; or if the committee is supporting the entire ticket of any party, the name of the party and the State in which the election is held.

(ii) If a committee wishes to terminate support, it shall amend its statement of organization;

(7) A statement whether the committee's existence will continue beyond the calendar year;

(8) The disposition of residual funds which will be made in the event of dissolution;

(9) A listing of all banks, safety deposit boxes, or other repositories used;

(10) A statement listing any reports (other than those required by these regulations) regarding candidates for Federal office filed under State or local law by the committee with State or local officers, and the names, addresses, and positions of such officers. See 2 U.S.C. § 453, and § 108.7 of these regulations.

(b) (1) "Affiliated organization" means an affiliated committee as defined in § 100.14(c).

(i) Only a principal campaign committee is required to disclose the name and address of all other authorized committees of its candidate; other authorized committees need only disclose the name of their principal campaign committee.

(ii) (A) Only political committees established by a single parent corporation, a single national or international union, a single organization or federation of national or international unions, a single national membership organization or trade association, or any other similar group of persons (other than political party organizations) are required to disclose the names and addresses of all political committees established by any subsidiary, or by any State, local, or other subordinate unit of a national or international union or federation thereof, or by any subordinate units of a national membership organization, trade association, or other group of persons (other than political party organizations).

(B) Political committees established by subsidiaries of State, local, or other subordinate units are only required to disclose the name and address of each political committee established by their parent or superior body, *e.g.*, parent corporation, national or international union or organization or federation of such unions, or national organization or trade association.

(2) "Connected organization" includes any organization defined in § 100.15.

§ 102.3 Change or correction in information.

Any change or correction in the information previously filed in the Statement of Organization shall be reported within 10 days following the date of the change or correction by filing an amended Statement of Organization or by filing a letter noting the change(s). The amendment need list only the change or correction.

§ 102.4 Termination of registration.

(a) Any political committee (except a principal campaign committee) not having outstanding debts or obligations owed to or by it incurred on behalf of Federal candidates which, after having filed one or more Statements of Organization, seeks to disband or determines that it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000, shall file a notice of termination on FEC Form 3, FEC Form 6 or by letter containing the same information with the Commission, the Clerk of the House or the Secretary of the Senate, as appropriate. The notice shall contain a final report of receipts and disbursements, including a statement as to the disposition of residual funds if the committee is disbanding.

(b) A principal campaign committee may not terminate until—

(1) All debts of other authorized committees of the candidate have been extinguished, and,

(2) The candidate has terminated candidate status under § 101.1.

§ 102.5 Identification number.

Upon receipt of a Statement of Organization under this Part, or upon Commission review of statements already filed, an identification number shall be assigned to the statement, receipt shall be acknowledged, and the political committee shall be notified of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed under the Act, as well as on all communications concerning reports and statements.

§ 102.6 Federal committees and accounts; separation of Federal and non-Federal funds.

(a) (1) Each State committee, and each subordinate committee of the State committee (see § 100.19), which intends to solicit, receive, or make contributions or expenditures, in excess of $1,000, to, for, or on behalf of, any candidate for Federal office, or

(2) Any political committee which has solicited or received contributions for or on behalf of, or made expenditures or transfers to or on behalf of, any candidate for Federal office, shall either—

(i) Establish a separate Federal campaign committee which shall register as a political committee. The Federal campaign committee shall establish a segregated Federal account in either a national or State bank; or

(ii) Establish a single committee with a single account to make contributions to Federal and non-Federal candidates, but only if all contributions received are permissible under the Act, and all contributors are informed that all contributions are subject to the limitations of §§ 110.1, 110.2, and 110.5.

(b) The accounts and committees in (a) (2) (i) and (ii) above—(1) may not receive contributions other than contributions designated for the Federal committee or account, contributions received as a result of a solicitation which expressly states that the contribution will be used for Federal elections, or contributions from contributors who are informed that all contributions are subject to the limitations of §§ 110.1, 110.2, and 110.5; or (2) may not receive transfers from an account or committee established by a State committee, subordinate committee of a State committee, or another political committee, except from a committee or account set out in (i) and (ii).

(c) The Federal campaign committee or account may make transfers for any lawful purpose. The committee shall file a Statement of Organization and shall file reports and statements pursuant to Part 104.

§ 102.7 Organization of political committees.

(a) Every political committee shall have a chairman and a treasurer, who shall not be the same individual.

(b) A political committee may designate—

(1) A vice chairman who shall assume the duties and responsibilities of the chairman in the event of a temporary or permanent vacancy in the office;

(2) An assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office.

(c) No contribution or expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the chairman or the treasurer.

(d) No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or an agent authorized orally or in writing by the chairman or treasurer.

§ 102.8 Receipt of contributions.

Every person who is not an authorized agent of the treasurer or candidate, and who receives contributions aggregating in excess of $50 on behalf of a political committee or candidate shall, on demand of the treasurer or candidate, and in any event within 5 days after receipt, render to the treasurer or an authorized agent or the candidate an accounting thereof, which shall include—

(a) The exact amount of the contribution and the date received, and

(b) The identification of the contributor and, in the case of a contribution with a value in excess of $100, the occupation and principal place of business or employment, if any.

§ 102.9 Accounting for contributions and expenditures.

It shall be the duty of a candidate (not having received a waiver under § 101.3) and of the treasurer of a political committee or an agent authorized by the treasurer to receive contributions and/or make expenditures to—

(a) Keep an account of all contributions made to or for the committee or candidate, and record

(1) The identification of every person making a contribution in excess of $50;

(2) The occupation and principal place of business of individuals whose contributions aggregate in excess of $100 in a calendar year;
(3) The date received; and
(4) The amount of the contribution.
(b) Keep an account of all expenditures made by or on behalf of the committee or candidate, and record
(1) The identification of every person to whom any expenditure is made;
(2) The date of the expenditure;
(3) The amount of the expenditure;
(4) The name and address of each candidate on whose behalf the expenditure was made; and
(5) The office sought by the candidate.
(c) Obtain and keep a receipted bill from the person to whom the expenditure is made for every expenditure made by or on behalf of the committee or candidate—
(1) In excess of $100;
(2) In a lesser amount if the aggregate amount of expenditures during a calendar year to the same person exceeds $100;
(3) The receipted bill shall contain—
(i) The identification of the person to whom the exenditure is made;
(ii) The amount of the expenditure;
(iii) The purpose of the expenditure; and
(iv) The date the expenditure was made.
(4) Instead of a receipted bill, the treasurer may keep—
(i) The canceled check(s) showing payment(s) of the bill; and
(ii) The bill, invoice, or other contemporaneous memorandum of the transaction containing the same information as required in (3) above.
(d) Keep full and complete records of proceeds from the sale of tickets and mass collections at each dinner, luncheon, rally, and other fundraising events, including the date, location, and nature of each event. He or she shall also keep full and complete records of the proceeds from the sale of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, and these records shall reflect the cost of the items to the committee, the sale price, and the total volume sold. These records shall be preserved in accordance with Part 104.
(e) Use his or her best efforts to obtain the required information, and shall keep a complete record of the efforts to do so. If there is a showing that best efforts have been made, the reporting candidate or committee shall be deemed to be in compliance with this section.

§ 102.10 Petty cash fund.

A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements, including the purpose of each disbursement from the fund. The treasurer need not preserve receipts or invoices in connection with the transaction except as provided in § 102.9(c). A check made payable to "cash" shall not be made in excess of $100 except to replenish a petty cash fund.

§ 102.11 Designation of principal campaign committee.

(a) Each candidate for Federal office (other than for election to the office of Vice President of the United States), shall designate a political committee as his or her principal campaign committee (see § 101.2), even if the candidate does not plan to use the committee to receive or expend funds. Each principal campaign committee shall register and report, whether or not otherwise required to do so under § 102.1(a).
(b) No political committee may be designated as the principal campaign committee of more than one candidate.
(c) No political committee which supports more than one candidate may be designated as a principal campaign committee, except that, after nomination, a candidate for the office of President of the United States may designate the national committee of a political party as his or her principal campaign committee.
(1) For purposes of this paragraph, any occasional, isolated, or incidental support of a candidate shall not be construed as "support" of that candidate.
(2) For purposes of this paragraph, "occasional, isolated, or incidental support" means making contributions to, or expenditures on behalf of, a candidate from another candidate's principal campaign committee not exceeding $1000 for any election when combined with any personal contributions from the contributor candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate. See Part 110.

§ 102.12 Authorization of political committees.

(a)(1) Any political committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate. The authorization shall include a designation of campaign depositories to be used by such political committee in accordance with § 101.2 and Part 103.
(2) If an individual fails to disavow activity pursuant to § 100.2(c) and is therefore a candidate upon notice by the Commission, he or she shall authorize the committee in writing and designate a campaign depository in accordance with § 101.2 and Part 103.
(b) A candidate is not required to authorize a national, State or subordinate State party committee which solicits funds to be expended on the candidate's behalf pursuant to § 110.7.

§ 102.13 Notice; solicitations of contributions.

Each political committee shall include on the face or front page of all printed literature and advertisements soliciting contributions and at the beginning or end of any broadcast solicitation the following notice:

"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

§ 102.14 Records; retention.

The treasurer of a political committee shall preserve all receipts, bills, accounts, and all other records in accordance with the requirements of § 104.12.

§ 102.15 Segregated funds.

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of that committee.

PART 103—CAMPAIGN DEPOSITORIES

Sec.
103.1 Notification of the Commission.
103.2 Depositories.
103.3 Deposits and expenditures.
103.4 Vice-Presidential candidate campaign depositories.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 103.1 Notification of the Commission.

Each committee shall notify the Commission of the banks it has designated as its depositories, pursuant to §§ 101.2 and 102.3.

§ 103.2 Depositories.

Only national or State banks chartered by the United States or a State may be designated as campaign depositories. One or more depositories may be established in one or more States. One or more accounts may be established in a depository.

§ 103.3 Deposits and expenditures.

(a) All contributions received by a candidate, his or her authorized political committee(s), and any other political committee(s) shall be deposited in a checking account in the appropriate campaign depository by the candidate, or by the treasurer of the committee or his or her agent, within 10 days of the candidate's or treasurer's receipt thereof. An expenditure may be made by a candidate or committee only by check drawn on an account in a designated campaign depository, except for expenditures of $100 or less made from a petty cash fund maintained pursuant to § 102.10. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before expenditures are made.
(b) Contributions which appear to be illegal shall be, within 10 days—
(1) Returned to the contributor; or
(2) Deposited into the campaign depository, and reported in which case the treasurer shall make and retain a written record noting the basis for the appearance of illegality. The treasurer shall make his or her best efforts to determine the legality of the contribution. Refunds

shall be made when a contribution cannot be determined to be legal within a reasonable time, and the treasurer shall so note by amending the current report or noting the change on the candidate's or committee's next required report.

§ 103.4 Vice-Presidential candidate campaign depositories.

The campaign depository(ies) designated by a political party's candidate for President shall be the campaign depository(ies) of that political party's candidate for the office of Vice President.

PART 104—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

Sec.

104.1 General.
104.2 Form and content of reports.
104.3 Disclosure of receipt and consumption of in-kind contributions.
104.4 Filing dates.
104.5 Uniform reporting of contributions.
104.6 Uniform reporting of expenditures.
104.7 Allocation of expenditures among candidates.
104.8 Continuous reporting of debts and obligations.
104.9 Waiver of reporting requirements.
104.10 Political committees; cash on hand.
104.11 Members of Congress; reporting exemption.
104.12 Formal requirements regarding reports and statements.
104.13 Sale or use restriction.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 104.1 General.

(a) Each political committee registered with the Commission, the Clerk of the House, the Secretary of the Senate, or with a principal campaign committee (see Part 102 of this subchapter) shall file quarterly reports of contributions and expenditures (unless waived) until—

(1) All debts and obligations relating to that committee's Federal election activity are extinguished; and

(2) The committee has filed a valid Notice of Termniation, see § 102.4.

(b) Each candidate for Federal office (other than a Vice-Presidential candidate) shall file quarterly reports of contributions and expenditures until all debts and obligations relating to that candidacy on which he or she is personally obligated are extinguished, unless the candidate is granted a waiver pursuant to § 101.3, or has terminated candidate status under § 101.1.

(c)(1)(i) A political committee or candidate is exempt from filing a quarterly report if the political committee or candidate did not receive contributions in excess of $1,000 or make expenditures in excess of $1,000 in that quarter.

(ii) In an election year, a candidate or committee with outstanding debts and obligations shall file a 4th quarter report, even if contributions or expenditures do not exceed $1,000.

(2) In any non-election year the candidate and his or her authorized committees shall only be required to file quarterly reports for a calendar quarter in which the candidate and his or her authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000.

(3)(i) The political committee or candidate shall notify the Commission on FEC Form 3a or by letter containing the same information at the close of the first quarter in which the exemption applies; and

(ii) The political committee or candidate shall continue to file the pre-election, post-election and annual reports required by § 104.4 until terminated or waived.

(4) Notwithstanding paragraphs (1) and (2), if the candidate's authorized committees (including a principal campaign committee) in the aggregate receive or expend in excess of $1,000 (or in a non-election year $5,000) all authorized committees shall file reports with the principal campaign committee, which shall file the consolidated report pursuant to § 104.2(c).

§ 104.2 Form and content of reports.

(a) Except as noted below, each report filed by a political committe or candidate under this part shall be on FEC Form 3. For candidates having only one authorized committee which neither receives contributions nor makes expenditures in excess of $50,000 for an election and does not make independent expenditures, see Part 109, the report may be on FEC Form 6. Either reporting form shall reflect all receipts and disbursements of a candidate or committee. Each authorized committee shall file its reports with its principal campaign committee, which shall file a consolidated report with the Commission, Clerk, or Secretary as appropriate. Forms may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(b) Each report filed under this part shall include all receipts and disbursements from the close of the last period reported to the close of the current reporting period, and shall disclose—

(1) The amount of cash on hand at the beginning of the calendar year and at the beginning of the reporting period, including currency, balance on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit;

(2) The identification, occupation, and principal place of business, if any, of each person who has made a contribution to or for the committee or candidate during the reporting period in an amount or value in excess of $100, or in an amount of less than $100 if the person's contributions within a calendar year total more than $100, together with the amount and date of such contributions;

(3)(i) The total of contributions made to or for a committee or candidate during the reporting period and not reported under (b)(2) above;

(ii) Candidates and committees, which, in addition to the required totals, choose to itemize contributions not in excess of $100, shall itemize these by attaching a separate schedule. Contributions of $100 or less shall not be reported on the same schedule with the required itemized contributions in excess of $100;

(4) The identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year to date transfers, received from non-affiliated committees, and complete disclosure, pursuant to §110.6 of each transaction involving earmarked funds;

(5) Each loan—

(i) (A) To or from any political committee; or

(B) To a candidate or his or her authorized committees which is—

(ii) (A) Over $100 in value and made during the reporting period; or

(B) Less than $100 in value and the total of the loans from one person is over $100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan;

(6) The total amount of proceeds from—

(i) The sale of tickets to each dinner, luncheon, rally, and other fundraising event;

(ii) Mass collections made at these events; and

(iii) Sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, as long as the items are sold by the candidate or an authorized committee;

(7) Each receipt in excess of $100 received during the reporting period, not otherwise listed under (b)(2) through (6) above, together with the identification, date and amount received, occupation, and principal place of business of each such person from whom such receipts have been received during the reporting period; including—

(i) The interest or other proceeds from the investment, in an interest-bearing account, note, bill, stock, bond, or other similar device, of funds transferred out of a checking account in a campaign depository; and

(ii) Rebates and refunds received by the candidate or committee;

(8)(i) The total of all receipts by or for the committee or candidate during the reporting period and the calendar year; and

(ii) Total receipts less transfers between affiliated political committees (as defined in § 100.14(c));

(9) The identification of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period which total more than $100, or in an amount less than $100 if the total exceeds $100 within a calendar year, together with the

amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditures were made;

(10) The total of expenditures made by or on behalf of the committee or candidate during the reporting period and the calendar year together with total expenditures less transfers between affiliated political committees (as defined in § 100.14(c)) of the candidate;

(11) The amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make contributions or expenditures, see § 104.8;

(12) Independent expenditures, see Part 109.

(c) (1) Except as noted in (2) below, each principal campaign committee shall consolidate in its report for each election the reports required to be filed with it, including (i) the candidate's report (unless waived) and (ii) reports submitted to it by any authorized committees and (iii) the principal campaign committee's own report. The consolidation shall be made on FEC Form 3b and submitted with the reports of the principal campaign committee and the reports or applicable portions of the reports of the committees shown on the consolidation.

(2) For pre-election reports, the principal campaign committee may, if necessary, file the consolidated report disclosing the total receipts and expenditures by all authorized committees with respect to that election without including all of the detailed reports of committees required to file with it.

(i) Committees required to file with a principal campaign committee shall file a copy of their report with the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission by the 10th day preceding the election, in addition to filing with the principal campaign committee, unless the principal campaign committee files a complete consolidated report 10 days prior to the election under (c) (1) above.

(ii) The principal campaign committee shall then file a consolidated report no later than 5 days before the election, the report to include the detailed reports from committees required to file with it, if the detailed report was not filed 10 days prior to the election.

§ 104.3 Disclosure of receipt and consumption of in-kind contributions.

(a) (1) Each in-kind contribution shall be valued at the usual and normal charge on the date received and reported if in excess of $100 on the appropriate schedule of receipts, identified as to its nature and listed as an "in-kind contribution."

(2) Except for items noted in (b) below, each contribution shall be reported as an expenditure at the same usual and normal charge and reported on the appropriate expenditure schedule, identified and listed as an "in-kind contribution."

(b) Contributions of stocks, bonds, art objects, and other similar items to be liquidated shall be reported as follows:

(1) If the item has not been liquidated at the close of a reporting period, the committee or candidate shall record as a memo entry (not as cash) the item's fair market value on the date received, including the identification (and where in excess of $100, occupation and principal place of business) of the contributor.

(2) When the item is sold, the committee or candidate shall record the proceeds. It shall also report the (i) identification (and where in excess of $100, the occupation and principal place of business) of the purchaser, if purchased directly from the candidate or committee, in which case he or she shall be considered to have made a contribution, and (ii) the identification of the original contributor.

§ 104.4 Filing dates.

(a) Except as provided otherwise in this section, each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to that office shall file the reports of receipts and expenditures required under this part.

(b) *Pre-Election and Post-Election Reports.*

(1) Candidates.

(i) Pre-election report.

(A) Individuals not having a waiver under § 101.3 shall file a pre-election report no later than the 10th day before every election in which they are a candidate.

(B) Each report filed by registered or certified mail shall be postmarked not later than the 12th day before the election.

(C) This report shall disclose all receipts and disbursements as of the 15th day before the election.

(ii) Post-election report.

(A) Individuals required to file a pre-election report shall also file a post-election report no later than the 30th day after the election.

(B) This report shall include all receipts and disbursements as of the 20th day after the election.

(2) Principal campaign committees. The principal campaign committee of every candidate shall file pre- and post-election reports in the same manner as specified for candidates by subparagraph (1). The pre-election report shall be a consolidated report of all authorized political committees of the candidate or a detailed report, see § 104.2(c).

(3) Authorized political committees. Authorized political committees shall file pre- and post-election reports with the principal campaign committee, the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission pursuant to § 104.2 (c) (2) (i).

(4) All other political committees. All other political committees shall file pre- and post-election reports for each election for which the committee has supported a candidate, unless granted monthly reporting status.

(5) Contributions to Presidential candidates from political committees which are not reporting monthly—

(i) Political committees which make a contribution to a Presidential primary candidate shall file pre- and post-election reports relating to the election next occurring after the contribution is made. A political committee which makes a contribution to a Presidential candidate in the general election shall file a pre- and post-general election report.

(ii) If the contribution is made less than 15 days before an election, the contribution shall be reported on the post election report relating to that election.

(iii) For purposes of this paragraph, contributions to the principal campaign committee of a Presidential candidate are considered contributions relating to the next election in which that candidate is on the ballot or has a slate of authorized delegates on the ballot. If two or more elections are held on one day, the contribution shall be considered to relate to each election on that day in which the candidate is a candidate.

(c) *Annual Report.* In any calendar year in which an individual is a candidate but there is no election for the office sought, an annual report shall include all transactions as of December 31 and shall be filed by January 31 of the following year.

(d) *Quarterly Report.* A report shall be filed on April 10, July 10, October 10, and January 31 following the close of the immediately preceding calendar quarter in which the candidate or political committee received contributions in excess of $1,000 or made expenditures in excess of $1,000, or, in non-election years, when contributions and expenditures to or by candidates and their authorized committees together exceed $5,000, see § 104.1.

(1) These reports shall include all receipts and disbursements from the close of the last reporting period to the close of the calendar quarter.

(2) When the last day for filing any quarterly report required by this paragraph (d) occurs within 10 days before or after an election, the quarterly report need not be filed so long as the pre-election reports required by (b) (1) above are timely filed.

(e) If any contribution of $1,000 or more is received by a candidate, his or her authorized committee or agent subsequent to the 15th day, but more than 48 hours before 12:01 a.m. of the day on which an election is to be conducted, the identification, occupation and principal place of business of the contributor shall be reported to the Commission, the Clerk of the House, or Secretary of the Senate, as custodian for the Commission, within 48 hours of receipt, and included in the post-election report. For purposes of this paragraph, report means—

(1) A letter signed by the treasurer or his or her agent, hand delivered within 48 hours of the receipt of the contribution, or

(2) A telegram, followed by a letter signed by the treasurer or his or her agent, sent registered or certified mail and postmarked within 48 hours of the receipt of the contribution.

(3) For purposes of this paragraph (e) only, "election" means an election for which the ballot bears the name of the

candidate, or delegates committed to the candidate who received (or one of whose authorized committees received) the contribution, or an election for which a candidate is conducting a write-in campaign.

(f) *Monthly Reporting.* (1) In any calendar year after 1976 in which a general election is held, and except as otherwise provided in subparagraph (2), each Presidential candidate who makes contributions or expenditures in more than one State, and his or her principal campaign committee and any other authorized committee, shall file the reports required by this Part 104 by the 20th day of the month in each month except January, November, and December of the calendar year, instead of pre- and post-primary reports and quarterly reports. These reports shall include all receipts and disbursements as of the last day of the month immediately preceding the month in which the report is filed.

(2) The pre- and post-election reports required to be filed under paragraph (b) relating to a general election, the 4th quarterly reports required to be filed under paragraph (d), and the reports required to be filed prior to an election under paragraph (e), shall nevertheless be filed.

(3) For candidates, the monthly reporting requirement shall continue until a candidate files with the Commission a statement that his or her name will not appear on any ballot in a primary or the general election. Any candidate filing this statement shall thereafter file reports pursuant to paragraphs (c) and (d) of this section.

(4) Political committees which make contributions or expenditures in more than one State, may, upon request to and approval by the Commission, file monthly reports as set out above.

§ 104.5 Uniform reporting of contributions.

(a) Each contributor of an amount in excess of $100 shall be disclosed by identification, occupation, and principal place of business, if any. If a contributor's name or address is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first subsequent entry.

(b) In each case when a contribution received from a person in a reporting period is added to previously unitemized contributions from the same person and the aggregate exceeds $100 within a calendar year, the identification, occupation, and principal place of business, if any, of that contributor shall then be listed on the prescribed reporting forms.

(c) Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee.

(d) All contributions from the same person during the calendar year shall be listed under the same name.

(e) A contribution which represents contributions by more than one person shall indicate on the written instrument or on an accompanying writing signed by all contributors, the amount to be attributed to each contributor.

§ 104.6 Uniform reporting of expenditures.

(a) A candidate and his or her authorized committees shall report each expenditure by or on behalf of a candidate or committee in excess of $100, and shall include the identification of the recipient.

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds $100 for the calendar year, the identification of that recipient shall be listed on the prescribed reporting forms.

§ 104.7 Allocation of expenditures among candidates.

A political committee making an expenditure on behalf of more than one candidate for Federal office or for Federal and non-Federal office shall allocate the expenditure(s) among the candidates on a reasonable basis pursuant to Part 106, and report the allocation for each Federal candidate. The treasurer shall retain all documents supporting the allocation in accordance with § 104.12.

§ 104.8 Continuous reporting of debts and obligations.

(a) Debts and obligations which remain outstanding after the election shall be continuously reported until extinguished, see § 104.1(b). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished.

(b) A debt, obligation, or other promise to make an expenditure of $500 or less, shall be reported as of the time payment is made or no later than 60 days after incurrence, whichever comes first. A loan of money in the ordinary course of business and any debt or obligation over $500 shall be reported as of the time of the transaction.

§ 104.9 Waiver of reporting requirements.

Upon application to the Commission, a political committee may be relieved, at the discretion of the Commission, of the duty to file reports of receipts and disbursements if the treasurer of that political committee certifies that the political committee—

(a) Primarily supports persons seeking State or local office; and

(b) Does not operate in more than one State or does not operate on a statewide basis.

§ 104.10 Political committees; cash on hand.

Political committees and candidates which have cash on hand at the time of registration (which the committee or candidate anticipates using in an election) shall disclose on their first report the source(s) of these funds, including the information required by § 104.2. The cash balances are assumed to be composed of those contributions most recently received by the committee or candidate. The committee shall exclude from funds to be used for Federal elections any contributions not permissible under the Act, see Parts 110, 114, and 115.

§ 104.11 Members of Congress; reporting exemption.

(a) Except as provided in (b), a Member of the Congress is not required to report, as contributions received or as expenditures made, the value of photographic, matting, or recording services furnished to him by the Senate Recording Studio, the House Recording Studio, or by an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if the services were paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congresssional Committee, or the National Republican Congressional Committee.

(b) (1) The cost of recording services furnished during the calendar year before the year in which the Member's term expires, shall be reported by letter, attached to the principal campaign committee's next report, but shall not be included in the summary of expenditures on FEC Form 3 or Form 6.

(2) A Member who is not a candidate has no reporting obligation under this paragraph, except that a Member who subsequently becomes a candidate shall report as set forth in (b) (1), regardless of the dates the funds were expended in that year.

§ 104.12 Formal Requirements regarding reports and statements.

(a) Each individual having the responsibility to file a report required under this subchapter shall sign the original report.

(b) Each candidate, political committee, or other person required to file any report or statement under this subchapter shall—

(1) Maintain records with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and date from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement filed; and

(3) Keep those records and reports available for audit, inspection, or examination by the Commission or its authorized representatives for a period of not less than 3 years from the end of the year in which the report or statement was filed.

(c) Acknowledgments by the Commission, the Clerk of the House, or the Secretary of the Senate, of the receipt of Statements of Organization or reports or statements filed under this subchapter are intended solely to inform the person

filing the report of its receipt and neither the acknowledgment nor the acceptance of a report or statement shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

(d) Each treasurer of a political committee, each candidate, and any other person required to file any report or statement under these regulations and under the Act shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

§ 104.13 Sale or use restriction.

Any information copied, or otherwise obtained, from any report or statement, or copy, reproduction, or publication thereof, filed with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent chief State election officer, shall not be sold or utilized by any person for the purpose of soliciting contributions, or any commercial purpose. For purposes of this section, "any commercial purpose" does not include the sale of newspapers, magazines, books, or other similar communications, the principal purpose of which is not to communicate lists or other information obtained from a report filed as noted above.

PART 105—DOCUMENT FILING

Sec.

105.1 Place of filing; House candidates and committees.
105.2 Place of filing; Senate candidates and committees.
105.3 Place of filing; Presidential candidates and committees.
105.4 Place of filing; committees and others.
105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315 (a)10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 105.1 Place of filing; House candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of Representative in or Delegate or Resident Commissioner to, the Congress of the United States, and by the candidate's principal campaign committee shall be filed in original form with and received by the Clerk of the House of Representatives, as custodian for the Federal Election Commission.

§ 105.2 Place of filing; Senate candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of United States Senator and by the candidate's principal campaign committee shall be filed in original form with and received by the Secretary of the Senate, as custodian for the Federal Election Commission.

§ 105.3 Place of filing; Presidential candidates and committees.

Reports and statements and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of President or Vice President of the United States, and by the candidate's principal campaign committee shall be filed in original form with the Federal Election Commission.

§ 105.4 Place of filing; committees and others.

(a) Reports and statements, and any modifications or amendments thereto, required to be filed under Parts 101, 102, 104 of these regulations by political committees (other than a candidate's principal campaign committee and other authorized committees of a candidate)—

(1) Which support only candidates for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, shall be filed in original form with and received by the Clerk of the House of Representatives, as custodian for the Federal Election Commission.

(2) Which support only candidates for nomination or election to the office of United States Senator, shall be filed in original form with, and received by the Secretary of the Senate, as custodian for the Federal Election Commission.

(b) Reports and statements, and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by all other political committees, and all persons (other than political committees) making independent contributions or expenditures, shall be filed in original form with the Federal Election Commission.

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission.

(a) Upon receiving a report or statement filed under § 105.1, § 105.2, and § 105.4(a), the Secretary of the Senate and the Clerk of the House shall each initiate a process to assure prompt transmittal to the Commission of a microfilm copy and a photocopy of each report and statement filed with each of them.

(b) The Secretary of the Senate and the Clerk of the House shall place on each report and statement received a time and date stamp reflecting the time and date the original report or statement was received.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

Sec.

106.1 Allocation of expenditures among (or between) candidates and activities.
106.2 Allocation of expenditures among States by candidates for Presidential nomination.
106.3 Allocation of expenses between campaign and non-campaign related travel.
106.4 Allocation of polling expenses.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315 (a)10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 106.1 Allocation of expenditures among (or between) candidates and activities.

(a) General Rule: Expenditures, including independent expenditures, made on behalf of more than one candidate shall be attributed to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably expected to be derived.

(b) An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made, except that expenditures made by party committees pursuant to § 110.7 need only be reported as an expenditure.

(c) Exceptions:

(1) Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

(2) Expenditures for educational campaign seminars, for training of campaign workers, and for registration or get-out-the-vote drives of committees need not be attributed to individual candidates unless these expenditures are made on behalf of a clearly identified candidate, and the expenditure can be directly attributed to that candidate.

(d) For purposes of this section, "clearly identified" means—

(1) The candidate's name appears;

(2) A photograph or drawing of the candidate appears; or

(3) The identity of the candidate is apparent by unambiguous reference.

(e) Party committees and other political committees which have established Federal campaign committees pursuant to § 102.6 shall allocate administrative

expenses on a reasonable basis between their Federal and non-Federal accounts in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis.

§ 106.2 Allocation of expenditures among States by candidates for Presidential nomination.

(a) Expenditures made by a candidate or his or her authorized committee(s) which seek to influence the nomination of a candidate for the office of President of the United States in a particular State shall be attributed to that State. This allocation of expenditures shall be reported on FEC Form 3c.

(b) Expenditures for administrative, staff, and overhead costs directly relating to the national campaign headquarters shall be reported but need not be attributed to individual States. Expenditures for staff, media, printing, and other goods and services used in a campaign in a specific State shall be attributed to that State.

(c) An expenditure by a Presidential candidate for use in two or more States, which cannot be attributed in specific amounts to each State, shall be attributed to each State based on the voting age population in each State which can reasonably be expected to be influenced by such expenditure.

(1) Expenditures for publication and distribution of newspaper, magazine, radio, television, and other types of advertisements distributed in more than one State shall be attributed to each State in proportion to the estimated viewing audience or readership of voting age which can reasonably be expected to be influenced by these advertisements.

(2) Expenditures for travel within a State shall be attributed to that State. Expenditures for travel between States need not be attributed to any individual State.

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

(a) All expenditures for campaign-related travel paid for by a candidate from a campaign account or by his or her authorized committees or by any other political committee shall be reported.

(b)(1) Travel expenses paid for by a candidate from personal funds, or from a source other than a political committee, shall constitute reportable expenditures if the travel is campaign-related.

(2) Where a candidate's trip involves both campaign-related and non-campaign-related stops, the expenditures allocable for campaign purposes are reportable, and are calculated on the actual cost-per-mile of the means of transportation actually used, starting at the point of origin of the trip, via every campaign-related stop and ending at the point of origin.

(3) Where a candidate conducts any campaign-related activity in a stop, the stop is a campaign-related stop and travel expenditures made are reportable. Campaign-related activity shall not include any incidental contacts.

(c)(1) Where an individual, other than a candidate, conducts campaign-related activities on a trip, the portion of the trip attributed to each candidate shall be allocated on a reasonable basis.

(2) Travel expenses of a candidate's spouse and family are reportable as expenditures only if the spouse or family members conduct campaign-related activities.

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C., and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by a candidate from a thorized committee(s), or by any other thorized committee(s) or, by any other political committee(s). If these costs are paid from an office account, they shall be reported under Part 113.

(e) Notwithstanding (b) and (c) above, the reportable expenditure for a candidate who uses government conveyance or accommodations for travel which is campaign-related is the rate for comparable commercial conveyance or accommodation. In the case of a candidate authorized by law or required by national security to be accompanied by staff and equipment, the allocable expenditures are the costs of facilities sufficient to accommodate the party, less authorized or required personnel and equipment. If such a trip includes both campaign and non-campaign stops, equivalent costs are calculated in accordance with paragraphs (b) and (c) above.

§ 106.4 Allocation of polling expenses.

(a) The purchase of opinion poll results by a candidate or a candidate's authorized political committee or agent is an expenditure by the candidate. Regarding the purchase of opinion poll results for the purpose of determining whether an individual should become a candidate, see § 100.7(b)(2).

(b) The purchase of opinion poll results by a political committee or other person not authorized by a candidate to make expenditures and the subsequent acceptance of the poll results by a candidate or a candidate's authorized political committee or agent or by another unauthorized political committee is a contribution in-kind by the purchaser to the candidate or other political committee and an expenditure by the candidate or other political committee. Regarding the purchase of opinion poll results for the purpose of determining whether an individual should become a candidate, see § 100.4(b)(1). The poll results are accepted by a candidate or other political committee if the candidate or the candidate's authorized political committee or agent or the other unauthorized political committee—

(1) Requested the poll results before their receipt;

(2) Uses the poll results; or

(3) Does not notify the contributor that the results are refused.

(c) The acceptance of any part of a poll's results which part, prior to receipt, has been made public without any request, authorization, prearrangement, or coordination by the candidate-receipient or political committee-recipient, shall not be treated as a contribution in-kind and expenditure under paragraph (b).

(d) The purchase of opinion poll results by an unauthorized political committee for its own use, in whole or in part, is an overhead expenditure by the political committee under § 106.1(c)(1) to the extent of the benefit derived by the committee.

(e) The amount of a contribution under paragraph (b) or of any expenditure under paragraphs (a) and (b) attributable to each candidate-recipient or political committee-recipient shall be—

(1) That share of the overall cost of the poll which is allocable to each candidate (including State and local candidates) or political committee, based upon the cost allocation formula of the polling firm from which the results are purchased. Under this method the size of the sample, the number of computer column codes, the extent of computer tabulations, and the extent of written analysis and verbal consultation, if applicable, may be used to determine the shares; or

(2) An amount computed by dividing the overall cost of the poll equally among candidates (including State and local candidates) or political committees receiving the results; or

(3) A proportion of the overall cost of the poll equal to the proportion that the number of question results received by the candidate or political committee bears to the total number of question results received by all candidates (including State and local candidates) and political committees; or

(4) An amount computed by any other method which reasonably reflects the benefit derived.

(f) The first candidate(s) or committee(s) receiving poll results under paragraph (b) or (d) and any candidate or political committee receiving poll results under paragraph (b) within 15 days after receipt by the initial recipient(s) shall compute the amount of the contribution in-kind and the expenditure as provided in paragraph (e).

(g) The amount of the contribution and expenditure reported by a candidate or a political committee receiving poll results under paragraph (b) more than 15 days after receipt of such poll results by the initial recipient(s) shall be—

(1) If the results are received during the period 16 to 60 days following receipt by the initial recipient(s), 50 percent of the amount allocated to an initial recipient of the same results;

(2) If the results are received during the period 61 to 180 days after receipt by the initial recipient(s), 5 percent of the amount allocated to an initial recipient of the same results;

(3) If the results are received more than 180 days after receipt by the initial recipient(s), no amount need be allocated.

(h) A contributor of poll results under paragraph (b) shall maintain records sufficient to support the valuation of the contribution(s) in-kind and shall inform the candidate-recipient(s) or po-

litical committee-recipient(s) of the value of the contribution(s).

PART 107—CONVENTION REPORTS

Sec.
107.1 Reports by municipal and private host committees.
107.2 Reports by political parties.
107.3 Convention reports; time and content of filing.
107.4 Convention expenses; definitions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 107.1 Reports by municipal and private host committees.

Each committee or other organization which represents a State, a political subdivision thereof, or any other group of persons, in dealing with officials of a national political party with respect to matters involving a Presidential nominating convention held in that State, shall file reports with the Commission as set out in § 107.3 below.

§ 107.2 Reports by political parties.

(a) Each committee or other organization, including a national committee, which represents a national major, minor, or new political party in making arrangements for the convention of that party held to nominate a candidate for the office of President or Vice President shall file reports with the Commission as set out in § 107.3 below.

(b) A State party committee or a subordinate committee of a State party committee which assists delegates and alternates to the convention from that State with travel expenses and arrangements, or which sponsors caucuses, receptions, and similar arrangements, or which sponsors, caucuses, receptions, and similar activities at the convention site need not report under this Part 107.

§ 107.3 Convention reports; time and content of filing.

(a) Each committee organization required to file under §§ 107.1-2 shall, within 60 days following the last day the convention is officially in session, but not later than 20 days prior to the date of the general election, file with the Commission a convention report on FEC Form 4, which shall contain all receipts and disbursements in connection with the convention and shall be complete as of 50 days following the convention.

(b) If the committee spends or receives any funds after 60 days following the convention, the committee shall file, no later than 10 days after the end of the next calendar quarter, a report disclosing all transactions completed as of the close of that calendar quarter and shall continue to file quarterly reports until all debts and obligations have been extinguished.

(c) Each committee shall file a final report with the Commission not later than 10 days after it ceases activity, unless such status is reflected in either of the reports submitted pursuant to §§ 107.3 (a) or (b).

§ 107.4 Convention expenses; definitions.

For purposes of this part, receipts and disbursements in connection with a convention, means convention expenses as defined in Part 120 of these regulations.

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS

Sec.
108.1 Filing requirements.
108.2 Filing copies of reports of Presidential and Vice Presidential candidates.
108.3 Filing copies of reports by other Federal candidates and committees.
108.4 Filing copies of reports by committees supporting Presidential candidates.
108.5 Time and manner of filing copies.
108.6 Duty of State officers.
108.7 Effect on State law.
108.8 Exemption for the District of Columbia.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 108.1 Filing requirements.

A copy of each statement and report required to be filed under this subchapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this part, the term "appropriate State" means the State or jurisdiction designated in § 108.2 or § 108.3.

§ 108.2 Filing copies of reports by Presidential and Vice Presidential candidates.

A copy of each report and statement required to be filed under this subchapter shall be filed by a candidate for President or Vice President or his or her authorized committees, or by the person making an expenditure or contribution pursuant to Part 109 with the State office of each State or other jurisdiction in which an expenditure is made, the report to contain at least all transactions pertaining to that State during that reporting period.

§ 108.3 Filing copies of reports by other Federal candidates and committees.

A copy of each report and statement required to be filed under this subchapter by other candidates and political committees shall be filed for each reporting period during which an expenditure is made in that State with the State officer of each State or other jurisdiction in which the candidate, other than for President or Vice President, seeks election.

§ 108.4 Filing copies of reports by committees supporting Presidential candidates.

Committees, other than a Presidential candidate's principal campaign committee and other authorized committees, which make contributions to or expenditures on behalf of Presidential candidates, shall file a copy of reports and statements only in the State(s) in which the recipient and contributing committees have their headquarters.

§ 108.5 Time and manner of filing copies.

A copy required to be filed with a State officer under this part shall be filed at the same time as the original report is filed. Each copy of a report or statement shall be a complete, true, and legible copy of the original report or statement filed.

§ 108.6 Duties of State officers.

It is the duty of the Secretary of State, or the equivalent State officer—

(a) To receive and maintain in an orderly manner all reports and statements required to be filed;

(b) To preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives need be preserved for only 5 years from the date of receipt;

(c) To make the reports and statements filed available for public inspection and copying during regular office hours commencing as soon as practicable but not later than the end of the day on which it was received and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person, such per copy expense to be reasonable; and

(d) To compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

§ 108.7 Effect on State law.

(a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office.

(b) Federal law supersedes State law concerning the—

(1) Organization and registration of political committees supporting Federal candidates;

(2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

(1) Manner of qualifying as a candidate or political party organization;

(2) Dates and places of elections;

(3) Voter registration;

(4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses; or

(5) Candidate's personal financial disclosure.

§ 108.8 Exemption for the District of Columbia.

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary, or the Commission, as appropriate.

PART 109—INDEPENDENT EXPENDITURES

Sec.
109.1 Definitions.
109.2 Reporting of independent expenditures.
109.3 Certification of independent expenditures.
109.4 Non-authorization notice.
109.5 Reporting of independent contributions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by secs. 208 (a) and (c)(10), and 209 (a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 109.1 Definitions.

(a) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

(b) For purposes of this definition—

(1) "Person" means an individual, partnership, committee, association, or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (see Part 114) but does not mean a labor organization, corporation, or national bank.

(2) "Expressly advocating" means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for," "elect," "support," "cast your ballot for," and "Smith for Congress," or "vote against," "defeat," or "reject."

(3) "Clearly identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(4) "Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate" means—

(i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is—

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;

(ii) But does not include providing to the expending person upon request Commission guidelines on independent expenditures.

(5) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

(c) An expenditure not qualifying under this section as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

(d)(1) The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure but shall not be considered an expenditure by the candidate or his authorized committees unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any authorized agent or committee thereof.

(2) This paragraph does not affect the right of a State or subordinate party committee to engage in such dissemination, distribution, or republication as agents designated by the national committee pursuant to § 110.7(a)(4).

(e) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.

§ 109.2 Reporting of independent expenditures.

(a) Every political committee making an independent expenditure shall report on Schedule E each such expenditure or contribution to the Commission, Clerk, or Secretary, as appropriate.

(1) The report shall contain, for each expenditure in excess of $100, the identification of the person to whom it was made, the amount and date of the expenditure, the name of the candidate with respect to whom the expenditure was made and the office the candidate seeks, and whether the expenditure was in support of or in opposition to that candidate.

(2) This information shall be filed on Schedule E as part of a report (monthly, quarterly, pre-election, post-election, or annual) covering any period in which any independent expenditure exceeding $100 is made. Schedule E shall also include the total of all expenditures of $100 or less.

(3) Political committees not required to report under § 104.1(c) shall nonetheless report each independent expenditure in excess of $100 on Schedule E at the time the report for that period would have been filed.

(b) Every other person who makes independent expenditures aggregating in excess of $100 during a calendar year shall file a report with the Commission on FEC Form 5.

(1) The report shall contain the reporting person's identification, occupation, and principal place of business, if any, the identification of the person to whom the expenditure was made, the amount and date of the expenditure, the candidate's name and the office the candidate seeks, and whether the expenditure was in support of or in opposition to that candidate.

(2) The report shall be filed at the end of the reporting period (quarterly, pre-election, post-election, annual) during which the expenditure is made and in any reporting period thereafter in which additional independent expenditures are made.

(c) Independent expenditures by any person or any political committee of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditures pursuant to § 104.4(e).

§ 109.3 Certification of independent expenditures.

Each report of independent expenditures shall be signed and shall include a notarized certification under the penalty of perjury that the expenditure was not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, any candidate or any agent or authorized committee of the candidate.

§ 109.4 Non-authorization notice.

(a)(1) Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, but not on a bumper strip, a pin, button, pen, and similar small items upon which the disclaimer cannot be conveniently printed, the communication shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any

affiliated or connected organization required to be listed under § 102.2(a)(2).

(2) For purposes of this section, "clearly and conspicuously" means—

(i) On the face or front page of printed matter, or at the beginning or end of a broadcast or telecast matter and shall include the name of the committee; and

(ii) In a manner calculated to provide actual notice to a reader, listener, or viewer.

§ 109.5 Reporting of independent contributions.

Every person (other than a political committee or candidate) who makes a contribution for the purpose of expressly advocating the election or defeat of a clearly identified candidate, other than by contributing to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file reports in the same manner as is required with respect to independent expenditures under § 109.2.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

Sec.

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§ 110.1 Contributions by persons.

(a)(1) No person (except multicandidate committees under § 110.2) shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election to Federal office which in the aggregate exceed $1,000.

(2) "With respect to any election" means—

(i) In the case of a contribution designated in writing for a particular election, the election so designated, except that a contribution made after a primary election, caucus or convention, and designated for the primary election, caucus or convention shall be made only to the extent that the contribution does not exceed net debts outstanding from the primary election, caucus or convention.

(ii) In the case of a contribution not designated in writing for a particular election,

(A) For a primary election, caucus or convention, if made on or before the date of the election, caucus or convention, or

(B) For a general election if made after the date of the primary election.

(b)(1) No person (except multicandidate committees under § 110.2) shall make contributions to the political committees established and maintained by a national political party, which, in the aggregate, exceed $20,000 in any calendar year.

(2) For purposes of this section, "political committees established and maintained by a national political party" means—

(i) The national committee; (ii) the House campaign committee; and (iii) the Senate campaign committee. Each may receive up to the $20,000 limitation from a contributor, see § 110.5.

(3) The recipient committee shall not be an authorized committee of any candidate.

(c) No person (except multicandidate committees under § 110.2) shall make contributions to any other political committee which in the aggregate exceed $5,000 in any calendar year.

(d) The limitations in (b) and (c) also apply to contributions made to committees making independent expenditures, see Part 109.

(e) A contribution by a partnership shall—

(1) Be attributed to each partner in direct proportion to his or her share of the partnership profits, according to instructions which shall be provided by the partnership to the committee or candidate; or

(2) Be attributed by agreement of the partners, as long as—

(i) Only the profits of the partners to whom the contribution is attributed are reduced (or losses increased), and

(ii) These partners' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them; and

(3) Not exceed the limits in (a), (b), and (c).

(f) If an individual is a candidate for more than one Federal office, a person may contribute not more than $1,000 to the candidate, or his or her authorized committees for each election for each office, as long as—

(1) The contributor clearly designates in writing for which office each contribution is intended;

(2) The candidate maintains separate campaign organizations, including separate principal campaign committees and separate accounts; and

(3) No funds are transferred, loaned, or otherwise contributed between or among the separate campaigns and no expenditures are made by one campaign on behalf of the other campaign except as provided in § 110.3(a)(2)(iv).

(g)(1) Contributions made to retire debts resulting from elections held prior to January 1, 1975 are not subject to the limitations of this Part 110, as long as contributions and solicitations to retire these debts are clearly designated and used for that purpose.

(2) Contributions made to retire debts resulting from elections held after December 31, 1974 are subject to the limitations of this Part 110.

(h) A person may contribute to a candidate or his or her authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as—

(1) The political committee is not the candidate's principal campaign committee or other authorized committee or a single candidate committee;

(2) The contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election; and

(3) The contributor does not retain control over the funds.

(i)(1) Even though a spouse in a single income family has contributed $1,000 to a candidate for an election, the other spouse may similarly contribute $1,000 to the same candidate for the same election, see § 104.5(e).

(2) Minor children (children under 18 years of age) may contribute up to $1,000 to a candidate for an election, see § 104.5(e), if—

(i) The decision to contribute is made knowingly and voluntarily by the minor child;

(ii) The funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(iii) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

(j)(1) The limitations on contributions in this section shall apply separately with respect to each election, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election.

(3) If no primary election is held because a candidate is unopposed, the date on which the primary would have been held shall be deemed to be the date of the primary for purposes of the contribution limitations.

§ 110.2 Contributions by multicandidate committees.

(a) No multicandidate political committee shall make contributions—

(1) To any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000; "with respect to any election" has the same meaning as in § 110.1(a)(2);

(2) To the political committees established and maintained by a national political party in any calendar year which, in the aggregate, exceed $15,000;

(i) The recipient committee shall not be an authorized committee of any candidate;

(ii) "Political committees established and maintained by a national political party" means (A) the national committee; (B) Senate campaign committee; and (C) the House campaign committee. Each may receive up to the $15,000 limitation from a contributor;

(3) To any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(b) "Multicandidate political committee" has the same meaning as in § 100.-14(a)(3).

(c) Notwithstanding any other provision of the Act, the Republican and Democratic Senatorial campaign committees, or the national committee of a political party, may contribute not more than a combined total of $17,500 to a candidate for nomination or election to the Senate during the calendar year of the election for which he or she is a candidate. Any contribution made by the committees to a Senate candidate in a year other than that election year shall be considered to be part of the $17,500 total contribution limit for that election year.

(d)(1) The limitations on contributions in this section (other than (c)) shall apply separately with respect to each election, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election.

(3) If no primary election is held because a candidate is unopposed, the date on which the primary would have been held shall be deemed to be the date of the primary for purposes of the contribution limitations.

§ 110.3 Affiliated committees; transfers.

(a)(1)(i) For purposes of the limitations in §§ 110.1 and 110.2, contributions shall be considered to be made by a single political committee (including a single separate segregated fund) if made by more than one political committee (including a separate segregated fund) established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit thereof, or by a group of those persons, see affiliated committees, § 100.14(c).

(ii) Application of the rule of this paragraph means—

(A) All of the political committees set up by a single corporation and/or its subsidiaries are treated as a single political committee;

(B) All of the political committees set up by a single national or international union and/or its local unions or other subordinate organizations are treated as a single political committee;

(C) All of the political committees set up by an organization of national or international unions and/or all its State and local central bodies are treated as a single political committee;

(D) All of the political committees (other than party committees, see paragraph (b) set up by a membership organization, including trade or professional associations, see § 114.8(a), and/or by related State and local entities of that organization or group, are treated as a single political committee;

(E) All of the political committees set up by the same group of persons are treated as a single political committee.

(iii) For organizations not described by (i) or (ii) above, indicia of establishing, financing, maintaining, or controlling may include—

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of by-laws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

(2) This Part shall not limit transfers between—

(i) Political committees of the funds raised through joint fundraising;

(ii) Authorized committees of the same candidate, or between the candidate and his or her authorized committees, if the candidate has not received a waiver from reporting;

(iii) The primary campaign and general election campaign of a candidate, of funds unused for the primary;

(iv) A candidate's previous campaign committee and his or her currently registered principal campaign committee or other authorized committee, as long as none of the funds transferred contain contributions which would be in violation of the Act; or

(v) The principal campaign committees of a candidate seeking nomination or election to more than one Federal office, as long as—

(A) The transfer is made when the candidate is not actively seeking nomination or election to more than one office. For purposes of this paragraph, "not actively seeking" means a principal campaign committee has filed a termination report with the Commission, or has notified the Commission that the candidate and his authorized committees will make no further expenditure, except in connection with the retirement of debts outstanding at the time of the notification;

(B) The limitations on contributions by persons are not exceeded by the transfer. To assure this, the contributions making up the funds transferred shall be reviewed, beginning with the last received and working back until the amount transferred is reached. A person's contribution or any portion thereof, shall be excluded if, when added to contributions already made to the transferee principal campaign committee, it causes the contributor to exceed his or her limitation; and

(C) The candidate has not received funds under 26 U.S.C. §§ 9006 or 9037.

(b)(1) For purposes of the limitations in § 110.1 and § 110.2,

(i) All contributions made by the national committee of a political party, and any political committees established, financed, maintained, or controlled by the same national committee; and

(ii) All contributions made by the State committee of a political party, shall be considered to be made by separate political committees.

(2) For purposes of this section,

(i) The House campaign committee of each political party shall be considered separate from the national committee of that party, giving the national committee and the House campaign committees separate limitations;

(ii) All contributions made by the political committees established, financed, maintained, or controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee. This presumption shall not apply if—

(A) The political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and

(B) The political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit.

(3) For example, as a result of (1) above,

(i) The national committee of a party and that party's House campaign committee may each contribute a total of $1,000 ($5,000 if a multicandidate committee) and the State committee of a party and each of its independent subordinate committees, may each contribute a total of $1,000 ($5,000 if a multicandidate committee) to a candidate for nomination for President of the United States, or to a candidate for the House for each election;

(ii) A State committee and any subordinate committee able to demonstrate independence under the criteria of §110.3(b)(2)(ii) may each contribute $1,000 ($5,000 if a multicandidate committee) to a candidate for each election.

(4) The national committee of a political party and the Senate campaign committee have special limitations regarding Senate candidates, see § 110.2(c).

(c) Transfers between and among political committees which are national, State, district, or local committees, and subordinate committees thereof, of the same political party are unlimited.

§ 110.4 Prohibited contributions.

(a)(1) A foreign national shall not directly or through any other person make a contribution, or expressly or impliedly promise to make a contribution, in connection with a convention, caucus, primary, general, special, or runoff election in connection with any local, State or Federal public office.

(2) No person shall solicit, accept, or receive a contribution as set out above from a foreign national.

(3) For purposes of this section, "foreign national" means—

(i) A foreign principal, as defined in 22 U.S.C. § 611(b); or

(ii) An individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined in 8 U.S.C. § 1101(a)(20);

(iii) Except that "foreign national" shall not include any individual who is a citizen of the United States.

(b)(1) No person shall—

(i) Make a contribution in the name of another;

(ii) Knowingly permit his or her name to be used to effect that contribution; or

(iii) Knowingly accept a contribution made by one person in the name of another.

(2) Examples of "contribution in the name of another" include—

(i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made, see § 110.6; or

(ii) Making a contribution of money or anything of value and attributing as the source of the money or the thing of value another person when in fact the contributor is the source.

(c)(1) With respect to any campaign for nomination for election, or election, to Federal office, no person shall make contributions to a candidate or political committee of currency of the United States, or of any foreign country, which in the aggregate exceed $100.

(2) A candidate or committee receiving a cash contribution in excess of $100 shall promptly return the amount over $100 to the contributor.

(3) A candidate or committee receiving an anonymous cash contribution in excess of $50 shall promptly dispose of the amount over $50. The amount over $50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate.

§ 110.5 Annual contribution limitation.

(a) No individual shall make contributions aggregating more than $25,000 in any calendar year.

(b) For purposes of this section,

(1) Any contribution made in a year other than in the calendar year in which an election is held shall be considered to be made during the calendar year in which the election is held, as long as the contribution is made with respect to a particular candidate and election;

(2) An individual's contribution to a political committee in a non-election year shall not be attributable to the calendar year in which an election is held, as long as the political committee is not the principal campaign committee, or other authorized committee of a candidate, or a single candidate committee supporting the candidate and as long as the contribution is not otherwise designated for a particular election.

(c) The limitation in (a) also applies to contributions made to a person who is making independent expenditures, see Part 109.

§ 110.6 Earmarked contributions.

(a) All contributions by a person made on behalf of or to a candidate, including contributions which are in any way earmarked or otherwise directed to the candidate through an intermediary or conduit, are contributions from the person to the candidate.

(b) For purposes of this section, earmarked means a designation, instruction, or encumbrance (including those which are direct or indirect, express or implied, oral or written) which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee.

(c) The intermediary or conduit of the earmarked contribution shall report the original source and intended recipient of the contribution to the Commission, the Clerk of the House of Representatives, or the Secretary of the Senate, as appropriate (see Part 105), and to the intended recipient.

(1) The report to the Commission, Clerk, or Secretary shall be included in the conduit or intermediary's next due quarterly, pre- or post-election, or annual report, or, if the conduit is not a reporting entity, by letter to the Commission, and shall—

(i) If the contribution passed through the conduit's account, disclose each contribution, regardless of amount, on schedules of itemized receipts and expenditures;

(ii) If the contribution was passed on in the form of the contributor's check, disclose each contribution on a separate schedule attached to the conduit's next report, or attached to the letter to the Commission.

(2) The report to the intended recipient shall be made when the contribution is passed on to the intended recipient.

(3) The intended recipient shall disclose on his next report each conduit through which the contribution passed.

(4) The reports in (1) and (2) above shall contain—

(i) The identification of the contributor, and if the contribution exceeds $100, the contributor's occupation and principal place of business;

(ii) The amount of the contribution, the date received by the conduit, and the intended recipient as designated by the contributor;

(iii) The date the contribution was passed on to the intended recipient, and whether the contribution was passed on in cash, by the contributor's check, or by the conduit's check.

(5) This section shall not apply to occasional, isolated, or incidental physical transfers of checks or other written instruments payable to a candidate or his or her authorized committees. For purposes of this paragraph, "occasional, isolated, or incidental" means no more than $1,000 is conveyed to any one candidate or committee in a calendar year.

(d)(1) A conduit or intermediary's contribution limits are not affected by passing on earmarked contributions, except where the conduit exercises any direction or control over the choice of the recipient candidate.

(2) If a conduit exercises any direction or control over the choice of the recipient candidate, the contribution shall be considered a contribution by both the original contributor and the conduit, and shall be so reported by the conduit to the Commission, Clerk, or Secretary, as appropriate, or, if the conduit is not a reporting entity, by letter to the Commission, and to the recipient. The recipient candidate or committee shall report it in its reporting of contributions received, indicating that the contribution is made by both the original contributor and the conduit, but that the actual cash received does not reflect the two contributions.

§ 110.7 Party committee expenditures.

(a)(1) The national committee of a political party may make expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party.

(2) The expenditures shall not exceed an amount equal to 2 cents multiplied by the voting age population of the United States.

(3) Any expenditure under paragraph (a) shall be in addition to—

(i) Any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for President of the United States; and

(ii) Any contribution by the national committee to the candidate permissible under §§ 110.1 or 110.2.

(4) The national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees.

(5) The national committee of a political party may not make independent expenditures (see Part 109) in connection with the general election campaign of a candidate for President of the United States.

(b)(1) The national committee of a political party, and a State committee of a political party, including any subordinate committee of a State committee, may each make expenditures in connection with the general election campaign of a candidate for Federal office in that

State who is affiliated with the party.

(2) The expenditures shall not exceed—

(i) In the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(A) Two cents multiplied by the voting age population of the State; or

(B) Twenty thousand dollars; and

(ii) In the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

(3) Any expenditure under paragraph (b) shall be in addition to any contribution by a committee to the candidate permissible under §§ 110.1 or 110.2.

(4) The party committees identified in (b)(1) shall not make independent expenditures in connection with the general election campaign of candidates for Federal office.

(5) Any expenditure by a State, county, city, or congressional district committee of a political party, the primary purpose of which is to further the general election campaign of that party's nominee or nominees, that also furthers the general election campaign of that party's candidates for President and Vice President shall not constitute the making of a contribution or expenditure to a Federal candidate as long as the expenditure does not exceed $1,000 per such committee. Such expenditures shall not count toward the limits of § 110.7(a), (b)(1) and (b)(2).

(c) For limitation purposes, State committee includes subordinate State committees. State committees and subordinate State committees combined shall not exceed the limits in (b)(2). To ensure compliance with the limitations, the State committee shall administer the limitation in one of the following ways:

(1) The State central committee shall be responsible for insuring that the expenditures of the entire party organization are within the limitations, including receiving reports from any subordinate committee making expenditures under paragraph (b), and filing consolidated reports showing all expenditures in the State with the Commission; or

(2)(i) The State committee shall file with the Commission an allocation statement setting forth the amounts each subordinate committee in the State will expend on which Federal candidate, as agreed upon by the State committee and the subordinate committees;

(ii) The State committee shall file with the allocation statement a list of participating subordinate committees which have filed a Statement of Organization with the Commission, Clerk, or Secretary, and for those subordinate committees which have not filed a Statement of Organization, the information required in a Statement of Organization, see Part 102;

(iii) Each subordinate committee will be responsible for ensuring that it does not exceed its allocated limitation, and shall register with and report to the Commission as if it were a political committee if its expenditures exceed $100 in a calendar year. If its expenditures in the aggregate exceed $1,000, it shall register as a political committee pursuant to Part 102 and report pursuant to Part 104; or

(3) Any other method, submitted in advance and approved by the Commission which permits control over expenditures.

§ 110.8 Presidential candidate expenditure limitations.

(a) No candidate for the office of President of the United States who is eligible under 26 U.S.C. § 9003 (relating to conditions for eligibility for payments) or under 26 U.S.C. § 9033 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury and has received payments, may make expenditures in excess of—

(1) $10,000,000 in the case of a campaign for nomination for election to the office, except the aggregate of expenditures under this paragraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State or $200,000; or

(2) $20,000,000 in the case of a campaign for election to the office.

(b) The expenditure limitations shall not be considered violated if, after the date of the primary or general election, convention or caucus, receipt of refunds and rebates causes a candidate's expenditures to be within the limitations.

(c) For the State limitations in (a)(1)—

(1) Expenditures made in a State after the date of the primary election, convention or caucus relating to the primary election, convention or caucus count toward that State's expenditure limitation;

(2) Expenditures for fundraising activities targeted at a particular State and occurring within 28 days before that state's primary election, convention, or caucus shall be presumed to be attributable to the expenditure limitation for that State, § 100.7(b)(13) (relating to the 20% fundraising exemption) notwithstanding.

(d)(1) If an individual is a candidate for more than one Federal office, or for a Federal office and a State office, he or she must designate separate principal campaign committees and establish completely separate campaign organizations.

(2) No funds, goods, or services, including loans and loan guarantees, may be transferred between or used by the separate campaigns, except as provided in § 110.3(a)(2)(iv).

(3) Except for Presidential candidates receiving Presidential Primary Matching Funds, see 26 U.S.C. § 9032, or General Election Public Financing, see 26 U.S.C. § 9002, campaigns may share personnel and facilities, as long as expenditures are allocated between the campaigns, and the payment made from each campaign account reflects the allocation.

(e)(1) A political party may make reimbursement for the expenses of a candidate who is engaging in party-building activities, without the payment being considered a contribution to the candidate, and without the unreimbursed expense being considered an expenditure counting against the limitations in (a)(1) or (2), as long as—

(i) The event is a bona fide party event or appearance; and

(ii) No aspect of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in connection with the event were for the purpose of influencing the candidate's nomination or election.

(2)(i) An event or appearance meeting the requirements of (e)(1) and occurring prior to January 1 of the year of the election for which the individual is a candidate is presumptively party-related;

(ii) Notwithstanding the requirements of (e)(1), an event or appearance occurring on or after January 1 of the year of the election for which the individual is a candidate is presumptively for the purpose of influencing the candidate's election, and any contributions or expenditures are governed by the contribution and expenditure limitations of this Part 110.

(iii) The presumptions in (i) and (ii) may be rebutted by a showing to the Commission that the appearance or event was, or was not, party-related, as the case may be.

(f)(1) Expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States.

(2) Expenditures from personal funds made by a candidate for Vice President shall be considered to be expenditures by the candidate for President, if the candidate is receiving General Election Public Financing, see § 141.2(c).

(g) An expenditure is made on behalf of a candidate, including a Vice-Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making any expenditure;

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee not authorized in writing, so long as it is requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure.

§ 110.9 Miscellaneous provisions.

(a) *Violation of Limitations.* No candidate or political committee shall accept any contribution or make any expenditure in violation of the provisions of Part 110. No officer or employee of a political committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this Part 110.

(b) *Fraudulent Misrepresentation.* No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) Fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) Willfully and knowingly participate in or conspire to participate in any plan or design to violate paragraph (1).

(c) *Price Index Increase.* (1) Each limitation established by § 110.7 and §110.8 shall be increased by the annual percent difference of the price index, as certified to the Commission by the Secretary of Labor. Each amount so increased shall be the amount in effect for that calendar year.

(2) For purposes of paragraph (1), the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) *Voting Age Population.* The Commission shall assure that there is annually published in the FEDERAL REGISTER an estimate of the voting age population based on an estimate of the voting age population of the United States, of each State, and of each congressional district. The term "voting age population" means resident population, 18 years of age or older.

§ 110.10 Expenditures by candidates.

(a) Except as provided in subchapters C and D of this chapter pertaining to Presidential candidates, candidates for Federal office may make unlimited expenditures from personal funds.

(b) For purposes of this section, "personal funds" means—

(1) Any assets to which at the time he or she became a candidate the candidate had legal and rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable State law, and which the candidate had legal right of access to or control over, including funds from immediate family members; and

(2) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

§ 110.11 Communications; advertising.

(a) (1) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, but not on a bumper strip, pin, button, pen and similar small items upon which the disclaimer cannot be conveniently printed, the communication—

(i) If authorized by a candidate, his or her authorized political committees, or their agents, shall clearly and conspicuously state that the communication has been authorized on behalf of that candidate;

(ii) If not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case a political committee, the name of any affiliated or connected organization required to be listed under § 102.2(a)(2).

(2) For purposes of this section, "clearly and conspicuously" means—

(i) On the face or front page of printed matter, or at the beginning or end of a broadcast or telecast matter, and shall include the name of the committee; and

(ii) In a manner calculated to provide actual notice to a reader, listener, or viewer.

(b) (1) No person who sells space in a newspaper or magazine to a candidate, an authorized committee of a candidate, or an agent of the candidate, for use in connection with the candidate's campaign for nomination or for election, shall charge an amount for the space which exceeds the comparable rate for the space for non-campaign purposes.

(2) For purposes of this section, "comparable rate" means the rate charged to a national or general rate advertiser, and shall include discount privileges usually and normally available to a national or general rate advertiser.

(c) Each political committee shall include on the face or front page of all printed literature and advertisements soliticing contributions and at the beginning or end of any broadcast solicitation the following notice:

"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

§ 110.12 Honorariums.

(a) No person while an elected or appointed officer or employee of any branch of the Federal government shall accept—

(1) Any honorarium of more than $2,000;

(2) Honorariums (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

(b) The term "honorarium" means a payment of money or anything of value received by an officer or employee of the Federal government, if it is accepted as consideration for an appearance, speech, or article. An honorarium does not include payment for or provision of actual travel and subsistence, including transportation, accommodations, and meals for the officer or employee and spouse or an aide, and does not include amounts paid or incurred for any agents' fees or commissions.

(1) *Officer or Employee.* The term "officer or employee of the Federal government," or "officer or employee" means any person appointed or elected to a position of responsibility or authority in the United States government, regardless of whether the person is compensated for this position; and any other person receiving a salary, compensation, or reimbursement from the United States government, who accepts an honorarium for an appearance, speech, or article. Included within this class is the President; the Vice President; any Member of Congress; any judge of any court of the United States; any Cabinet officer; and any other elected or appointed officer or employee of any branch of the Federal government.

(2) *Appearance.* "Appearance" means attendance at a public or private conference, convention, meeting, social event, or like gathering, and the incidental conversation or remarks made at that time.

(3) *Speech.* "Speech" means an address, oration, or other form of oral presentation, regardless of whether presented in person, recorded, or broadcast over the media.

(4) *Article.* "Article" means a writing other than a book, which has been or is intended to be published.

(5) *Accepted.* "Accepted" means that there has been actual or constructive receipt of the honorarium and the Federal officeholder or employee exercises dominion or control over it. A Federal officeholder or employee is considered to have accepted an honorarium (i) if he or she actually receives it and determines its subsequent use, or (ii) he or she directs that the organization offering the honorarium give the honorarium to a charity or other beneficiary which he or she names, but (iii) an honorarium is not accepted if he or she makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Code.

(c) The term "honorarium" does not include—

(1) *An award.* An award is a gift of money or anything of value given—

(i) Primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civil achievement;

(ii) Based on a selection process with established criteria and which does not require the officer or employee to apply for or take any other action in the way of competition for the award;

(iii) Gratuitously under circumstances which do not require the recipient to make an appearance or speech, or write an article as a condition for receiving the award; and

(iv) Which is not made to serve in place of an honorarium or a contribution.

(2) *A gift.* A gift is a voluntary conveyance of real or personal property

which is made gratuitously, and is not supported by consideration, and is not made to serve in place of an honorarium or a contribution.

(3) *A stipend.* A stipend is a payment for services on a continuing basis, including a salary or other compensation paid by news media for commentary on events other than the campaign of the individual compensated. A stipend cannot be paid by a political committee other than a candidate's principal campaign committee or other authorized committee to that candidate.

PART 111—COMPLIANCE PROCEDURE

Sec.
111.1 Scope.
111.2 Complaint; filing.
111.3 Initial processing.
111.4 Notification.
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111.13 Motions to quash.
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111.15 Ex parte communication.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 111.1 Scope.

These regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431, *et seq.*) and chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. §§ 9001, *et seq* and 9031 *et seq.*).

§ 111.2 Complaint; filing.

(a) Any person may file a complaint with the Commission setting forth grounds for believing that a person has violated the Act or chapter 96 of the Internal Revenue Code of 1954. A complaint shall be in writing and signed, and shall be sworn to and notarized.

(b) A complaint shall contain—

(1) The full name, address, and telephone number of the complainant;

(2) A clear and concise statement of the acts which are alleged to constitute a violation of the Act;

(3) Any documentation of allegations of the complaint available to the complainant; and

(4) An assertion that the person complaining, if not a candidate, is not filing the complaint on behalf of or at the request or suggestion of a candidate, unless such is the fact, in which case it shall be set forth.

§ 111.3 Initial processing.

The General Counsel shall review the complaint and all relevant material filed with the Commission and report to the Commission on the factual and legal bases for the possible violation. On the basis of the General Counsel's report and the relevant materials, the Commission shall determine by the agreement of at least four of its members whether it has "reason to believe" that the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 have been or will be violated and order any investigation it believes necessary.

§ 111.4 Notification.

Upon determination by agreement of at least four members of the Commission that it has reason to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur, the General Counsel shall notify respondent of that determination, providing a copy of the complaint or summary of the matters brought into question and advising respondent that he or she should submit any factual or legal information which he or she believes demonstrates that no action should be taken against him or her. Such notification shall be confidential as required by 2 U.S.C. § 437g(a)(3)(B).

§ 111.5 Investigation.

(a) In any case in which the Commission finds it has reason to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur, it shall order an investigation into those maters about which it believes it needs further information.

(b) If a complaint is filed by a candidate, any investigation shall include an investigation of the reports and statements filed by the complaining candidate, pursuant to 2 U.S.C. § 437g(a)(3).

§ 111.6 Commission action.

After review of the relevant materials obtained during the investigation, the Commission by agreement of at least four of its members shall determine whether there is reasonable cause to believe that respondent has committed or is about to commit a violation of the Act or of chapter 95 or 96 of the Internal Revenue Code of 1954. In the event that the Commission so determines, it shall inform the respondent of its decision and seek voluntary compliance by the respondent.

§ 111.7 Conciliation.

(a) Within a reasonable time after the Commission has determined that it has reasonable cause to believe that the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been or will be violated, the General Counsel shall attempt to correct or prevent the violation by informal methods of conference, conciliation, and persuasion.

(b) If a tentative conciliation agreement is reached with respondent, the General Counsel shall submit it to the Commission for approval by agreement of at least four members.

(c) If, after attempting conciliation for the appropriate period of time (see 2 U.S.C. § 437g(a)(5)(A)), the General Counsel concludes that no acceptable conciliation agreement can be reached, he or she shall prepare a report for the Commission which sets forth the reasons for the inability to obtain a conciliation agreement.

§ 111.8 Disclosure of Commisison action.

(a) If the Commission has notified respondent of its decision that he or she has not violated the Act or chapter 95 or 96 of the Internal Revenue Code of 1954, it shall make available to the public its determination and the basis for it.

(b) After the Commission has concluded any conciliation attempts, it shall make available the results of any such attempts, including any conciliation agreement entered into.

§ 111.9 Civil proceedings.

The Commission, on the recommendation of the General Counsel, after attempts to correct or prevent any violation by informal methods of conference, conciliation, or persuasion have been unsuccessful, may determine by the agreement of at least four of its members that there is probable cause to believe that a violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred or will occur and may direct the General Counsel to commence civil proceedings and seek appropriate relief.

§ 110.10 Issuance of subpoenas and subpoenas duces tecum.

(a) The Chairman or the Vice Chairman shall issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other tangible evidence upon request by the General Counsel.

(b) Any party may request the General Counsel to subpoena particular persons or evidence, but such subpoenas shall not be obtainable as a matter of right.

§ 111.11 Depositions.

In any proceeding or investigation, the Commission, upon written notice, may order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths.

§ 111.12 Service of subpoenas and notices of depositions.

(a) Service of a subpoena or notice of deposition upon a person named therein shall be made by delivering a copy to that person in the manner described by paragraphs (b), (c), and (d). Fees for one day's attendance and mileage shall be tendered as specified in § 111.14.

(b) Whenever service is to be made upon a person who is represented in the pending proceeding by an attorney, the service may be made upon the attorney.

(c) Delivery of a copy of a subpoena or notice of deposition and tender of the fees to a natural person may be made by handing them to the person; or leaving them at his office with the person in charge thereof; or leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; or mailing them by registered

or certified mail to him at his last known address; or by any method whereby actual notice is given to him and the fees are made available prior to the return date.

(d) When the person to be served is not a natural person, delivery of a copy of the subpoena or notice of deposition and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; or by mailing them by registered or certified mail to such representative at his last known address; or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date.

§ 111.13 Motions to quash.

(a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor.

(b) The Commission upon the agreement of at least four of its members may deny the application, or, upon granting notice and an opportunity for reply to the person upon whose request the subpoena was issued, may—

(1) Deny the application;
(2) Quash the subpoena; or
(3) Modify the subpoena.

§ 111.14 Witness fees and mileage.

(a) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(b) Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

§ 111.15 Ex parte communications.

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 2 U.S.C. § 437g(a) (1) or (2), except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of the Commission's staff involved in handling enforcement actions any ex parte communication relative to the factual merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff involved in the decisional process make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 2 U.S.C. § 437g(a) (1) or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 2 U.S.C. § 437g(a) (2), and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

PART 112—ADVISORY OPINION PROCEDURE

Sec.
112.1 Requests for advisory opinions.
112.2 Public availability of requests.
112.3 Written comments on requests.
112.4 Issuance of advisory opinions.
112.5 Reliance on advisory opinions.
112.6 Reconsideration of advisory opinions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a) (1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a) (8)), and Sec. 315(a) (10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c) (10), and 209(a) (1) and (b) (1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a) (10)).

§ 112.1 Requests for advisory opinions.

(a) Any—
(1) Holder of Federal office;
(2) Candidate for Federal office;
(3) Political committee;
(4) National committee of a political party; or
(5) Authorized agent of any of the foregoing persons (if the agent discloses the identity of his or her principal)

may request in writing, an advisory opinion concerning application of a general rule of law (i) stated in the Federal Election Campaign Act of 1971, as amended, or chapter 95 or 96 of the Internal Revenue Code of 1954, or (ii) duly prescribed as a rule or regulation by the Commission, to a specific factual situation that involves the requesting person.

(b) Requests shall include all facts relevant to the specific factual situation with respect to which the request is made. Hypothetical questions will not be treated as advisory opinion requests.

(c) Advisory opinion requests may be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463.

(d) Upon receipt by the Commission, each advisory opinion request (AOR) shall be assigned an AOR number for reference purposes.

§ 112.2 Public availability of requests.

(a) Advisory opinion requests submitted under § 112.1 shall promptly be made public at the Commission.

(b) A copy of the original request shall be available for public inspection and purchase, except when it involves a compliance action (see Part 111), at the Federal Election Commission, Public Records Division, 1325 K Street, NW., Washington, D.C. 20463.

(c) Advisory opinion requests may be made public through other means, and publication in those cases shall be either in the form originally submitted or in an edited or paraphrased form as the Commission considers appropriate.

§ 112.3 Written comment on requests.

(a) Interested persons are invited to submit written comments concerning advisory opinion requests.

(b) Written comments may be submitted within 10 calendar days of the date the request is made public at the Commission. The Commission may in its discretion shorten or extend the comment period on a particular request where there is reasonable cause for doing so.

(c) Comments on advisory opinion requests should refer to the AOR number of the request, and statutory references should be to the United States Code citations, rather than to Public Law citations.

(d) Additional time in which to comment may be granted upon written request or in the discretion of the Commission.

(e) Written comments and requests for additional time to comment shall be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463.

(f) Before it issues an advisory opinion the Commission shall consider all timely comments received.

§ 112.4 Issuance of advisory opinions.

(a) Within a reasonable time after receiving a written request properly made under § 112.1 the Commission shall issue a written advisory opinion.

(b) The Commission may issue advisory opinions pertaining only to the Federal Election Campaing Act of 1971, as amended, chapter 95 or 96 of the Internal Revenue Code of 1954, or rules or regulations duly prescribed under those statutes.

(c) No advisory opinion may state a general rule of law, other than one which is stated in the Federal Election Campaign Act of 1971, as amended, or chapter 95 or 96 of the Internal Revenue Code of 1954, until that general rule is prescribed by the Commission as a rule or regulation pursuant to 2 U.S.C. § 438 (c).

(d) No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this § 112.4; however, this paragraph does not preclude distribution by the Commission of information consistent with the Act and chapter 95 or 96 of the Internal Revenue Code of 1954.

(e) When issued by the Commission each advisory opinion shall be made public and sent by mail, or personally delivered, to the person who requested the opinion.

§ 112.5 Reliance on advisory opinions.

(a) An advisory opinion rendered by the Commission under this Part 112 may be relied upon by:

(1) Any person involved in the specific transaction or activity with respect to

which such advisory opinion is rendered, and

(2) Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with paragraph (a) of this § 112.5 and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by the Federal Election Campaign Act of 1971, as amended, or by chapter 95 or 96 of the Internal Revenue Code of 1954.

§ 112.6 Reconsideration of advisory opinions.

The Commission may reconsider advisory opinions upon written request by the party originally submitting the request and upon request of a Commissioner who voted with the majority that approved the opinion.

PART 113—OFFICE ACCOUNTS: EXCESS CAMPAIGN FUNDS

Sec.

113.1 Definitions.
113.2 Use of funds.
113.3 Deposits of funds donated to a Federal or State officeholder.
113.4 Reports of office accounts.
113.5 Contribution and expenditure limitations.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-413, 88 Stat. 1279, and amended by Secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315 (a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 113.1 Definitions.

When used in this part—

(a) *Funds donated.* "Funds donated" means all funds, including, but not limited to, gifts, loans, advances, credits or deposits of money which are donated for the purpose of supporting the activities of a Federal or State officeholder; but does not mean funds appropriated by Congress, a State legislature, or another similar public appropriating body, or personal funds of the officeholder donated to an account containing only those personal funds.

(b) *Office account.* "Office account" means an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated, but does not include an account used exclusively for funds appropriated by Congress, a State legislature, or another similar public appropriating body, or an account of the officeholder which contains only the personal funds of the officeholder, or an account containing only appropriated funds and only personal funds of the officeholder.

(c) *Federal officeholder.* "Federal officeholder" means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) *State officeholder.* "State officeholder" means an individual elected to or serving in any elected public office within a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any subdivision thereof.

(e) *Excess campaign funds.* "Excess campaign funds" means amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenditures.

§ 113.2 Use of funds.

Excess campaign funds and funds donated—

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be given to any organization described in section 170(c) of Title 26, of the U.S. Code; or

(c) May be used for any other lawful purpose, including contributions to a political party or to another candidate, in which case the contributions shall be considered personal contributions by the officeholder, subject to the limitations of Part 110.

§ 113.3 Deposits of funds donated to a Federal or State officeholder.

All funds donated to a Federal officeholder, or State officeholder who is a candidate for Federal office, shall be deposited into one of the following accounts:

(a) An account of the officeholder's principal campaign committee or other authorized committee pursuant to Part 103; or

(b) An office account.

§ 113.4 Reports of office accounts.

(a) All Federal officeholders having office accounts shall report on April 15 and October 15 of each year. The April 15 report shall disclose all receipts and disbursements from October 1 of the preceding year through March 30 of the year in which the report is filed. The October 15 report shall disclose all receipts and disbursements from April 1 through September 30 of the year the report is filed.

(b) A Federal officeholder shall file the reports required by § 113.4(a) with the Clerk of the House of Representatives in the case of a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, or with the Secretary of the Senate in the case of a United States Senator, or with the Commission in the case of the President or Vice President.

(c) When a State officeholder having an office account becomes a candidate for Federal office, pursuant to 2 U.S.C. § 431(b), he or she shall file the reports provided for in (b) above. The reports shall contain a report of all receipts and disbursements, including the same information required to be reported by a political committee regarding contributions and expenditures, see § 104.2, except that the identification, occupation, and principal place of business of donors of in excess of $50 in cash shall be reported.

§ 113.5 Contribution and expenditure limitations.

(a) Any contributions to, or expenditures from, an office account which are made for the purpose of influencing a Federal election shall be subject to 2 U.S.C. § 441a and Part 110 of these regulations.

(b) If any treasury funds of a corporation or labor organization are donated to an office account, no funds from that office account may be used in connection with a Federal election.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

Sec.

114.1 Definitions.
114.2 Prohibitions on contributions and expenditures.
114.3 Partisan communications.
114.4 Nonpartisan communications.
114.5 Separate segregated funds.
114.6 Twice yearly solicitations.
114.7 Membership organizations, cooperatives, or corporations without capital stock.
114.8 Trade associations.
114.9 Use of corporate or labor organization facilities and means of transportation.
114.10 Extension of credit and settlement of corporate debts.
114.11 Employee participation plans.
114.12 Miscellaneous provisions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315 (a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 114.1 Definitions.

(a) For purposes of Part 114 and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79*l*(h))—

(1) The term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, political party or committee, organization, or any other person in connection with any election to any of the offices referred to in § 114.2(a) or (b) as applicable.

(2) The term "contribution or expenditure" shall *not* include—

(i) Communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its

members and their families on any subject;

(ii) Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families;

(iii) The establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock;

(iv) An honorarium, including actual travel and subsistence, as defined in § 110.12;

(v) The sale of any food or beverage by a corporate vendor for use in a candidate's campaign at a charge less than the normal or comparable commercial charge, if the amount charged by the vendor is at least equal to the cost of food or beverage to the vendor, except that the cumulative value of discounts given by the vendor may not exceed $500 per candidate, per election;

(vi) The payment for legal or accounting services rendered to or on behalf of the national committee of a political party other than services attributable to activities which directly further the election of a designated candidate or candidates for Federal office if the corporation or labor organization paying for the services is the regular employer of the individual rendering the services. This exclusion shall not be applicable if additional employees are hired for the purpose of rendering services or if additional employees are hired in order to make regular employees available;

(vii) The payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 if the corporation or labor organization paying for the services is the regular employer of the individual rendering the services, but amounts paid or incurred for these services shall be reported in accordance with Part 104. This exclusion shall not be applicable if additional employees are hired for the purpose of rendering services or if additional employees are hired in order to make regular employees available;

(viii) Activity with respect to a national nominating convention allowed under § 121.5;

(ix) A gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any gift, subscription, loan, advace, or deposit of money or anything of value, and any such cost, shall be reported in accordance with Part 104; or

(x) Any activity which is specifically permitted by Part 114.

(b) "Establishment, administration, and solicitation costs" means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, fundraising and other expenses incurred in setting up and running a separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(c) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) This definition includes—

(i) The individuals who run the corporation's business such as officers, other executives, and plant, division, and section managers; and

(ii) Individuals following the recognized professions, such as lawyers and engineers.

(2) This definition does *not* include—

(i) Professionals who are represented by a labor organization;

(ii) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(iii) Former or retired personnel who are not stockholders; or

(iv) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)–1 of the corporation for the purpose of income withholding tax on employee wages under Internal Revenue Code of 1954, § 3402.

(3) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)–1 of the corporation for the purpose of income withholding tax on employee wages under the Internal Revenue Code of 1954, § 3402.

(4) The Fair Labor Standards Act, 29 U.S.C. § 201, et seq. and the regulations issued pursuant to that Act, 29 CFR 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(d) "Labor organization" means any organization of any kind, or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(f) "Method of facilitating the making of contributions" means the manner in which the contributions are received or collected such as, but not limited to, payroll deduction or checkoff systems, other periodic payment plans, or return envelopes enclosed in a solicitation request.

(g) "Method of soliciting voluntary contributions" means the manner in which the solicitation is undertaken including, but not limited to, mailings, oral requests for contributions, and hand distribution of pamphlets.

(h) "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(i) "Voluntary contributions" are contributions which have been obtained by the separate segregated fund of a corporation or labor organization in a manner which is in compliance with § 114.5(a) and which is in accordance with other provisions of the Act.

§ 114.2 Prohibitions on contributions and expenditures.

(a) National banks, or corporations organized by authority of any law of Congress, are prohibited from making a contribution or expenditure, as defined in § 114.1(a), in connection with election to any political office, including local, State and Federal offices, or in connection with any primary election or political convention or caucus held to select candidates for any political office, including any local, State or Federal office.

(1) Such national banks and corporations may engage in the activities permitted by this Part, except to the extent that such activity is foreclosed by provisions of law other than the Act.

(2) The provisions of this Part apply to the activities of a national bank or corporation organized by any law of Congress in connection with both State and Federal elections.

(b) Any corporation whatever or any labor organization is prohibited from making a contribution or expenditure, as defined in § 114.1(a) in connection with any Federal election.

(c) A candidate, political committee, or other person is prohibited from knowingly accepting or receiving any contribution prohibited by this section.

(d) No officer or director of any corporation or any national bank, and no officer of any labor organization shall consent to any contribution or expenditure by the corporation, national bank, or labor organization prohibited by this section.

§ 114.3 Partisan communications.

(a) A corporation may make partisan communications in connection with a Federal election to its stockholders and

executive or administrative personnel and their families. A labor organization may make partisan communications in connection with a Federal election to its members and their families.

(b) Expenditures for partisan communications which expressly advocate the election or defeat of a clearly identified candidate must be reported in accord with § 100.7(b)(5).

(c) The manner in which partisan communications may be made includes, but is not limited to—

(1) The distribution of printed material of a partisan nature by a corporation to its stockholders and executive or administrative personnel and their families, or by a labor organization to its members and their families, Provided;

(i) That the material is produced at the expense of the corporation or labor organization or the separate segregated fund of either; and

(ii) That the material constitutes a communication of the views of the corporation or the labor organization, and is not simply the republication or reproduction in whole or in any part, of any broadcast transcript or tape or any written, graphic, or other form of campaign materials prepared by the candidate, his or her campaign committees, or their authorized agents.

(2) Allowing a candidate or party representative to address the stockholders and executive or administrative personnel of the corporation and their families at a meeting, convention, or other regularly scheduled function of the corporation which is primarily held for other purposes or allowing a candidate or party representative to address the members of a labor organization and their families at a meeting, convention, or other regularly scheduled function of the labor organization which is primarily held for other purposes. The candidate or party representative may ask for contributions to his or her campaign or party at the time of the appearance, ask that contributions be sent to his or her campaign or party, or ask that contributions to the separate segregated fund of the corporation or labor organization be designated for his or her campaign or party.

(3) The establishment and operation of phone banks by a corporation to communicate with its stockholders and executive or administrative personnel and their families urging them to register and/or vote for a particular candidate or candidates, and the establishment and operation of phone banks by a labor organization to communicate with its members and their families urging them to register and/or vote for a particular candidate or candidates.

(4) Registration and get-out-the-vote drives, as by providing transportation to the polls, by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families. Such drives may be partisan in that individuals may be urged to register with a particular party or to vote for a particular candidate or candidates, but assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.

§ 114.4 Nonpartisan communications.

(a) *Communications by a corporation to its stockholders and executive or administrative personnel and by a labor organization to its members.* (1) A corporation may make nonpartisan communications on any subjects to its stockholders and executive or administrative personnel. A labor organization may make nonpartisan communications to its members on any subject.

(2) A corporation may engage in nonpartisan registration and get-out-the-vote activity aimed at its stockholders and executive or administrative personnel and their families. A labor organization may engage in nonpartisan registration and get-out-the-vote activity aimed at its members and their families.

(b) *Candidate and party appearances.*—(1) *Corporations.* Under the following circumstances, corporations may permit candidates (or their representatives) or representatives of political parties on corporate premises to address or meet employees in addition to stockholders and executive or administrative personnel:

(i) If a candidate for the House or Senate is permitted on the premises to address or meet employees, all candidates for that seat who request to appear must be given the same opportunity to appear;

(ii) If a Presidential candidate is permitted on the premises, all candidates for that office who request to appear must be given the same opportunity to appear;

(iii) If representatives of political parties are permitted on the premises, representatives of all political parties which had a candidate or candidates on the ballot in the last general election or which anticipate having or will have a candidate or candidates on the ballot in the next general election which request to appear must be given the same opportunity to appear.

(iv) A corporation, its stockholders, executive or administrative personnel, or other employees of the corporation or its separate segregated fund shall make no effort, either oral or written, to solicit or direct or control contributions by members of the audience or group to any candidate or party in conjunction with any appearance by any candidate or party representative under this section; and

(v) A corporation, its stockholders, executive or administrative personnel or other employees of the corporation or its separate segregated fund shall not, in conjunction with any candidate or party representative appearances under this section, endorse or otherwise support one particular candidate or group of candidates or one particular political party over another political party.

(2) *Labor organizations.* A labor organization may permit candidates (or their representatives) or representatives of political parties on the organization's premises to address employees of the labor organization in addition to members of the labor organization if the conditions in paragraph (b)(1)(i) through (iii) of this section are met.

(i) An official, member, or employee of a labor organization or its separate segregated fund shall not make any effort, either oral or written, to solicit or direct or control contributions by members of the audience to any candidate or party representative under this section.

(ii) An official, member, or employee of a labor organization or its separate segregated fund shall not, in conjunction with any candidate's or party representative's appearance under this section, endorse or otherwise support one particular candidate or group of candidates over another candidate or group of candidates or one particular political party over another political party.

(c) *Nonpartisan registration and voting information.* (1) A corporation or labor organization may, by posters or in newsletters or other communications, urge the employees of the corporation or of the labor organization to register or to vote or to otherwise participate in the political process if—

(i) The communication mentions no political affiliation (except as permitted by (ii)) and is restricted to urging acts such as contributing, voting, and/or registering and, describing the hours and places of registration and voting; and

(ii) Information about particular candidates or political parties is not included in the communication, except that the corporation or labor organization may reprint the entire list of names and political affiliations of candidates on the official ballot.

(2) A corporation or labor organization may distribute or reprint (in whole) any registration or voting information, such as instructional materials, which have been produced by the official election administrators for distribution to the general public.

(3) A corporation or labor organization may distribute voter guides or other types of brochures describing the candidates and their positions if—

(i) The materials do not favor one candidate or political party over another; and

(ii) The materials are obtained from a civic or other nonprofit organization which does not endorse or support or is not affiliated with any candidate or political party.

(d) *Nonpartisan registration and get-out-the-vote drives.* (1) A corporation may support nonpartisan registration and get-out-the-vote drives, as by transporting people to the polls, which are not restricted to its stockholders and executive or administrative personnel and their families, and a labor organization may support such drives which are not restricted to its members and their families if:

(i) The corporation or labor organization jointly sponsors the drives with a civic or other nonprofit organization

which does not support or endorse candidates or political parties and if the activities are conducted by the other organization; and

(ii) These services are made available without regard to the voter's political preference.

(2) A corporation or labor organization may donate funds to be used for nonpartisan registration and get-out-the-vote drives to civic and other nonprofit organizations which do not endorse candidates or political parties.

(3) The civic or nonprofit organization, in conducting the nonpartisan registration and get-out-the-vote activities, may utilize the employees and facilities of a corporation or the employees or members and facilities of a labor organization.

§ 114.5 Separate segregated funds.

(a) *Voluntary contributions to a separate segregated fund.* (1) A separate segregated fund is prohibited from making a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction. For purposes of this section, fees or monies paid as a condition of acquiring or retaining membership or employment are monies required as a condition of membership or employment even though they are refundable upon request of the payor.

(2) A guideline for contributions may be suggested by a corporation or a labor organization, or the separate segregated fund of either, provided that the person soliciting or the solicitation informs the persons being solicited—

(i) That the guidelines are merely suggestions; and

(ii) That an individual is free to contribute more or less than the guidelines suggest and the corporation or labor organization will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute.

A corporation or labor organization or the separate segregated fund of either may not enforce any guideline for contributions.

(3) Any person soliciting an employee or member for a contribution to a separate segregated fund must inform such employee or member of the political purposes of the fund at the time of the solicitation.

(4) Any persons soliciting an employee or member for a contribution to a separate segregated fund must inform the employee or member at the time of such solicitation of his or her right to refuse to so contribute without any reprisal.

(5) Any written solicitation for a contribution to a separate segregated fund which is addressed to an employee or member must contain statements which comply with the requirements of paragraph (a) (3) and (4) of this section, and if a guideline is suggested, statements which comply with the requirements of paragraph (a)(2) of this section.

(b) *Use of treasury monies.* Corporations, labor organizations, membership organizations, cooperatives, or corporations without capital stock may use general treasury monies, including monies obtained in commercial transactions and dues monies or membership fees, for the establishment, administration, and solicitation of contributions to its separate segregated fund. A corporation, labor organization, membership organization, cooperative, or corporation without capital stock may not use the establishment, administration, and solicitation process as a means of exchanging treasury monies for voluntary contributions.

(1) A contributor may not be paid for his or her contribution through a bonus, expense account, or other form of direct or indirect compensation.

(2) A corporation, labor organization, membership organization, cooperative, or corporation without capital stock may, subject to the provisions of 39 U.S.C. § 3005 and Chapter 61, Title 18, United States Code, utilize a raffle or other fundraising device which involves a prize, so long as State law permits and the prize is not disproportionately valuable. Dances, parties, and other types of entertainment may also be used as fundraising devices. When using raffles or entertainment to raise funds, a reasonable practice to follow is for the separate segregated fund to reimburse the corporation or labor organization for costs which exceed one-third of the money contributed.

(c) *Membership in separate segregated funds.* (1) A separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock may provide that persons who contribute a certain amount to its separate segregated fund will become "members" of its separate segregated fund, so long as—

(i) The fund accepts contributions of all amounts, subject to the limitations of Part 110;

(ii) Subject to subsection (iii), no thing of value may be given in return for or in the course of membership;

(iii) The fund may use membership status for intangible privileges such as allowing members only to choose the candidates to whom the fund will contribute.

(2) The fact that the separate segregated fund of a corporation, labor organization, membership organization, cooperative, or corporation without capital stock is a "membership group" does not provide the corporation, labor organization, membership organization, cooperative, or corporation without capital stock with any greater right of communication or solicitation than the corporation, labor organization, membership organization, cooperative, or corporation without capital stock is otherwise granted under this Part.

(d) *Control of funds.* A corporation, membership organization, cooperative, corporation without capital stock, or labor organization may exercise control over its separate segregated fund.

(e) *Disclosure.* Separate segregated funds are subject to the following disclosure requirements:

(1) A corporation or labor organization is not required to report any payment made or obligation incurred which is not a contribution or expenditure, as defined in § 114.1(a), except those reporting requirements specifically set forth in this section.

(2) A membership organization or corporation is not required to report the cost of any communication to its members or stockholders or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office, except that—

(i) The costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported in accordance with § 100.7(b)(5); and

(ii) The amounts paid or incurred for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 paid by a corporation or labor organization which is the regular employer of the individual rendering such services, shall be reported in accordance with the provisions of Part 104.

(3) A separate segregated fund is subject to all other disclosure requirements of political committees as set forth in Part 104.

(f) *Contribution limits.* Separate segregated funds are subject to the contribution limitations for political committees set forth in Part 110. (See particularly § 110.3).

(g) *Solicitations.* Except as specifically provided in §§ 114.6, 114.7, and 114.8, a corporation and/or its separate segregated fund or a labor organization and/or its separate segregated fund is subject to the following limitations on solicitations:

(1) A corporation, or a separate segregated fund established by a corporation is prohibited from soliciting contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families. A corporation may solicit the executive or administrative personnel of its subsidiaries, branches, divisions, and affiliates and their families.

(2) A labor organization, or a separate segregated fund established by a labor organization is prohibited from soliciting contributions to such a fund

from any person other than its members and their families.

(h) *Accidental or inadvertent solicitation.* Accidental or inadvertent solicitation by a corporation or labor organization, or the separate segregated fund of either, of persons apart from and beyond those whom it is permitted to solicit will not be deemed a violation, provided that such corporation or labor organization or separate segregated fund has used its best efforts to comply with the limitations regarding the persons it may solicit and that the method of solicitation is corrected forthwith after the discovery of such erroneous solicitation.

(i) *Communications paid for with voluntary contributions.* A separate segregated fund may, using voluntary contributions, communicate with the general public, except that such communications may not solicit contributions to a separate segregated fund established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock, unless such solicitation is permitted under paragraph (g) of this section.

(j) *Acceptance of contributions.* A separate segregated fund may accept contributions from persons otherwise permitted by law to make contributions.

(k) *Availability of methods.* Any corporation, including its subsidiaries, branches, divisions, and affiliates, that uses a method of soliciting voluntary contributions or facilitating the making of voluntary contributions from its stockholders or executive or administrative personnel and their families, shall make that method available to a labor organization representing any members working for the corporation, its subsidiaries, branches, divisions, and affiliates for soliciting voluntary contributions or facilitating the making of voluntary contributions from its members and their families. Such method shall be made available on the written request of the labor organization and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby. For example—

(1) If a corporation, including its subsidiaries, branches, divisions, or affiliates utilizes a payroll deduction plan, check-off system, or other plan which deducts contributions from the dividend or payroll checks of stockholders or executive or administrative personnel, the corporation shall, upon written request of the labor organization, make that method available to members of the labor organization working for the corporation, its subsidiaries, branches, divisions, or affiliates, who wish to contribute to the separate segregated fund of the labor organization representing any members working for the corporation, or any of its subsidiaries, branches, divisions, or affiliates. The corporation shall make the payroll deduction plan available to the labor organization at a cost sufficient only to reimburse the corporation for the actual expenses incurred thereby.

(2) If a corporation uses a computer for addressing envelopes or labels for a solicitation to its stockholders or executive or administrative personnel, the corporation shall, upon written request, program the computer to enable the labor organization to solicit its members. The corporation shall charge the labor organization a cost sufficient only to reimburse the corporation for the actual expenses incurred in programming the computers and the allocated cost of employee time relating to the work, and the materials used.

(3) If a corporation uses corporate facilities, such as a company dining room or cafeteria, for meetings of stockholders or executive or administrative personnel at which solicitations are made, the corporation shall, upon written request of the labor organization allow that labor organization to use existing corporate facilities for meetings to solicit its members. The labor organization shall be required to reimburse the corporation for any actual expenses incurred thereby, such as any increase in the overhead to the corporation and any cost involved in setting up the facilities.

(4) If a corporation uses no method to solicit voluntary contributions or to facilitate the making of voluntary contributions from stockholders or executive or administrative personnel, it is not required by law to make any method available to the labor organization for its members. The corporation and the labor organization may agree upon making any lawful method available even though such agreement is not required by the Act.

(5) The availability of methods of twice yearly solicitations is subject to the provisions of § 114.6(e).

(l) *Methods permitted by law to labor organizations.* Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

§ 114.6 Twice yearly solicitations.

(a) A corporation and/or its separate segregated fund may make a total of two written solicitations for contributions to its separate segregated fund per calendar year of its employees other than stockholders, executive or administrative personnel, and their families. Employees as used in this section does not include former or retired employees who are not stockholders. Nothing in this paragraph shall limit the number of solicitations a corporation may make of its stockholders and executive or administrative personnel under § 114.5(g).

(b) A labor organization and/or its separate segregated fund may make a total of two written solicitations per calendar year of employees who are not members of the labor organization, executive or administrative personnel, or stockholders (and their families) of a corporation in which the labor organization represents members working for the corporation. Nothing in this paragraph shall limit the number of solicitations a labor organization may make of its members under § 114.5(g).

(c) Written solicitation. A solicitation under this section may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residences. All written solicitations must inform the recipient—

(1) Of the existence of the custodial arrangement described hereinafter;

(2) That the corporation, labor organization, or the separate segregated fund of either cannot be informed of persons who do not make contributions; and

(3) That persons who, in a calendar year, make a single contribution of $50 or less or multiple contributions aggregating $100 or less may maintain their anonymity by returning their contributions to the custodian.

(d) The custodial arrangement. In order to maintain the anonymity of persons who do not wish to contribute and of persons who wish to respond with a single contribution of $50 or less or multiple contributions aggregating $100 or less in a calendar year, and to satisfy the recordkeeping provisions, the corporation, labor organization, or separate segregated fund of either shall establish a custodial arrangement for collecting the contributions under this section.

(1) The custodian for a separate segregated fund established by a corporation shall not be a stockholder, officer, executive or administrative personnel, or employee of the corporation, or an officer, or employee of its separate segregated fund. The custodian for a separate segregated fund established by a labor organization shall not be a member, officer or employee of the labor organization or its separate segregated fund.

(2) The custodian shall keep the records of contributions received in accordance with the requirements of Part 102 and shall also—

(i) Establish a separate account and deposit contributions in accordance with the provisions of Part 103;

(ii) Provide the fund with the identification of any person who makes a single contribution of more than $50 and the identification, occupation, and principal place of busines of any person who makes multiple contributions aggregating more than $100. The custodian must provide this information within a reasonable time prior to the reporting date of the fund under Part 104;

(iii) Periodically forward all funds in the separate account, by check drawn on that account, to the separate segregated fund; and

(iv) Treat all funds which appear to be illegal in accordance with the provisions of § 103.3(b).

(3) The custodian shall not—

(i) Make the records of persons making a single contribution of $50 or less or multiple contributions aggregating $100 or less, in a calendar year, available to any person other than representatives of the Federal Election Commission, the Clerk of the House or the Secretary of the Senate, as appropriate, and law enforcement officials or judicial bodies.

(ii) Provide the corporation or the labor organization or the separate segregated fund of either with any information pertaining to persons who, in a calendar year, make a single contribution of $50 or less or multiple contributions aggregating $100 or less, except that the custodian may forward to the corporation, labor organization, or separate segregated fund of either the total number of contributions received; or

(iii) Provide the corporation, labor organization, or the separate segregated fund of either with any information pertaining to persons who have not contributed.

(4) The corporation, labor organization, or the separate segregated fund of either shall provide the custodian with a list of all contributions, indicating the contributor's identification and amount contributed, which have been made directly to the separate segregated fund by any person within the group of persons solicited under this section.

(5) Notwithstanding the prohibitions of paragraph (d)(1), the custodian may be employed by the separate segregated fund as its treasurer and may handle all of its contributions, provided that the custodian preserves the anonymity of the contributors as required by this section. The custodian shall file the required reports with the Federal Election Commission, the Clerk of the House, or the Secretary of the Senate, as appropriate. A custodian who serves as treasurer is subject to all of the duties, responsibilities, and liabilities of a treasurer under the Act, and may not participate in the decision making process whereby the separate segregated fund makes contributions and expenditures.

(e) Availability of methods. (1) A corporation or labor organization or the separate segregated fund of either may not use a payroll deduction plan, a check-off system, or other plan which deducts contributions from an employee's paycheck as a method of facilitating the making of contributions under this section.

(2) The twice yearly solicitation may only be used by a corporation or labor organization to solicit contributions to its separate segregated fund and may not be used for any other purpose.

(3) A corporation is required to make available to a labor organization representing any members working for the corporation or its subsidiaries, branches, divisions, or affiliates the method which the corporation uses to solicit employees under this section during any calendar year.

(i) If the corporation uses a method to solicit any employees under this section, the corporation is required to make that method available to the labor organization to solicit the employees of the corporation who are not represented by that labor organization, and the executive or administrative personnel and the stockholders of the corporation and their families.

(ii) If the corporation does not wish to disclose the names and addresses of stockholders or employees, the corporation shall make the names and addresses of stockholders and employees available to an independent mailing service which shall be retained to make the mailing for *both* the corporation and the labor organization for any mailings under this section.

(iii) If the corporation makes no solicitation of employees under this section during the calendar year, the corporation is not required to make any method or any names and addresses available to any labor organization.

(4) The corporation shall notify the labor organization of its intention to make a solicitation under this section during a calendar year and of the method it will use, within a reasonable time prior to the solicitation, in order to allow the labor organization opportunity to make a similar solicitation.

(5) If there are several labor organizations representing members employed at a single corporation, its subsidiaries, branches, divisions, or affiliates, the labor organizations, either singularly or jointly, may not make a combined total of more than two written solicitations per calendar year. A written solicitation may contain a request for contributions to each separate fund established by the various labor organizations making the combined mailing.

§ 114.7 Membership organizations, cooperatives, or corporations without capital stock.

(a) Membership organizations, cooperatives, or corporations without capital stock, or separate segregated funds established by such persons may solicit contributions to the fund from members of the organization, cooperative, or corporation without capital stock.

(b) Nothing in this section waives the prohibition on contributions to the separate segregated fund by corporations, national banks, or labor organizations which are members of a membership organization, cooperative, or corporation without capital stock.

(c) A trade association whose membership is made up in whole or in part of corporations is subject to the provisions of § 114.8 when soliciting any stockholders or executive or administrative personnel of member corporations. A trade association which is a membership organization may solicit its noncorporate members under the provisions of this section.

(d) The question of whether a professional organization is a corporation is determined by the law of the State in which the professional organization exists.

(e) There is no limitation upon the number of times an organization under this section may solicit its members.

(f) There is no limitation under this section on the method of solicitation or the method of facilitating the making of voluntary contributions which may be used.

(g) A membership organization, cooperative, or corporation without capital stock and the separate segregated funds of the organizations are subject to the provisions in § 114.5(a).

(h) A membership organization, cooperative, or corporation without capital stock may communicate with its members under the provisions of § 114.3.

(i) A mutual life insurance company may solicit its policyholders if the policyholders are members within the organizational structure.

(j) A membership organization, including a trade association, cooperative, or corporation without capital stock or a separate segregated fund established by such organization may not solicit contributions from the separate segregated funds established by its members. The separate segregated fund established by a membership organization, including a trade association, cooperative, or corporation without capital stock may, however, accept unsolicited contributions from the separate segregated funds established by its members.

§ 114.8 Trade associations.

(a) *Definition.* A trade association is generally a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member.

(b) *Prohibition.* Nothing in this section waives the prohibition on contributions by corporations which are members of a trade association.

(c) *Limitations.* A trade association or a separate segregated fund established by a trade association may solicit contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders and personnel if—

(1) The member corporation involved has separately and specifically approved the solicitations; and

(2) The member corporation has not approved a solicitation by any other trade association during the calendar year.

(d) *Separate and specific approval.* (1) The member corporation must knowingly and specifically approve any solicitation for a trade association, whether the solicitation is done by the trade association, its separate segregated fund, or the corporation or any of its personnel, for contributions to the trade association's separate segregated fund.

(2) A copy of each approved request received by a trade association or its separate segregated fund shall be maintained by the trade association or its fund for three years from the date the approval is given.

(3) The request for approval may contain a copy of solicitation materials which will be used if approval is granted. Such a mailing must specifically indicate the requirement of approval and the limitation of (c)(2), and approval must be

granted to the trade association or its separate segregated fund prior to the time any solicitation is made of the stockholders or executive or administrative personnel by the trade association, its separate segregated fund, or by the corporation for contributions to the separate segregated fund of the trade association. (The request for approval may be sent to the representatives of the corporation with whom the trade association normally conducts the association's activities.)

(4) A separate authorization specifically allowing a trade association to solicit its corporate member's stockholders and executive or administrative personnel applies through the calendar year in which it is obtained. A separate authorization must be obtained each year.

(5) In its request to a member corporation, a trade association may indicate that it intends to solicit, for example, a limited class of the executive or administrative personnel of the member corporation, or only the executive or administrative personnel but not the stockholders of the member corporation. Moreover, in its approval, a member corporation may similarly limit any solicitation by the trade association or its separate segregated fund. In any event, a member corporation, once it has approved any solicitation—even to a limited extent—of its personnel or stockholders by a trade association or its separate segregated fund, is precluded from approving any such solicitation by another trade association or its separate segregated fund and the corporation and its personnel are precluded from soliciting the corporation's executive or administrative personnel or stockholders on behalf of another trade association or its separate segregated fund.

(e) *Solicitation.* (1) After a trade association has obtained the approval required in paragraph (c), there is no limit on the number of times the trade association or its separate segregated fund may solicit the persons approved by the member corporation during the calendar year to which the approval applies. The member corporation may, however, in its approval limit the number of times solicitations may be made.

(2) A member corporation which grants permission to a trade association to solicit is in no way restricted in its rights under § 114.5(g) to solicit its stockholders or executive or administrative personnel and their families for contributions to the corporation's own separate segregated fund.

(3) There is no limitation on the method of soliciting voluntary contributions or the method of facilitating the making of voluntary contributions which a trade association may use. The member corporation may not use a payroll deduction or checkoff system for executive or administrative personnel contributing to the separate segregated fund of the trade association.

(4) A trade association and/or its separate segregated fund is subject to the provisions of § 114.5(a).

(f) *Solicitation of a subsidiary corporation.* If a parent corporation is a member of the trade association, but its subsidiary is not, the trade association or its separate segregated fund may only solicit the parent's executive or administrative personnel and shareholders and their families; and no personnel of the subsidiary may be solicited. If a subsidiary is a member, but the parent is not, the trade association or its separate segregated fund may solicit the subsidiary's personnel and their families; it may not solicit the parent's shareholders. If both parent and subsidiary are members, executive and administrative personnel and stockholders of each and their families may be solicited.

(g) *Federations of trade associations.* (1) A federation of trade associations is an organization representing trade associations involved in the same or allied line of commerce. Such a federation may, subject to the following limitations, solicit the members of the federation's regional, State, or local affiliates or members, provided that all of the political committees established, financed, maintained, or controlled by the federation and its regional, State, or local affiliates or members are considered one political committee for the purposes of the limitations in §§ 110.1 and 110.2.

(i) The federation and its member associations may engage in a joint solicitation; or

(ii) The member association may delegate its solicitation rights to the federation.

(2) A federation is subject to the provisions of this section when soliciting the stockholders and executive or administrative personnel of the corporate members of its member associations.

(h) *Communications other than solicitations.* A trade association may make communications, other than solicitations, to its members under the provisions of § 114.3. When making communications to a member which is a corporation, the trade association may communicate with the representatives of the corporation with whom the trade association normally conducts the association's activities.

(i) *Trade association employees.* (1) A trade association may communicate with its executive or administrative personnel under the provisions of § 114.3; a trade association may communicate with its other employees under the provisions of § 114.4.

(2) A trade association may solicit its executive or administrative personnel under the provisions of § 114.5(g); a trade association may solicit its other employees under the provisions of § 114.6.

§ 114.9 Use of corporate or labor organization facilities and means of transportation.

(a) *Use of corporate facilities for individual volunteer activity by stockholders and employees.* (1) Stockholders and employees of the corporation may, subject to the rules and practices of the corporation, make occasional, isolated, or incidental use of the facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased. As used in this paragraph, "occasional, isolated, or incidental use" generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities; but

(iii) Any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the corporate facilities.

(2) A stockholder or employee who makes more than occasional, isolated, or incidental use of a corporation's facilities for individual volunteer activities in connection with a Federal election is required to reimburse the corporation within a commercially reasonable time for the normal and usual rental charge, as defined in § 100.4(a)(1)(iii)(B), for the use of such facilities.

(b) *Use of labor organization facilities for individual volunteer activity by officials, members and employees.* (1) The officials, members, and employees of a labor organization may, subject to the rules and practices of the labor organization, make occasional, isolated, or incidental use of the facilities of a labor organization for individual volunteer activity in connection with a Federal election and will be required to reimburse the labor organization only to the extent that the overhead or operating costs of the labor organization are increased. As used in this paragraph, "occasional, isolated, or incidental use" generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by members other than employees during the working period, such use does not interfere with the labor organization in carrying out its normal activities; but

(iii) Any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the labor organization facilities.

(2) The officials, members, and employees who make more than occasional,

isolated, or incidental use of a labor organization's facilities for individual volunteer activities in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time for the normal and usual rental charge, as defined in § 100.4(a)(1)(iii)(B), for the use of such facilities.

(c) *Use of corporate or labor organization facilities to produce materials.* Any person who uses the facilities of a corporation or labor organization to produce materials in connection with a Federal election is required to reimburse the corporation or labor organization within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market.

(d) *Use or rental of corporate or labor organization facilities by other persons.* Persons, other than those specifically mentioned in paragraphs (a) and (b), who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the corporation or labor organization within a commercially reasonable time in the amount of the normal and usual rental charge, as defined in § 100.4(a)(1)(iii)(B), for the use of the facilities.

(e) *Use of airplanes and other means of transportation.* (1) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses an airplane which is owned or leased by a corporation or labor organization other than a corporation or labor organization licensed to offer commercial services for travel in connection with a Federal election must, in advance, reimburse the corporation or labor organization—

(i) In the case of travel to a city served by regularly scheduled commercial service, the first class air fare;

(ii) In the case of travel to a city not served by a regularly scheduled commercial service, the usual charter rate.

(2) A candidate, candidate's agent, or person traveling on behalf of a candidate who uses other means of transportation owned or leased by a corporation or labor organization must reimburse, within a commercially reasonable time, the corporation or labor organization at the normal and usual rental charge.

§ 114.10 Extension of credit and settlement of corporate debts.

(a) A corporation may extend credit to a candidate, political committee, or other person in connection with a Federal election provided that the credit is extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to nonpolitical debtors which are of similar risk and size of obligation. Nothing in this section modifies regulations prescribed by the Civil Aeronautics Board, the Federal Communications Commission or the Interstate Commerce Commission issued pursuant to 2 U.S.C. § 451 or any other regulations prescribed by other Federal agencies with regard to credit extended by the regulated corporations.

(b) Except as specifically provided in paragraph (c), a corporation may not forgive prior debts or settle debts which have been incurred by a candidate or political committee or other person for use in connection with a Federal election for less than the amount owed on the debt.

(c) A corporation may settle or forgive a debt if the creditor has treated the outstanding debt in a commercially reasonable manner. A settlement will be considered commercially reasonable if—

(1) The initial extension of credit was made in accordance with regulations issued pursuant to 2 U.S.C. § 451 or paragraph (a).

(2) The candidate or political committee or person has undertaken all commercially reasonable efforts to satisfy the outstanding debt; and

(3) The corporate creditor has pursued its remedies in a manner similar in intensity to that employed by the corporation in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

The corporation and/or the debtor must file a statement of settlement with the Commission including the initial terms of credit, the steps the debtor has taken to satisfy the debt, and remedies pursued by the creditor. This statement must be filed prior to the termination of the reporting status of the debtor and the settlement is subject to Commission review.

§ 114.11 Employee participation plans.

(a) A corporation may establish and administer an employee participation plan (i.e. a "trustee plan") which is a political giving program in which a corporation pays the cost of establishing and administering separate bank accounts for any employee who wishes to participate. The cost of administering and establishing includes the payment of costs for a payroll deduction or check-off plan and the cost of maintaining the separate bank accounts.

(1) The employees must exercise complete control and discretion over the disbursement of the monies in their accounts.

(2) The trustee, bank, or other administrator shall not provide the corporation or its separate segregated fund any report of the source or recipient of any contribution(s) or donation(s) into or out of any account or of the amount any employee has in an account.

(3) The trustee, bank, or other administrator may provide the corporation or its separate segregated fund with a periodic report limited to information about the total number of employees in the program, the total number of funds in all the accounts combined, and the total amount of contributions made to all candidates and committees combined.

(4) No stockholder, director, or employee of the corporation or its separate segregated fund may exert pressure of any kind to induce participation in the program.

(5) No stockholder, director, or employee of the corporation or its separate segregated fund may exercise any direction or control, either oral or written, over contributions by participants in the program to any candidate, group of candidates, political party, or other person.

(b) An employee participation plan must be made available to all employees including members of a labor organization who are employees of the corporation. Communications about participation in the plan may be conducted by either the corporation or the labor organization or both.

(c) A labor organization may establish and administer an employee participation plan subject to the above provisions, except that the cost shall be borne by the labor organization.

(d) The method used to transmit employee or member contributions to the candidate or political committee may not in any manner identify the corporation or labor organization which established the employee participation plan.

§ 114.12 Miscellaneous provisions.

(a) An organization may incorporate and not be subject to the provisions of this Part if the organization incorporates for liability purposes only, and if the organization is a political committee as defined in § 100.14. Notwithstanding the corporate status of the political committee, the chairman and the treasurer of an incorporated political committee remain personally responsible for carrying out their respective duties under the Act.

(b) Notwithstanding any other provision of Part 114, a corporation or a labor organization which customarily makes its meeting rooms available to clubs, civic or community organizations, or other groups may make such facilities available to a political committee or candidate if the meeting rooms are made available on a nonpartisan basis and on the same terms given to other groups using the meeting rooms.

(c)(1) A corporation of labor organization may not pay the employer's share of the cost of fringe benefits, such as health and life insurance and retirement, for employees or members on leave-without-pay to participate in political campaigns of Federal candidates. The separate segregated fund of a corporation or a labor organization may pay the employer's share of fringe benefits, and such payment would be a contribution in-kind to the candidate. An employee or member may, out of unreimbursed personal funds, assure the continuity of his or her fringe benefits during absence from work for political campaigning, and such payment would not be a contribution in-kind.

(2) Service credit for periods of leave-without-pay is not considered compensation for purposes of this section if the employer normally gives identical treatment to employees placed on leave-without-pay for nonpolitical purposes.

(d) A corporation which, prior to May 11, 1976, had solicited employees other than stockholders or executive or administrative personnel for voluntary contributions to its separate segregated

fund and had offered such employees the opportunity to enroll in a payroll deduction plan may, until December 31, 1976, unless the employee withdraws before that date, continue to deduct contributions from the checks of employees who signed up prior to May 11, 1976. Any solicitation of such employees after May 11, 1976, is subject to the provisions of 2 U.S.C. § 441b(b)(4)(B) and § 114.6 when prescribed.

PART 115—FEDERAL CONTRACTORS

Sec.
115.1 Definitions.
115.2 Prohibition.
115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.
115.4 Partnerships.
115.5 Individuals and sole proprietors.
115.6 Employee contributions or expenditures.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 315(a)(10), Pub. L. 92-225, 86 Stat. 16, amended by Secs. 208 (a) and (c)(10), and 209 (a)(1) and (b)(1), Pub. L. 93-443, 88 Stat. 1279, 1287, and Sec. 105, Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 438(a)(10)).

§ 115.1 Definitions.

(a) "A Federal contractor" means a person, as defined in § 100.13 who—

(1) Enters into any contract with the United States or any department or agency thereof either for—

(i) The rendition of personal services; or

(ii) Furnishing any material, supplies, or equipment; or

(iii) Selling any land or buildings;

(2) If the payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress.

(b) The period during which a person is prohibited from making a contribution or expenditure is the time between the earlier of the commencement of negotiations or when the requests for proposals are sent out, and the later of—

(1) The completion of performance under; or

(2) The termination of negotiations for, the contract or furnishing of material, supplies, equipment, land, or buildings, or the rendition of personal services.

(c) For purposes of this Part, a contract includes

(1) A sole source, negotiated, or advertised procurement conducted by the United States or any of its agencies;

(2) A written (except as otherwise authorized) contract, between any person and the United States or any of its departments or agencies, for the furnishing of personal property, real property, or personal services; and

(3) Any modification of a contract.

(d) The basic contractual relationship must be with the United States or any department or agency thereof. A person who contracts with a State or local jurisdiction or entity other than the United States or any department or agency thereof is not subject to this Part, even if the State or local jurisdiction or entity is funded in whole or in part from funds appropriated by the Congress. The third party beneficiary of a Federal contract is not subject to the prohibitions of this Part.

(e) The term labor organization has the meaning given it by § 114.1(a).

§ 115.2 Prohibition.

(a) It shall be unlawful for a Federal contractor, as defined in § 115.1(a), to make, either directly or indirectly, any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any such contribution or expenditure to any political party, committee, or candidate for Federal office or to any person for any political purpose or use. This prohibition does not apply to contributions or expenditures in connection with State or local elections.

(b) This prohibition runs for the time period set forth in § 115.1(b).

(c) It shall be unlawful for any person knowingly to solicit any such contribution from a Federal contractor.

§ 115.3 Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock.

(a) Corporations, labor organizations, membership organizations, cooperatives, and corporations without capital stock to which this Part applies may expend treasury monies to establish, administer, and solicit contributions to any separate segregated fund subject to the provisions of Part 114. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under Part 114 applies to a corporation, labor organization, or separate segregated fund to which this Part applies.

(b) The question of whether a professional organization is a corporation is determined by the law of the State in which the professional organization exists.

§ 115.4 Partnerships.

(a) The assets of a partnership which is a Federal contractor may not be used to make contributions or expenditures in connection with Federal elections.

(b) Individual partners may make contributions or expenditures in their own names from their personal assets.

(c) Nothing in this part prohibits an employee of a partnership which is a Federal contractor from making contributions or expenditures from his or her personal assets.

§ 115.5 Individuals and sole proprietors.

Individuals or sole proprietors who are Federal contractors are prohibited from making contributions or expenditures from their business, personal, or other funds under their dominion or control. The spouse of an individual or sole proprietor who is a Federal contractor is not prohibited from making a personal contribution or expenditure in his or her name.

§ 115.6 Employee contributions or expenditures.

Nothing in this part shall prohibit the stockholders, officers, or employees of a corporation, the employees, officers, or members of an unincorporated association, cooperative, membership organization, labor organization, or other group or organization which is a Federal contractor from making contributions or expenditures from their personal assets.

SUBCHAPTER B—PRESIDENTIAL ELECTION CAMPAIGN FUND, FEDERAL FINANCING OF CONVENTIONS

PART 120—GENERAL PROVISIONS

Sec.
120.1 Scope.
120.2 Definitions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 120.1 Scope.

(a) This part interprets 2 U.S.C. § 437 and 26 U.S.C. § 9008. Section 9008 of Title 26 authorizes the Federal Election Commission to certify to the Secretary of the Treasury for payments of the amounts to which the national committee of any major or minor party is entitled under 26 U.S.C. § 9008 with respect to a Presidential nominating convention, but the entitlement of each major party may not exceed the aggregate amount of $2,000,000, adjusted by the Consumer Price Index. Section 437 of Title 2 requires certain organizations to file convention reports.

(b) Under 26 U.S.C. § 9008(b) the national committees of both major and minor parties are entitled to payments from public funds to defray expenses which they incurred with respect to a Presidential nominating convention. These expenses are limited to $2,000,000, as adjusted by the Consumer Price Index. New parties are exempt from any expenditure limitation and are not entitled to any public funds. For a minor party to be entitled to its proportionate share of public funds for convention expenses, its Presidential candidate in the last election must have received (as the Presidential candidate of that party) at least 5 percent of the total popular vote received by all Presidential candidates in such election.

§ 120.2 Definitions.

The following definitions shall apply for the purposes of this subchapter:

(a) "Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(b) "Fund" means the Presidential Election Campaign Fund established by 26 U.S.C. § 9006(a).

(c) "Major party" means, with respect to any Presidential election, a political party whose candidate for the office of

President in the preceding Presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(d) "Minor party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office.

(e) "New party" means, with respect to any Presidential election, a political party which is neither a major party nor a minor party.

(f) "Convention expenses" or "expenses or expenditures incurred with respect to a Presidential nominating convention" means expenses incurred for the purpose of conducting a presidential nominating convention or convention-related activities (including the payment of deposits) by or on behalf of the national committee of a political party, including—

(1) Any expense for preparing, maintaining, and dismantling the physical site of the convention, including rental of the hall, platforms and seating, decorations, telephones, security, and convention hall utilities;

(2) Salaries and expenses of personnel whose responsibilities are planning, managing, or conducting the convention, including staff members of convention committees or arrangements committees and similar personnel;

(3) Any expenses of those persons employed by the national committee of a political party which were incurred in the performance of personal services for the convention that were in addition to their normal duties to the national committee, such as travel expenses to and from or at the convention city or other locations specified in subsection (4), but excluding any portion of the person's salary paid by the national committee, provided that the services of that person were incidental to the convention and not performed as a major responsibility;

(4) The expense of conducting meetings, whether or not at the convention site, of or related to convention policy committees, such as rules, credentials, and platform committees, including costs of renting meeting space and printing materials (except for certain legal and accounting expenses, see § 121.10(b)).

(5) The expenses incurred in securing a convention city and facility;

(6) The expense of providing a transportation system in a convention city for the use of delegates and other persons attending or otherwise connected with the conventions;

(7) The expenses of entertainment activities which are part of official convention activity sponsored by the national committee, including but not limited to dinners, concerts, and receptions, but not including entertainment activities sponsored by or on behalf of candidates for nomination to the office of President or Vice President, or State delegations, or activities sponsored by the national committee if the purpose of the activity is solely for national committee business, such as fundraising events, selecting new officers for the national committee, or entertainment activities sponsored by persons other than the national committee, not otherwise prohibited;

(8) The expenses of printing official convention programs, a journal of proceedings, agendas, tickets, badges, passes, and other official publications;

(9) The administrative and office expenses of conducting the convention such as stationery and office supplies, office machines, and telephone charges, but excluding the cost of any such services supplied by the national committee at its headquarters or principal office so long as such services are incidental to the convention and not utilized primarily for the convention;

(10) The interest on loans the proceeds of which are used to defray convention expenses; and

(11) The expenses of any candidate or delegate participating in the national nominating convention, subject to the provisions of §§ 121.10 and 122.5.

(g) "Secretary" means the Secretary of the Treasury of the United States.

(h) "Host committee" means a local organization such as a local civic association, business league, chamber of commerce, real estate board, board of trade, or convention bureau—

(1) Not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

(2) A principal objective of which is the encouragement of commerce in the convention city, as well as projecting a favorable image of the city to convention attendees.

PART 121—LIMITATION OF EXPENDITURES

Subpart A—National Party Limitations

Sec.

121.1 Major parties.
121.2 Minor parties.
121.3 Exception.
121.4 Expenditures by agencies and municipal corporations.

Subpart B—In-Kind Contributions by Businesses

121.5 Discounts by retail business concerns.
121.6 Samples and promotional material.
121.7 In-kind contributions to the host committee.

Subpart C—Donation of Funds by Local Businesses and Labor Organizations

121.8 Donation of funds to host committee.
121.9 Use of funds by host committee.
121.10 Expenditures by individuals and groups.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107 (a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

Subpart A—National Party Limitations

§ 121.1 Major parties.

Except as provided by § 121.3, the national committee of a major party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under § 122.1, whether or not the national committee elects to receive any of its entitled funds.

§ 121.2 Minor parties.

Except as provided by § 121.3, the national committee of a minor party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under § 122.1, whether or not the national committee elects to receive any of its entitled funds.

§ 121.3 Exception.

The Commission may authorize the national committee of a major party or minor party to make expenditures for convention expenses which, in the aggregate, exceed the limitation established by § 121.1 or § 121.2. This authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, the expenditures are necessary to assure the effective operation of the Presidential nominating convention by the committee. In no case, however, will such authorization entitle the national committees to receive public funds greater than the amount the national committees are entitled to under § 122.1 or § 122.2.

§ 121.4 Expenditures by agencies and municipal corporations.

(a) Expenditures with respect to a Presidential nominating convention incurred by Federal and local governmental agencies and municipal corporations will not be considered either as expenditures made by a national party or as illegal corporate contributions under 2 U.S.C. § 441b. These expenditures will therefore not be subject to the national party's expenditure limitations of §§ 121.1 and 121.2, provided that the facilities or services supplied at no charge or less than the normal charge to the national committee were not leased or bought from corporations, national banks, labor organizations, or any other person for less than their fair market value.

(b) Expenditures made under paragraph (a) are reportable under § 125.1.

Subpart B—In-Kind Contributions by Businesses

§ 121.5 Discounts by retail business concerns.

(a) Private retail business concerns (whether incorporated or not) may sell, lease, or rent, or offer to sell, lease, or rent to the national party for the convention any services, materials, space, or goods that the business normally deals

in, at less than the fair market value; For example, the business may provide discounts in standard rates of any goods or services, provided that the discounts are offered in the ordinary course of business and are standard practice based upon the quantity of similar goods and services sold, leased, or rented in similar transactions.

(b) As long as the discount does not exceed the amounts specified in paragraph (a) will not count toward the national party expenditure limitation under §§ 121.2 and 121.2.

§ 121.6 Samples and promotional material.

(a) Private business concerns may sell at nominal cost or provide at no charge any of their products or services in the form of samples or discount coupons, or provide promotional items of nominal value, such as maps, pens, or pencils, with the business's name imprinted on the item, to those attending the convention functions, provided that—

(1) The samples and the like are solely for bona fide advertising or promotional purposes and are not provided for the purpose of influencing any delegate's or alternate vote;

(2) The activity is in the ordinary course of business as evidenced by past practice with other political and nonpolitical conventions.

(b) The samples, coupons, and promotional material may be distributed by or with the help of persons employed by the business, the national party, or a citizen host committee.

(c) The value of the benefits provided will not count toward the national party's expenditure limitation under §§ 121.1 and 121.2.

§ 121.7 In-kind contributions to the host committee.

Local private businesses and labor organizations may donate or offer at a reduced rate to the host committee office space, supplies, furniture, transportation, and the like for use by the host committee for administrative purposes.

Subpart C—Donation of Funds by Local Businesses and Labor Organizations; Advertising

§ 121.8 Donation of funds to host committee.

(a) Local businesses (whether incorporated or not) and labor organizations may donate funds to a citizen's host committee.

(b) Subject to § 121.9, the use of the funds may be restricted by the donor in any manner agreeable between the donor and the recipient host committee, such as earmarking the funds for a particular project or purpose, or having the contribution acknowledged as "Courtesy of X, Y and Z Companies," so long as any restrictions are commercially motivated and are non-political.

§ 121.9 Use of funds by host committee.

(a) Funds donated to the host committee may be used—

(1) To defray those expenses incurred for the purpose of promoting the suitability of the city as a convention site;

(2) To defray those expenses incurred for welcoming the convention attendees to the city, such as expenses for information booths, receptions, and tours;

(3) To defray those expenses incurred in facilitating commerce, such as providing the convention and attendees with shopping and entertainment guides and distributing the discount coupons and samples specified in § 121.6; and

(4) To defray the administrative expenses incurred by the host committee, such as salaries, rent, travel, and liability insurance.

(b) If the host committee has received funds from an incorporated local retail business in an amount proportionate to the commercial return reasonably expected by that business during the life of the convention, and if the committee maintains such funds in a separate account (along with funds donated by unincorporated businesses if any), the funds may be used to pay for what would otherwise be a convention expense by the national committee, such as the renting or refurbishing of the convention hall or the rental of seats, lights, and like equipment. No other corporate funds may be used to pay such expenses.

§ 121.10 Expenditures by individuals and groups.

(a) (1) For purposes of this part, expenditures made by Presidential candidates from campaign accounts, by delegates, or by any other individual out of his or her personal funds for the purpose of attending and participating in the convention or convention-related activities, or made on his or her behalf by State or local committees of a political party, will not be considered as expenditures made by or on behalf of the national party, and are therefore not subject to the overall expenditure limitations of §§ 121.1 and 121.2.

(2) Expenditures made under paragraph (a)(1) by candidates from campaign accounts, or by State and local party committees or any other political committee or person shall be reported pursuant to Part 104.

(b) *Legal and accounting services.* For purposes of this section—

(1) The payment by any person (other than the national committee of a political party) of compensation to any individual for legal or accounting services rendered to, or on behalf of, the national committee is not an expenditure counting against the expenditure limitation for a Presidential nominating convention, as long as the person paying is the regular employer of the individual rendering the service.

(2) The payment by the national committee of compensation to any individual for legal and accounting services rendered to, or on behalf of, the national committee *is* an expenditure counting against the expenditure limitation for a Presidential nominating convention, whether paid from funds received by the national committee from the Presidential Election Campaign Fund or from private contributions.

PART 122—ENTITLEMENT TO AND DISPOSITION OF PAYMENTS FROM THE FUND

Sec.

122.1 Major parties.
122.2 Minor parties.
122.3 Adjustment of entitlements.
122.4 Investment of funds.
122.5 Use of funds; candidate and delegate expenses.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 122.1 Major parties.

Subject to the provisions of this part, the national committee of a major party shall be entitled to receive payments under § 123.4, with respect to any Presidential nominating convention, in amounts which, in the aggregate, shall not exceed $2 million, as adjusted by the Consumer Price Index.

§ 122.2 Minor parties.

Subject to the provisions of this part, the national committee of a minor party shall be entitled to payments under § 123.4, with respect to any Presidential nominating convention, in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under § 122.1, as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding Presidential election.

§ 122.3 Adjustment of entitlements.

(a) The entitlements established by this part shall be adjusted in the same manner as expenditure limitations established by § 441a(b) of Title 2, United States Code are adjusted pursuant to the provisions of § 441a(c) of such title.

(b) The entitlements established by this part shall be decreased by the amount of income generated by the investment of public funds under § 122.4.

(c) The entitlements established by this part shall be adjusted so as not to exceed the difference between the expenditure limitations of Part 121 and the amount of private contributions received under § 123.1 by the national committee of a political party and used to defray convention expenses.

§ 122.4 Investment of funds.

Any investment of public funds or their use in any other way which generates income is permissible only if the income so generated is used for the purposes described in § 122.5. This income will be applied against the na-

tional committee's entitlement, and where appropriate, the Commission may determine that a repayment is required because of excess payment under § 124.1 (a).

§ 122.5 Use of funds; candidate and delegate expenses.

(a)(1) No part of any payment made under § 123.4 shall be used to defray the expenses of any candidate, delegate, or alternate delegate who is participating in any Presidential nominating convention.

(2) The expenses of a person participating in the convention as official personnel of the national party may be defrayed with public funds even though that person is simultaneously participating as a delegate or candidate to the convention. Public funds shall not be used to defray any expense the incurring or payment of which violates any law of the United States or of the State in which such expense is incurred or paid.

(b) Any payment shall be used only—

(1) To defray convention expenses incurred (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

(2) To repay the principal and interest on loans the proceeds of which were used to defray convention expenses; or

(3) To restore funds (other than contributions to defray convention expenses received by the committee under § 123.1) used to defray convention expenses.

PART 123—PAYMENT PROCEDURE FOR PRESIDENTIAL NOMINATING CONVENTIONS

Sec.

123.1 Optional payments; private contributions.
123.2 Transfer to the fund.
123.3 Information required to qualify for public funds.
123.4 Payment schedule.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 123.1 Optional payments; private contributions.

(a) A major or minor party may elect to receive all, part, or none of the amounts to which it is entitled under §§ 122.1 and 122.2.

(b) A major party electing to receive part or none of the amounts to which it is entitled under § 122.1 may receive and use private contributions for the nominating convention, so long as the sum of the contributions which are used to defray convention expenses and the amount of entitlements elected to be received does not exceed the total expenditure limitation under § 121.1.

(c) A minor party electing to receive all, part, or none of the amounts to which it is entitled under § 122.2 may receive and use private contributions for the nominating convention, so long as the sum of the contributions which are used to defray convention expenses and the amount of entitlements elected to be received does not exceed the total expenditure limitation under § 121.2.

§ 123.2 Transfer to the fund.

If, after the close of a Presidential nominating convention and after the national committee of the political party involved has been paid the amount to which it is entitled under Part 122, there are moneys remaining in the account maintained by the Secretary of the Treasury for such national committee because of the adjustment due to § 122.3 (b) or (c) (interest received on investments and acceptance of private contributions), the Secretary will transfer the moneys so remaining to the Presidential Election Campaign Fund.

§ 123.3 Information required to qualify for public funds.

(a) To qualify for public financing of their conventions, the national committees of the major and minor parties shall file an application statement and agreements containing the information in paragraphs (b) and (c) of this section with the Federal Election Commission.

(b) This application statement shall be filed no earlier than June 1 of the calendar year preceding the year in which a Presidential nominating convention of a political party is held and shall include—

(1) The name and address of the national committee;

(2) The name and address of the convention arrangements committee of the national committee or such similar committee in charge of the national convention;

(3) The name of the city where the convention is to be held and the approximate dates;

(4) The name, address, and position of the officers and members of the convention arrangements committee;

(5) The name, address, and position of the party officials designated by the national committee to sign requests for payment;

(6) The name and address of the commercial bank to be used as the depository of the convention arrangements committee; and

(7) Signature cards, available from the Commission, signed by the designated party officials authorized to request payments.

(c) If the application statement is filed before the cost of living increase is able to be determined for the year preceding the convention, that amount determined by the increase shall be paid to the national committee promptly after the increase has been determined.

(d) The national committees of the major and minor parties shall agree to limit the expenditures for their convention to the amount specified in Part 121.

(e) Any change in the information required by paragraph (c) shall be reported to the Commission within a 10-day period following the change.

§ 123.4 Payment schedule.

After a national committee has properly submitted its application statement under § 123.1, payments will be disbursed upon the receipt of a payment request in installments in the manner specified in paragraphs (a)–(e).

(a) Initial payment. (1) A writtetn request for an initial payment shall—

(i) Be signed by the authorized individual(s) whose name appears on the signature card;

(ii) Specify an amount to be received, not to exceed 30 percent of the aggregate amount to which the committee is entitled;

(iii) Specify one or more accounts established solely for the purpose of depositing therein and drawing therefrom all public funds received for convention financing, or certify that such account(s) will be established;

(iv) Specify one or more accounts established solely for the purpose of depositing therein and drawing therefrom all private contributions to defray convention expenses, or certify that such account(s) will be established if the national committee decides to receive such contributions; and

(v) Be supported by a statement projecting and describing estimated convention expenses and those already incurred, if any, through and including the last day of the calendar quarter in which the request is made, except that projected expenditure categories need not be itemized in specific dollar figures.

(2) A request for an initial payment may be submitted to the Commission simultaneously with the application statement required under § 123.3 or at any time thereafter.

(3) A properly submitted request for initial payment shall be reviewed and certified by the Commission to the Secretary for payment not later than 5 working days after being received by the Commission, or July 1 of the calendar year preceding the calendar year of the convention, whichever is later.

(b) Quarterly payment requests. (1) Requests for disbursements after the national committee has qualified for public financing under § 123.3 and received its initial disbursement under § 123.4(a) shall be submitted quarterly commencing with October 1 of the year prior to the year in which the convention will be held.

(2) The written requests shall—

(i) Be signed by the authorized individuals(s);

(ii) Be accompanied by a statement of projected convention expenses estimated through the close of the quarterly period, except that no specific dollar figure need be assigned to the various expenditure categories;

(iii) Specify an amount to be received which shall reflect the amount of the projected expenses; and

(iv) Be submitted to the Commission anytime during the quarter to which the request relates.

(c) Special certification for acceler- and payment schedule. The Commission

may certify more than one disbursement per quarter where a showing is made that a deficit is likely to be incurred unless a further disbursement is made. Any payment request for such further disbursement should be supported by a summary of actual convention expenses previously incurred for the quarter, together with the projected convention expenses which will occasion the deficit if a further disbursement is not forthcoming.

(d) Amount of disbursement.

Each disbursement certification to the Secretary will be based upon the convention expenses projected for the requesting period, subject to any deductions as the Commission may determine under paragraph (e) of this section and § 124.1(f).

(e) Post-convention disbursements.

(1) Notwithstanding the payment request for the last quarter preceding the convention, the Commission may, in its discretion and upon appropriate notice to the committee, certify to the Secretary for an amount less than the amount requested, but in no case may the amount of such adjustment downward exceed 10 percent of the total entitlement of that party.

(2) Funds withheld under this paragraph, if any, shall be disbursed after the convention upon the proper submission of a post-convention payment request accompanied by the convention financing report required under Part 125.

(3) Post-convention payments shall be subject to audit by the Commission and deductions computed under § 124.1(f) in addition to other requirements imposed by law.

(f) Properly submitted requests for quarterly, accelerated, and post-convention payments shall be certified by the Commission to the Secretary for disbursement within five working days after being received by the Commission.

PART 124—POST-DISBURSEMENT PROCEDURES

Sec.

124.1 Repayments.
124.2 Notification of need for repayments.
124.3 Examination and audits.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 124.1 Repayments.

(a) If the Commission determines that any portion of the payments to the national committee under § 123.4 was in excess of the aggregate payments to which the national committee was entitled, it shall so notify the national committee, and such national committee shall pay to the Secretary an amount equal to such portion.

(b) If the Commission determines that the national committee incurred convention expenses in excess of the aggregate payments to which the national committee of a major party was entitled, it shall notify such national committee of the amount of such excess, and such national committee shall pay to the Secretary an amount equal to that amount.

(c) If the Commission determines that the national committee of a major party accepted contributions to defray convention expenses which, when added to the amount of payments received, exceeds the expenditure limitation of such party, it shall notify such national committee of the amount of the contributions so accepted, and such national committee shall pay to the Secretary an amount equal to that amount.

(d) If the Commission determines that any amount of any payment to the national committee under § 123.4 was used for any purpose other than those authorized by § 122.5, it shall notify such national committee of the amount so used, and such national committee shall pay to the Secretary the amount so specified.

(e) No repayment shall be required from the national committee under this section, which, when added to other repayments required from such national committee under this section, exceeds the amount of payments received by such national committee under § 123.4.

(f) Subject to § 124.2, the Commission may obtain repayment by authorizing the Secretary to deduct the repayable amount determined under paragraphs (a)-(e) from the amount otherwise due the national committee for its next payment. All other repayments shall be made payable to the Secretary and deposited by him in the general fund of the Treasury.

§ 124.2 Notification of need for repayment.

(a) If the Commission determines that repayment is required under § 124.1, it shall give written notification to the affected national committee of the amounts required to be paid and the reasons thereof.

(b) No notification shall be made by the Commission under this section more than 3 years after the last day of the Presidential nominating convention.

(c) The national party shall repay to the Secretary, within 90 days of the notice, the amount of the repayment. Upon application submitted by the national party, the Commission may grant a 90-day extension of the repayment period.

(d) If the national committee disputes the Commission's determination that a repayment is required, it shall notify the Commission within 30 days of receipt of the Commission's notification.

(1) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the representaitve of the national committee may make a showing of where the Commission erred in its determination of repayment.

(2) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute a final and conclusive determination, and shall so notify the national committee.

§ 124.3 Examinations and audits.

The Commission shall conduct an examination and audit of the convention expenses of the national party no later than December 31 of the calendar year of the convention and may at any time conduct other examinations and audits as it deems necessary.

PART 125—CONVENTION REPORTS

Sec.

125.1 Reports by municipal and private host committees.
125.2 Reports by political parties.
125.3 Post-convention reports; time and content of filing.
125.4 Committees receiving Federal funds; quarterly reports.
125.5 Convention expenses; definition.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 125.1 Reports by municipal and private host committees.

(a) Each committee or other organization which represents a State, a political subdivision thereof, or any other group of persons in dealing with officials of a national political party with respect to matters involving a Presidential nominating convention held in that State or political subdivision shall file reports with the Commission as set out in § 125.3 below.

(b) Each committee or other organization specified in paragraph (a) need not report its unsuccessful efforts to attract the convention to its city.

§ 125.2 Reports by political parties.

(a) Each committee or other organization, including a national committee, which represents a national major, minor, or new political party in making arrangements for the convention of that party held to nominate a candidate for the office of President or Vice President, shall file reports with the Commission as set out in § 125.3 below.

(b) A State party committee or a subordinate committee of a State party committee which only assists delegates and alternates to the convention from that State with travel expenses and arrangements, or which sponsors caucuses, receptions, and similar activities at the convention site, need not report under this Part.

§ 125.3 Post-convention reports; content and time of filing.

(a) Each committee or organization required to file a financial statement shall within 60 days following the last day the convention is officially in session, but not later than 20 days prior to the date of the general election, file with the Commission a convention report on FEC Form 4 which shall contain all receipts and disbursements in connection with the convention and shall be complete as of 45 days following the convention.

(b) If the committee spends or receives any funds after 45 days following the convention, the committee shall begin to file no later than 10 days after the end of the next calendar quarter a report dis-

closing all transactions completed as of the close of that calendar quarter and shall continue to file quarterly reports thereafter until the committee ceases activity.

(c) Each committee shall file a final report with the Commission not later than 10 days after it ceases activity, unless such status is reflected in either of the reports submitted pursuant to § 125.3(a) or (b).

§ 125.4 Committees receiving Federal funds; quarterly reports.

Any national committee of a major or minor party which receives, directly or indirectly, all or part of the payment for Presidential nominating conventions under 26 U.S.C. § 9008, shall, in addition to the post-convention reports required to be filed under § 125.3, file quarterly reports as follows:

(a) The quarterly report shall be filed no later than 10 days after the end of the calendar quarter in which the committee receives payment under 26 U.S.C. § 9008 and after each subsequent quarter in which the committee receives or expends any funds until the date of the convention, except that any quarterly report due 20 days or less before or after the convention shall be suspended and need not be filed until 30 days after the close of the convention.

(b) The reports shall contain the same information as required under § 125.3 and shall disclose all transactions as of the end of the calendar quarter.

§ 125.5 Convention expenses; definition.

For the purposes of this part, "receipts and disbursements in connection with a convention" means convention expenses as defined in Part 120 of these regulations.

SUBCHAPTER C—PRESIDENTIAL ELECTION CAMPAIGN FUND, PRESIDENTIAL PRIMARY MATCHING FUND

PART 130—DEFINITIONS

Sec.

130.1 Authorized committee.
130.2 Political committee.
130.3 Candidate.
130.4 Commission.
130.5 Matching payment account.
130.6 Matching payment period.
130.7 Primary election.
130.8 Matchable campaign contribution.
130.9 Nonmatchable contributions.
130.10 Qualified campaign expense.
130.11 State.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 130.1 Authorized committee.

"Authorized committee" means any political committee which is authorized in writing by a candidate to solicit or receive contributions or to make expenditures on behalf of the candidate. This authorization shall be addressed to the authorized political committee, and a copy of the authorization shall be filed by the candidate with the Commission. A withdrawal of authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

§ 130.2 Political committee.

"Political committee" means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any individual for election to the office of President of the United States.

§ 130.3 Candidate.

(a) "Candidate" means an individual who seeks nomination for election to be President of the United States. An individual is considered to seek the nomination for election if he or she—

(1) Takes the action necessary under the law of a State to qualify for nomination for election; or

(2) Receives contributions or incurs qualified campaign expenses; or

(3) Gives consent for any other person to receive contributions or to incur qualified campaign expenses on his or her behalf.

(b) "Candidate" shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

§ 130.4 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

§ 130.5 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Payment Account established by the Secretary of the Treasury under 26 U.S.C. § 9037(a).

§ 130.6 Matching payment period.

"Matching payment period" means the period beginning January 1 of the year in which a general election for the office of President of the United States is held and ending on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for the office of President of the United States, or, in the case of a party which does not make such nomination by national convention, the last day for the matching period shall be the earlier of (a) the date the party nominates its candidates for the office of President of the United States or (b) the last day of the last national convention held by a major party.

§ 130.7 Primary election.

"Primary election" means an election, including a runoff election, or a nominating convention or a caucus held by a political party—

(a) For the selection of delegates to a national nominating convention of a political party; or

(b) For the expression of a preference for the nomination of candidates for election to the office of President of the United States; or

(c) Which is an election that combines the features of both paragraphs (a) and (b); or

(d) To nominate a candidate for election to the office of President of the United States.

§ 130.8 Matchable campaign contribution.

(a) "Matchable campaign contribution" means a gift of money made by a written instrument identifying the individual making the contribution by full name and mailing address and made for the purpose of influencing the result of a primary election.

(1) Gifts of money will be considered matchable campaign contributions only to the extent of the first $250 contributed by an individual.

(2) The amount of the contribution which is submitted for matching shall be actually received by the candidate or any of the candidate's authorized committees and deposited in a designated campaign depository maintained by the principal campaign committee.

(3) The contribution shall be received and deposited by the candidate or authorized committee on or after the first day of the calendar year immediately preceding the calendar year of the Presidential election, but no later than December 31 following the matching payment period.

(b) For purposes of this section the term "money" means checks, money orders, or any other negotiable instrument payable on demand.

(c) For purposes of this section "written instrument" means a check written on a personal, escrow, or trust account, a money order, or any other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the Presidential candidate or to his or her principal campaign committee. The candidate's name shall be included by the contributor on the face or endorsement of the written instrument, which shall contain the full name and signature of the contributor, the amount and date of the contribution, and the mailing address of the contributor.

(1) In cases of a check drawn on a joint checking account, the contributor is considered to be the owner whose signature appears on the check. To be attributed equally to other joint tenants of the account, the check or other written instrument shall contain the other individual's signature(s).

(2) Checks drawn on escrow or trust accounts can only be a contribution from the person who has beneficial ownership of the account and therefore must be signed by that person with the statement that the giving of the contribution does not violate the conditions of the trust or escrow agreement.

(3) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as—

(i) The checks are accompanied by documentation which specifies that the contribution is made by a specific individual or individuals;

(ii) Such documentation is signed by the individual or individuals; and

(iii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business account does not exceed $1,000 to any one Federal candidate for an election.

§ 130.9 Nonmatchable contributions.

A contribution to a candidate other than by a gift of money under § 130.8 is not matchable. Contributions which are not matchable include—

(a) In-kind contributions of real or personal property;

(b) A subscription, loan, advance, or deposit of money, or anything of value;

(c) A contract, promise, or agreement, whether or not legally enforceable, such as a pledge card or credit card transaction, to make a contribution for any such purpose;

(d) Funds from a corporation, labor organization, government contractor, political committee as defined in § 100.14 or any group of persons other than those under § 130.8(c)(3);

(e) Contributions which are illegally made or accepted, such as contributions in the name of another;

(f) Contributions in the form of a check drawn upon the account of a committee, corporation, union, or government contractor even though the funds represent personal funds earmarked by a contributing individual to a Presidential candidate;

(g) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value, such as a watch;

(h) Contributions in the form of the purchase price paid for a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;

(i) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor, such as a concert, motion picture, or theatrical performance, in which case the amount of the matchable contribution shall include only the excess of the amount paid for admission over the fair market value of all the benefits available to the purchaser of the ticket, using a good faith reasonable estimate.

(1) The fair market value and any amount in excess of the fair market value of the benefits conferred shall be clearly and separately indicated on the promotional material and the tickets for the event, and a copy of such material and of a ticket shall accompany the submission of documentation under §§ 131.2 and 132.2.

(2) A contribution in the form of the purchase price paid for admission to an activity that is essentially political is fully matchable. An "essentially political" program is one the principal purpose of which is political speech or discussion, such as the traditional political dinner or reception;

(j) Contributions which are made by persons without the necessary donative intent to make a gift or made for any purpose other than to influence the result of a primary election; and

(k) Contributions of currency of the United States or currency of any foreign country.

§ 130.10 Qualified campaign expense.

(a) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred by a candidate or by the candidate's authorized committees no later than the last day of the candidate's eligibility as determined under § 133.2 and made in connection with his or her campaign for nomination for election; and

(2) Neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any State in which the expense is incurred or paid, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended, shall not be considered a State law for purposes of this paragraph.

(b) For purposes of this section, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or committee.

§ 130.11 State.

"State" means each State of the United States and the District of Columbia.

PART 131—ELIGIBILITY FOR PAYMENTS

Sec.

131.1 Candidate agreements.
131.2 Candidate certifications; threshold amount.
131.3 Matching payment threshold requirements.
131.4 Matching payments in excess of threshold.
131.5 Candidate entitlements.
131.6 Expenditure limitation.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 131.1 Candidate agreements.

(a) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall agree in a letter to the Commission, signed by the candidate, that the candidate and his or her principal campaign committee will—

(1) Obtain and furnish to the Commission any evidence the Commission may request regarding qualified campaign expenses, including expenses made by all authorized committees of a candidate;

(2) Keep, and furnish to the Commission any books, records, or other information that the Commission may request, including copies of books and records maintained by all authorized committees of the candidate;

(3) Permit an audit and examination by the Commission, pursuant to Part 134, and pay any amounts required to be paid under that Part. In addition, the candidate shall submit the name and mailing address of the person to whom the payment should be sent and the name and address of the national or State bank designated by the candidate as a campaign depository as required in Part 103 of this chapter and § 132.3(c); and

(4) Comply with the applicable requirements of Title 2, United States Code and Parts 100–108 of these regulations.

(b) Failure by the candidate or the candidate's principal campaign committee to comply with the agreements in paragraph (a) may result in the suspension of the certification process under § 133.7.

§ 131.2 Candidate certifications; threshold amount.

A candidate seeking to become eligible to receive Presidential primary matching fund payments shall certify to the Commission, in a written statement signed by the candidate, that—

(a) He or she is seeking nomination by a political party to the office of President of the United States in more than one State;

(b) The candidate and his or her authorized committee(s) will not incur qualified campaign expenses in excess of the limitation on such expenses under § 131.6;

(c) The candidate and his authorized committees have received matchable campaign contributions which, in the aggregate, exceed $5,000 in contributions from individuals who are residents of each of at least 20 States, and which in respect to any individual do not exceed $250. For each State in which the candidate certifies he or she has met this requirement, the candidate shall—

(1) Submit an alphabetical list of contributors showing each contributor's full name and residential address, the date of the receipt of each contribution by the candidate or his or her committee and of the deposit into the designated campaign depository, the dollar amount of each contribution submitted for matching purposes, the matchable portion thereof, the total amount of all matchable contributions submitted, and a notation as to whether the contribution was received as a result of an entertainment activity under § 130.9(i); and

(2) Submit a photocopy of each check or other written instrument for each contribution which the candidate submits to receive matching funds. The photocopies shall be segregated alphabetically by deposit, and shall be accompanied by copies of the relevant deposit slip.

(d) The Commission may conduct audits of candidate records to determine eligibility and shall notify candidates if it chooses to conduct the audits. In that case, the Commission may at its own

discretion waive the submission requirement of paragraphs (c)(1) and (c)(2) of this section.

(e) If a candidate is not active in more than one State, matching payments will be terminated under § 133.4.

(f) If a candidate knowingly exceeds the expenditure limitation in any State after he or she has accepted matching funds, the candidate is disqualified from receiving further matching funds with respect to that Presidential election.

§ 131.3 Matching payment threshold requirements.

During the matching payment period, the Commission shall, as soon as practicable and generally within 5 working days, examine the submission under § 131.1 and § 131.2 (a), (b), and (c) and shall either—

(a) Make a preliminary determination that the candidate has satisfied the requirement of raising an amount in excess of $5000 in contributions from individuals who are residents of each of at least 20 States, which in respect to any individual do not exceed $250; or

(b) Promptly notify the candidate giving a detailed explanation of the reasons for the Commission's conclusion that the candidate has failed to satisfy the matching payment threshold requirements.

§ 131.4 Matching payments in excess of threshold.

(a) After a preliminary determination has been made that the candidate has successfully satisfied the threshold requirement under § 131.3, the Commission shall so notify the candidate and request the submission in good order of the necessary documentation of all contributions received and deposited by a date specified by the Commission.

(b) Contributions which have been submitted for matching purposes after notification that the candidate has met the threshold requirement need not be segregated by State, including any resubmission of the threshold contributions. Each submission shall include an aggregate total of each individual's contributions submitted for matching purposes.

§ 131.5 Candidate entitlements.

A candidate who is certified by the Commission under § 132.1 below as eligible to receive payments is entiled to payments in an amount equal to the amount of each matchable campaign contribution, as defined in § 130.8, provided that the total amount of payments to a candidate shall not exceed 50 percent of the total expenditure limitation applicable under 2 U.S.C. § 441a(b)(1)(A) as adjusted by 2 U.S.C. § 441a(c).

§ 131.6 Expenditure limitation.

(a) No candidate who has accepted matching funds shall knowingly—

(1) Incur qualified campaign expenses in excess of the expenditure limitation applicable under 2 U.S.C., § 441a(b)(1)(A); and

(2) Make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000.

(b) For purposes of this section, the term "immediate family" means a candidate, spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(c) For purposes of applying paragraph (a)(2) of this section, expenditures made by an individual after January 29, 1976, and before May 11, 1976, shall not be taken into account.

(d) For purposes of this section, "personal funds" has the same meaning as specified in § 110.10.

PART 132—CERTIFICATION AND DISBURSEMENT

Sec.

132.1 Initial certification.
132.2 Additional certifications.
132.3 Payments and deposits of Presidential primary matching funds.
132.4 Insufficient documentation.
132.5 Certification review and notice.
132.6 Resubmissions and hearing opportunity.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 132.1 Initial certification.

Within 10 calendar days after the Commission formally determines that a candidate has established his or her eligibility under Part 131 to receive payments, the Commission shall certify to the Secretary of the Treasury for payment of the amount to which such candidate is entitled.

§ 132.2 Additional certifications.

(a) To obtain subsequent certifications following the initial certification and payment, a candidate shall file all information required for the initial eligibility under Part 131, except that—

(1) The alphabetical listing of contributors need not be segregated by State; and

(2) The candidate need not resubmit the agreements under § 131.1 and the certifications under § 131.2.

(b) Requests for additional certifications may be submitted on dates to be determined and publicized by the Commission from time to time.

(c) Except as provided by § 132.4, requests for additional certification shall be made for those contributions received by the candidate after the close of the period for which the previous submission was made.

(d) The Commission shall certify to the Secretary of the Treasury any additional amount to which a candidate is entitled within 15 calendar days of receipt of information submitted under paragraph (a).

§ 132.3 Payments and deposits of Presidential primary matching funds.

(a) Upon receipt of a written certification from the Commission, but not before the beginning of the matching payment period, the Secretary of the Treasury or his or her delegate will promptly transfer the amount certified from the matching payment account to the candidate.

(b) In making such transfers to candidates of the same political party, the Secretary or his or her delegate will seek to achieve an equitable distribution of funds available in the matching payment account, and the Secretary or his or her delegate will take into account, in seeking to achieve an equitable distribution, the sequence in which such certifications are received.

(c) Upon receipt of any matching funds, the candidate shall deposit the full amount received into a checking account maintained by the candidate's principal campaign committee in the depository designated by the candidate.

§ 132.4 Insufficient documentation.

Contributions which are otherwise matchable may be rejected for matching purposes because of insufficient supporting documentation. These contributions may become matchable if there is a proper resubmission in accordance with §§ 132.5 and 132.6. Insufficient documentation includes—

(a) Discrepancies in the written instruments, such as—

(1) Instruments drawn on other than personal accounts of contributors and not signed by the contributing individual;

(2) Signature discrepancies; and

(3) Lack of the contributor's signature, the amount of the contribution, or the listing of the committee or candidate as payee;

(b) Discrepancies between listed contributions and supporting documentation, such as—

(1) The contributor's name is misspelled;

(2) The listed amount requested for matching exceeds the amount contained on the written instrument; and

(3) A written instrument has not been submitted to support a listed contribution;

(c) Discrepancies within or between contribution lists submitted, such as—

(1) The address of the contributor is missing or incomplete, or the contributor's name is alphabetized incorrectly, or more than one contributor is listed per item; and

(2) A discrepancy in aggregation within or between submissions, or a listing of a contributor more than once within the same submission.

§ 132.5 Certification review and notice.

(a) The Commission will review the submission to determine if the submission meets acceptable standards of good order. Those submissions not meeting the standards will not be certified, and the candidate will be requested to resubmit the documentation. Submissions of a sufficient size will be reviewed using

statistical sampling, and the candidate will be given the option of correcting and resubmitting the documentation or of accepting a dollar reduction in the amount requested for matching based on the results of the sample. If the Commission certifies to the Treasury for payment an amount which is less than the amount requested by the candidate, the Commission shall notify the candidate in writing which notice or notices shall include—

(1) The amount less than the full amount requested for certification;

(2) The amount of the contribution and the name of the contributor which the Commission considers not matchable and the reasons therefore, or, if statistical sampling is used, the estimated amount of contributions by type and the reasons for rejection;

(3) The amount of matchable contributions that are not in dispute which the Commission will certify to the Treasury for payment; and

(4) A statement that the candidate has the opportunity to supply the Commission with additional documentation or other explanation in the form of a resubmission under § 132.6 so as to make the disputed contributions matchable.

(b) In any case where the candidate or his or her committee has knowledge that a contribution which has been submitted for matching purposes does not so qualify, such as a check returned to the committee for insufficient funds, the Commission shall be notified as soon as possible so that a proper adjustment may be made in the amount to be certified.

§ 132.6 Resubmissions and hearing opportunity.

(a) Contributions which were submitted and rejected under § 132.5(a) may be resubmitted with the necessary information.

(b) In order to be reviewed, the resubmission of disputed contributions shall be made on a separate list identifying the submission in which the contributions were originally submitted.

(c) Resubmissions must be presented to the Commission at a time specified and, to the extent approved, will be certified to the Secretary of the Treasury within 15 calendar days.

(d) If the candidate chooses to make a resubmission and the Commission determines that the disputed contribution is still unmatchable, the Commission will notify the candidate in writing of such action and the reasons therefor and will accord the candidate an opportunity for a hearing if he or she so requests within 7 days from the receipt of this second notification.

(e) The hearing shall be informal and shall be held before the Commission or a designee of the Commission who shall not have been responsible for the certification in question. The candidate or his or her representative shall bring to the hearing all documents relevant to the disputed contributions.

(f) The Commission shall certify for payment the amount of the disputed contributions which have been found at the hearing to be matchable. Failure of the Commission to certify unresolved disputed contributions shall constitute a final and conclusive determination by the Commission. The Commission shall so notify the candidate of its determinations.

PART 133—TERMINATIONS OF PAYMENTS

Sec.

133.1. Continuation of certification.
133.2 Ineligibility dates defined.
133.3 Use of matching payments; net outstanding campaign obligations.
133.4 Determination of inactive candidacy.
133.5 Determination of active candidacy.
133.6 Reestablishment of eligibility dates.
133.7 Suspension of payments.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93-443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 133.1 Continuation of certification.

Except as provided by § 133.3,

(a) Candidates who have received matching funds may continue to submit contributions to the Commission to be certified for matching through January 21 of the year following the election.

(b) No contribution will be matched if it is submitted after this period, regardless of the date the contribution was deposited.

§ 133.2 Ineligibility dates defined.

The ineligibility date of a candidate is determined by paragraph (a) or (b), whichever occurs first.

(a) The day on which an individual ceases to be a candidate because the candidate is not actively conducting campaigns in more than one State in connection with seeking the nomination for election to the office of President of the United States. That date shall be the earlier of—

(1) The date the candidate publicly announces to be the date that he or she will not be actively conducting campaigns in more than one State; or

(2) The date which the Commission determines under § 133.4 to be the date that the candidate is not actively seeking election in more than one State; or

(b) The 30th day following the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of popular votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission at least 15 days prior to the primary that he will not be an active candidate in the primary involved.

(1) For purposes of this paragraph, if the primary elections involved are held in more than one State on the same date, the highest percentage of votes a candidate receives in any one State will govern. Separate primary elections held in more than one State on the same date are not deemed to be consecutive primaries. If two primary elections are held on the same date in the same State (e.g., a primary to select delegates to a national nominating convention and a primary for the expression of preference for the nomination of candidates for election to the office of President), the highest percentage of votes a candidate receives in either election will govern.

(2) For purposes of this paragraph, the Commission may determine that, notwithstanding the certification by the candidate that he is not an active candidate in the primary involved, he will be deemed to be an active candidate if the Commission so finds under § 133.5.

§ 133.3 Use of matching payment; net outstanding campaign obligations.

(a) Matching payments shall be used only to defray qualified campaign expenses.

(b) If either § 133.2(a) or § 133.2(b) becomes applicable to a candidate, any expenses incurred after that date are *not* qualified campaign expenses. Matching payments made to a candidate, after the date he or she becomes ineligible under § 133.2 (a) or (b) may only be used to defray net outstanding campaign obligations as of the date determined by § 133.2 (a) or (b).

(c) Net outstanding campaign obligations are total outstanding obligations for qualified campaign expenses as of the close of business on the last date of candidate eligibility less the amount of cash on hand and less the total of any debts owed *to* the campaign in the form of returns or rebates of qualified campaign expenses (telephone deposits, reimbusements for the press or Secret Service for travel, etc.).

(d) If a campaign has *no* net outstanding campaign obligations—

(1) The ineligible candidate may not receive further matching payments regardless of the date of deposit of the underlying contributions; and

(2) Any surplus on the date of ineligibility shall be returned to the Treasury in an amount determined by the formula specified in § 134.3(c).

(e) If a campaign has net outstanding campaign obligations, the candidate may, subject to § 130.6, submit contributions for matching, regardless of the date of deposit, but in no event will the Commission certify for matching an amount which exceeds outstanding campaign obligations.

§ 133.4 Determination of inactive candidacy.

(a) The Commission may make an initial determination that a candidate is no longer actively seeking nomination for election in more than one State, unless the candidate chooses to send a letter to the Commission indicating an inactive status.

(b) A notice of initial determination shall be sent to the candidate, which determination shall become final if the candidate fails to respond within 10 business days.

(c) The candidate will be afforded an opportunity to make a showing that he or she is an active candidate.

(d) After a proper hearing, the Commission may make a final determination that the candidate is inactive.

(e) The Commission may consider, but is not limited to, the following factors in making its determination:

(1) The frequency and type of public appearances, speeches, and advertisements;

(2) Campaign activity with respect to soliciting contributions or purchasing campaign materials;

(3) Continued payment and employment of personnel and use of volunteers; or

(4) The release of committed delegates, or permitting an opponent to seek their support.

§ 133.5 Determination of active candidacy.

If a candidate certifies to the Commission that he will not be an active candidate in the primary involved under § 133.2(b), the Commission may nevertheless determine that the candidate is active in the primary involved based upon the same criteria and procedure outlined in § 133.4.

§ 133.6 Reestablishment of eligibility dates.

(a) If a candidate is not actively conducting campaigns in more than one State, the Commission may subsequently find that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make this finding without requiring such individual to reestablish his eligibility to receive payments under § 131.2. This finding will be based upon a showing that the candidate is making a bona fide effort to campaign in more than one State. The Commission may consider, but is not limited to, the following factors in making its determination:

(1) The frequency and type of public appearances, speeches, and advertising;

(2) Campaign activity with respect to soliciting contributions or purchasing campaign materials; and

(3) Continued payment and employment of personnel and the use of volunteers, and the continued existence of a campaign organization in a State. The day which the Commission determines to be the day the candidate became active again is the reestablishment of eligibility date.

(b) If it has been determined that § 133.2(b) applies to a candidate, the reestablishment of eligibility date shall be the day on which the candidate receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.

(c) If the candidate is reestablished under § 133.6(a) or (b), contributions which were not matched during the ineligibility period may be matched, and the payment received may be used to defray expenses incurred during the ineligible period and during the ensuing period of eligibility.

§ 133.7 Suspension of payments.

If the Commission determines that a candidate or his principal campaign committee substantially failed to comply with § 131.1(a)(4), no certifications will be made until the Commission determines that § 131.1(a)(4) has been substantially complied with. Before suspending payments, the Commission shall notify the candidate and afford him or her an opportunity to demonstrate that the requirements of Title 2 have been substantially complied with.

PART 134—EXAMINATIONS AND AUDITS; REPAYMENTS

Sec.
134.1 Audit.
134.2 Repayments.
134.3 Liquidation of obligations; repayment.

AUTHORITY: Sec. 310(8), Pub. L. 92–225, added by Sec. 208, Pub. L. 93–443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 408(c), Pub. L. 93–443, 88 Stat. 1297 (26 U.S.C. 9039(b)).

§ 134.1 Audit.

(a) After the close of a matching payment period, the Commission shall conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committees who received Presidential primary matching funds.

(b) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

§ 134.2 Repayments.

(a) If the Commission determines that—

(1) Any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount to which such candidate was entitled; or

(2) Any amount of any payment made to a candidate from the matching payment account was used for any purpose other than—

(i) To defray qualified campaign expenses; or

(ii) To repay loans which were used to defray qualified campaign expenses; or

(3) Any portion of any payment made to a candidate on the basis of contributions received after the ineligibility date in § 133.2 was used for any purpose other than to defray qualified campaign expenses incurred before the ineligibility date;

The Commission shall so inform the candidate as soon as possible, but no later than 3 years after the end of such matching payment period, and the candidate shall repay to the Secretary of the Treasury, within 90 days of the notice, an amount equal to the excess payments, or an amount equal to the amount expended for nonqualified campaign expenses. Upon application submitted by the candidate, the Commission may grant a 90-day extension of the repayment period.

(b) If the candidate disputes the Commission's determination that a repayment is required, he or she shall notify the Commission within 30 days of receipt of the Commission's notification to the candidate.

(1) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the candidate may make a showing of where the Commission erred in its determination requiring repayment.

(2) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute final and conclusive determination, and shall so notify the candidate.

§ 134.3 Liquidation of obligations; repayment.

(a) Qualified campaign expenses may be liquidated through use of matching payment funds during a period up to 6 months after the end of the matching payment period.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c)(1) If on the last day of candidate eligibility the net outstanding campaign obligations of the candidate, as defined in § 133.3(c), reflect a surplus, the candidate shall repay to the Secretary of the Treasury an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received from the matching payment account bears to the aggregate of all contributions and matching funds deposited in all the candidate's depositories from the first day of the matching payment period through the last day of candidate eligibility. Repayment shall be made within 30 days after the liquidation of all outstanding campaign obligations, but no later than 6 months after the end of the matching payment period.

(2) If on the last day of candidate eligibility there are net outstanding campaign obligations, any matching funds received may be retained for a period not exceeding 6 months after the end of the matching payment period in order to liquidate those obligations. Any amounts paid which are not used to liquidate the net outstanding campaign obligations within 6 months shall be repaid to the Treasury 30 days thereafter.

(d) All payments received by the Secretary under §§ 134.2 or 134.3 shall be deposited in the matching payment account.

SUBCHAPTER D—PRESIDENTIAL ELECTION CAMPAIGN FUND, GENERAL ELECTION FINANCING

PART 140—DEFINITIONS

Sec.
140.1 Authorized committee.
140.2 Candidate.
140.3 Commission.
140.4 Eligible candidates.
140.5 Fund.

Sec.
140.6 Major party.
140.7 Minor party.
140.8 New party.
140.9 Political committee.
140.10 Presidential election.
140.11 Qualified campaign expense.
140.12 Expenditure report period.
140.13 Contribution, exclusions.
140.14 Secretary.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 140.1 Authorized committee.

"Authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

§ 140.2 Candidate.

(a) "Candidate" means, with respect to any Presidential election, an individual who—

(1) Has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party; or

(2) Has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States.

(b) For purposes of §§ 140.6, 140.7, and 142.2 the term "candidate" means, with respect to any preceding Presidential election, an individual who received popular votes for the office of President in such election.

(c) The term "candidate" shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States in more than one State.

§ 140.3 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

§ 140.4 Eligible candidates.

"Eligible candidates" means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in Part 141.

§ 140.5 Fund.

"Fund" means the President Election Campaign Fund established by 26 U.S.C. § 9006(a).

§ 140.6 Major party.

"Major party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

§ 140.7 Minor party.

"Minor party" means, with respect to any Presidential election, a political party whose candidate for the office of President in the preceding Presidential election received, as the candidate of such party, 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office.

§ 140.8 New party.

"New party" means, with respect to any Presidential election, a political party which is neither a major party nor a minor party.

§ 140.9 Political committee.

"Political committee" means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

§ 140.10 Presidential election.

"Presidential election" means the election of Presidential and Vice-Presidential electors.

§ 140.11 Qualified campaign expense.

"Qualified campaign expense" means an expense—

(a) incurred—

(1) By the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both;

(2) By the candidate of a political party for the office of the Vice President to further his election to that office or to further the election of the candidate of the political party for the office of President, or both;

(3) By an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of the candidates to the respective offices; or

(4) By a person authorized by the Presidential or Vice-Presidential candidate or any of their authorized committees, as the case may be, to incur an expense on behalf of the candidate or committee;

(b) Incurred within the expenditure report period or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period; or

(c) Incurred for travel, such as renting airplanes and buses, but only to the extent of the greater of—

(1) Gross transportation expenses, less Secret Service and media reimbursements; or

(2) The product of (i) the highest rate for which reimbursement is sought by the candidate from any person for transportation, multiplied by (ii) the total persons transported, less the number of—

(A) Airline or bus company employees;

(B) Secret Service; and

(C) Media personnel;

(d) Neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid.

(e) "Qualified campaign expense" does not include, inter alia, amounts paid by a campaign for—

(1) Expenses incurred after the expenditure report period;

(2) Legal and accounting services paid for by the lawyer's or accountant's regular employers or by the candidate or his or her committee and rendered solely for the purposes of insuring compliance with this Act or chapter 95 of the Internal Revenue Code of 1954, except if the candidate wishes to treat those expenses as qualified campaign expenses, and, in any event, amounts paid or incurred for these services shall be reported in accordance with Part 104.

§ 140.12 Expenditure report period.

"Expenditure report period" with respect to any Presidential election means—

(a) In the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the Presidential election; and

(b) In the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such Presidential election under paragraph (a).

§ 140.13 Contribution; exclusions.

For purposes of this subchapter—

(a) "Contribution" is given the meaning in § 100.4; and

(b) "Contribution" does not include

(1) A loan of money by a national or State bank made in accordance with applicable banking laws and regulations and in the ordinary course of business and not endorsed or guaranteed by any person other than the candidate to the extent that the amount so endorsed by the candidate, when added to all other expenditures made from his personal funds and those of his immediate family, does not exceed $50,000;

(2) Reimbursements to the candidate or his or her authorized committee from members of the press, the Secret Service,

or other persons for air and surface transportation; or

(3) Contributions made to a candidate or his or her committees to defray nonqualified campaign expenses (see § 140.11(e)). These contributions are subject to the limitations of Part 110, and shall be deposited in, and disbursed from, a separate account and not commingled with any money from the fund.

§ 140.14 Secretary.

"Secretary" means the Secretary of the Treasury.

PART 141—ELIGIBILITY FOR PAYMENTS

Sec.
141.1 Candidate agreements.
141.2 Candidate certifications.
141.3 Allowable contributions.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 141.1 Candidate agreements.

In order to be eligible to receive any payments under § 143.2, the candidates of a political party in a Presidential election shall, in writing—

(a) Agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses of such candidates;

(b) Agree to keep and furnish to the Commission such records, books, and other information as it may request;

(c) Agree to an audit and examination by the Commission under Part 145 and to pay any amounts required to be paid under that section; and

(d) Provide the Commission with the name and mailing address of the person to whom the payment should be sent and the name and address of the national or State bank designated by the candidate as a campaign depository.

§ 141.2 Candidate certifications.

(a) Major parties. In order to be eligible to receive any payments under § 143.2, the candidates of a major party in a Presidential election shall certify to the Commission, under penalty of perjury, that—

(1) The candidates and their authorized committees will not incure qualified campaign expenses in excess of the aggregate payments to which they will be entitled under § 142.1; and

(2) No contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of 26 U.S.C. § 9006(d), and no contributions to defray expenses which would be qualified campaign expenses but for § 140.11(c) have been or will be accepted by such candidates or any of their authorized committees.

(b) Minor and new parties. In order to be eligible to receive any payments under § 143.2, the candidates of a minor or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that—

(1) Such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under § 142.1; and

(2) Such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to § 143.2.

(c) All parties. In order to be eligible to receive any payment under § 143.2, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this paragraph, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(1) For purposes of this paragraph the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(2) For purposes of this paragraph expenditures made by an individual after January 29, 1976, and before May 11, 1976, shall not be taken into account.

(3) Expenditures from personal funds made under this paragraph shall not count toward the expenditure limitations.

(d) The certifications in paragraphs (a)-(c) shall be made no sooner than the day upon which the individual became a nominee and no later than 14 days after the nomination.

§ 141.3 Allowable contributions.

Candidates for the office of President and Vice President may accept contributions to defray the expenses specified in § 140.11 (e)(1) and (2), provided that—

(a) No donations are made by an organization prohibited from contributing by Parts 114 and 115, and contributions from other persons do not exceed the limitations set forth in Part 110;

(b) The contributions shall be deposited and maintained in an account separate from that described in § 143.2, and shall not be commingled with the money paid to the candidates by the Secretary pursuant to § 143.2;

(c) Receipt of any and all of these contributions shall be reported in a report separate from, and in addition to, the report required by § 144.1;

(d) Any solicitation for these contributions must clearly state the purpose to which the contributions are to be applied; and

(e) Any excess of the contributions may not be used to retire debts remaining from the Presidential primaries.

PART 142—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

Sec.
142.1 Major parties.
142.2 Minor parties.
142.3 Minor and new parties; post-election payments.
142.4 Use of payments.
142.5 Withdrawal by candidate.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 142.1 Major parties.

The eligible candidates of each major party in a Presidential election shall be entitled to equal payments under § 143.2 in an amount which, in the aggregate, shall not exceed the expenditure limitations applicable to such candidates under 2 U.S.C. § 441a(b)(1)(B).

§ 142.2 Minor parties.

(a) The eligible candidates of a minor party in a Presidential election shall be entitled to payments under § 143.2 equal, in the aggregate, to an amount which bears the same ratio to the amount allowed under § 142.1 for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding Presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding Presidential election.

(b) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding Presidential election and received 5 percent or more, but less than 25 percent, of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of §§ 141.1 and 141.2, shall be treated as eligible candidates entitled to payments under § 142.1 in an amount computed as provided in paragraph (a) by taking into account all the popular votes received by such candidate for the office of President in the preceding Presidential election. If eligible candidates of a minor party are entitled to payments under this paragraph, such entitlement shall be reduced by the amount of the

entitlement allowed under paragraph (a).

§ 142.3 Minor and new parties; post-election payments.

(a) The eligible candidates of a minor party or a new party in a Presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under this part equal, in the aggregate, to an amount which bears the same ratio to the amount allowed under § 142.1 for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties.

(b) In the case of eligible candidates entitled to payments under § 142.2 the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under § 142.2.

§ 142.4 Use of payments.

(a) The eligible candidates of a political party shall be entitled to payments only—

(1) To defray qualified campaign expenses incurred by such eligible candidates or their authorized committees; or

(2) To repay bank loans in the case of a major party candidate, and all other loans in the case of a minor or new party candidate, the proceeds of which were used to defray such qualified campaign expenses or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by minor or new party candidates or committees) used to defray such qualified campaign expenses.

(b) Payments may be invested by an eligible candidate or his or her authorized committee, but any income derived from an investment, such as interest on a certificate of deposit, shall be returned to the Secretary.

§ 142.5 Withdrawal by candidate.

In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of § 140.2(c) such individual—

(a) Shall no longer be eligible to receive any payments under § 143.2, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

(b) Shall pay to the Secretary or his delegate, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under § 143.2 which are used to defray qualified campaign expenses.

PART 143—CERTIFICATION BY COMMISSION

Sec.
143.1 Initial certification.
143.2 Payments from the fund.
143.3 Finality of certification; hearings.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 143.1 Initial certification.

Not later than 10 days after both of the candidates of a political party for President and Vice President of the United States have met all applicable conditions for eligibility to receive payments under Part 141, the Commission shall certify to the Secretary for payment to the eligible candidates under § 143.2 payment in full of amounts to which the candidates are entitled under Part 142.

§ 143.2 Payments from the fund.

(a) Upon receipt of a certification from the Commission under § 143.1 for payment to the eligible candidates of a political party, the Secretary shall pay to Presidential and Vice-Presidential candidates out of the fund the amount certified by the Commission.

(b) Payment received by the Presidential candidate shall be deposited in a separate account maintained by his principal campaign committee. The Presidential candidate nominated by a political party may designate the national committee of that political party as the candidate's principal campaign committee.

(c) Payment received by the Vice-Presidential candidate may be deposited in a separate account other than the Presidential account in paragraph (b) as long as that account is in the same depository as that maintained by the Presidential candidate.

(d) No funds other than the payments received from the Treasury and the reimbursements described in § 140.11(c) may be deposited in the accounts described in paragraphs (b) and (c).

(e) Except as provided by this subchapter, amounts paid to any candidate shall be under control of that candidate.

§ 143.3 Finality of certification; hearings.

(a) Certifications by the Commission under § 143.1, and all determinations made by it under this subchapter shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under Part 145 and judicial review under 26 U.S.C. § 9011.

(b)(1) If the candidate disputes any determination made by the Commission under § 143.1, the candidate shall notify the Commission within 15 days of the determination in order to request a re-determination.

(2) Upon receipt of the request for a re-determination, the Commission shall afford the candidate an opportunity to be heard and to present supporting evidence.

PART 144—REPORTS AND RECORD KEEPING

Sec.
144.1 Separate reports.
144.2 Allocation of administrative expenses.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 144.1 Separate reports.

(a) The principal campaign committee of any Presidential candidate of a major party, the candidate himself, unless waived, and all authorized committees shall report all expenditures with respect to the general election separately from any other monthly or quarterly reports, as if the general election were the only election activity engaged in by the committees and the candidate.

(b) In addition to the requirements in paragraph (a), minor and new parties shall report the receipt of any private contributions for the general election.

§ 144.2 Allocation of administrative expenses.

If an authorized committee (including the national committee if authorized) of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in proportion to the number of other candidates supported. For example, if an authorized committee supports the Presidential candidate, the Vice-Presidential candidate, 5 congressional candidates, and 9 State candidates, the total number of candidates supported is 16. The amount of overhead and administrative expenses incurred by the authorized committee for the Presidential and Vice-Presidential candidates is $\frac{2}{16}$ or $\frac{1}{8}$.

PART 145—EXAMINATIONS AND AUDITS; REPAYMENTS

Sec.
145.1 Audits, records, and investigations.
145.2 Repayments.
145.3 Notification.

AUTHORITY: Sec. 310(8), Pub. L. 92-225, added by Sec. 208, Pub. L. 93-443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94-283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93-443, 88 Stat. 1293 (26 U.S.C. 9009(b)).

§ 145.1 Audits, records, and investigations.

(a) After each Presidential election, the Commission shall conduct a thorough examination and audit of the qualified

campaign expenses of the candidates of each political party for President and Vice President.

(b) In addition, the Commission may conduct other examinations and audits or investigations and require the keeping and submission of books, records, and information as it deems necessary to carry out the functions and duties imposed on it by this subchapter.

§ 145.2 Repayments.

(a) If the Commission determines that—

(1) Any portion of the payments made to the eligible candidates of a political party under § 143.2 was in excess of the aggregate payments to which candidates were entitled under Part 142;

(2) The eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under Part 142;

(3) The eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of 26 U.S.C. § 9006(c) or loans from a bank) to defray qualified campaign expenses (other than those excess qualified campaign expenses with respect to which repayment is already required under paragraph (a)(2) of this section); or

(4) Any amount of any payment made to the eligible candidates of a political party under § 143.2 was used for any purpose other than—

(i) To defray qualified campaign expenses with respect to which the payment was made; or

(ii) To repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions received by a minor or new party candidate to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses;

The Commission shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary an amount equal to the amount determined under paragraphs (a)(1)–(4).

(b) Any portion of the payment under § 143.2 which remains unspent after all qualified campaign expenses have been paid shall be returned to the Secretary.

(c) No repayment shall be required from the eligible candidates of a political party under § 145.2 to the extent that any repayment, when added to other repayments required from the candidates under § 145.2, exceeds the amount of payments received by the candidates under § 143.2.

(d)(1) The candidates shall repay to the Secretary within 90 days of the notice in paragraph (a) an amount equal to the excess payments or an amount equal to the amount expended for nonqualified campaign expenditures. Upon application submitted by the candidate, the Commission may grant a 90-day extension of the repayment period.

(2) If the candidates dispute the Commission's determination that a repayment is required, they shall notify the Commission within 30 days of receipt of the Commission's notification to the candidates.

(i) The Commission, or its designee, shall conduct a hearing at a mutually agreeable time and place, at which the candidate may make a showing of where the Commission erred in its determination of repayment.

(ii) Based on the hearing, the Commission shall reaffirm or modify its initial determination, which shall constitute final and conclusive determination, and shall so notify the candidate.

§ 145.3 Notification.

No notification shall be made by the Commission under § 145.2(a) with respect to a Presidential election more than 3 years after the day of the election.

PART 146—OTHER EXPENDITURES

§ 146.1 Expenditures by political party committees.

Notwithstanding the expenditure limitation applicable to the candidates, national, State, and subordinate committees of a political party may make expenditures in connection with a Presidential general election in amounts that do not exceed those specified in § 110.7.

(Sec. 310(8), Pub. L. 92–225, added by Sec. 208, Pub. L. 93–443, 88 Stat. 1279, and amended by Secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and Sec. 404(c)(13), Pub. L. 93–443, 88 Stat. 1293 (26 U.S.C. 9009(b))).

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federal register

WEDNESDAY, AUGUST 25, 1976

PART III:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

■

ASSISTANCE FOR NEW COMMUNITIES—1970 ACT

Financing Public and Private Development

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

[24 CFR Parts 710, 720]

[Docket R-76-415]

ASSISTANCE FOR NEW COMMUNITIES—1970 ACT

Financing Public and Private Development

The Department proposes to amend Title 24 by revising the title of Subchapter B to read "Assistance for New Communities—1968 Act" and the title of Part 710 to read "Financing Private New Community Development" and by adding a new Subchapter C, "Assistance for New Communities—1970 Act" and under Subchapter C a new Part 720 entitled "Financing Public and Private New Community Development." On July 31, 1971, 36 FR 14205-14, a notice of proposed rule making, R-71-133, proposed comprehensive regulations to implement Title VII of the Housing and Urban Development Act of 1970 (Part B of the Urban Growth and New Community Development Act of 1970); 42 U.S.C. 4511. With the passage of time, that proposal has become obsolete and the rule making proceeding in Docket No. R-71-133 is therefore being terminated. However, a number of comments were received in response to that Notice and each of these comments will be considered in developing the regulations herein proposed. Moreover since 1971, additional operating experience has enabled the Department to review and revise the earlier proposal with the objective of better explaining basic program requirements. This Notice, then, invites further public comment on a proposed rule significantly changed from the 1971 proposal with the intention of developing a clearer and more complete final rule.

Part 720 consists of six Subparts as follows:

Subpart A sets forth the purposes of Part B of the Urban Growth and New Community Development Act of 1970 and states the authority of the Secretary, including the power to guarantee debt obligations issued by, or on behalf of Developers to assist in financing new community Projects and the power to make supplementary grants to assist in providing necessary public facilities. It also sets forth the organization of the new communities program within HUD, including the New Community Development Corporation and the New Communities Administration.

Subpart B contains the criteria and standards which the Secretary will apply in determining whether a proposed Project is approvable under the Act. These criteria and standards include: (1) Internal characteristics, such as the relative balance of proposed land uses; (2) Urban growth considerations, including the functional types of Projects which may be assisted and the relationship of a Project to its surrounding area; (3) The physical plan and program for the Project; (4) The proposed system for the delivery of human services and facilities such as health, education and recreation and the local governmental structure and other arrangements for the provision of such services; (5) The provision of housing to accommodate a broad range of income levels, employment opportunities in support of such provisions and which provide for federal assistance to meet low and moderate income housing goals; (6) The level and type of necessary State and local government reviews and approvals; (7) Environmental planning requirements; (8) The impact of a Project on the area it will affect and the degree of consistency with existing comprehensive areawide plans; (9) The use of advances in design and technology with respect to land utilization, materials and methods of construction and the provision of community facilities and services; (10) The establishment and maintenance of an affirmative action program to assure equal opportunity in all phases of the new community including employment and housing; (11) The basis for determining that the Developer possesses the financial, technical and administrative ability to carry out the Project with reasonable assurance of its completion as scheduled; (12) Labor standards, use of small builders, work safety and health standards, relocation and the regulation of utilities.

Subpart B also contains criteria and standards designed to establish the economic feasibility of a Project and the acceptability of its financial risk to the Government. These criteria and standards include necessary determinations regarding: (1) Marketing assumptions; (2) projected revenues and costs to the Developer, to any community association which may be established and to each Subsidiary over the development period; (3) the financial experience of the Developer including its ability to borrow sufficient funds and contribute required equity to the Project; (4) the maximum outstanding indebtedness which may be guaranteed under the Act for any Project; (5) provisions relating to the security interests of the United States; (6) the administration of the Escrow Account; (7) the terms of the guarantee; (8) appropriate financial tests and controls designed to assure the Developer's ability to meets its liabilities and to provide an early warning system regarding any financial problems being encountered in development of the Project; and (9) methods for preparing and auditing financial statements.

Subpart C sets forth in sequential order the procedural steps leading to the approval or disapproval of applications for initial and additional guarantee assistance and for a Determination of Eligibility. It specifies the nature and content of the Project Agreement and other documents which evidence the commitment of the Secretary to guarantee a specified maximum principal amount of debt obligations to be issued by the Developer. The Subpart also indicates the procedures which shall be followed by applicants under the Act in order to comply with OMB Circular A-95, as well as the effect upon processing of compliance by the Secretary with the National Environmental Policy Act of 1969.

Subpart D sets forth the requirements, purposes and methods for monitoring and evaluating the progress of Projects throughout the development period to assure compliance with the Project Agreement. It sets forth policies and procedures concerning the rights of the Secretary with respect to inspection, amendments to Project Documents and waivers and remedies of the Secretary in the event of default. In addition, this Subpart specifies the periodic financial and nonfinancial reports and projections which Developers are required to submit as well as the special notification and internal evaluation requirements which they must comply with.

Subpart E specifies the general requirements and procedures applicable to assistance other than guarantee assistance which is available under Title VII and other Federal programs to Projects for which guarantee assistance has been provided under the Act or for which a Determination of Eligibility has been made. The Subpart specifically deals with supplementary grants, community development block grants and federally-assisted housing.

Subpart F specified the fees and charges which have been established for payment to HUD in connection with the processing of applications for guarantee assistance and Determinations of Eligibility. These include application, commitment, reopening, guarantee, annual, and transfer fees and charges.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations.

Comments received by September 23, 1976 will be considered before final action is taken on this proposal.

Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above.

A finding of inapplicability of section 102(2)(C) of the National Environmental Policy Act of 1969 has been made pursuant to HUD Handbook 1390.1. The environmental inapplicability statement will be available at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular No. A-107.

On January 14, 1975, the Secretary directed that the processing of applications on hand and the acceptance of applications for guarantee assistance to new projects be suspended. As a result, the proposed rule applies only to existing approved projects and does not alter the current moratorium concerning new project applications.

Accordingly, the Secretary proposes to amend Title 24 by (1) revising the title of Subchapter B to read "Assistance for New Communities—1968 Act", (2) revising the title of Part 710 to read "Financing Private New Community Development", (3) adding a new Subchapter C, "Assistance for New Communities—1970 Act", and (4) adding a new Part 720 to Subchapter C entitled "Financing Public and Private New Community Development" which reads as follows:

It is proposed to amend the title of Subchapter B and the title of Part 710 to read as follows:

SUBCHAPTER B—ASSISTANCE FOR NEW COMMUNITIES 1968 ACT

PART 710—FINANCING PRIVATE NEW COMMUNITY DEVELOPMENT

It is proposed to add Subchapter C and Part 720 to read as follows:

SUBCHAPTER C—ASSISTANCE FOR NEW COMMUNITIES—1970 ACT

PART 720—FINANCING PUBLIC AND PRIVATE NEW COMMUNITY DEVELOPMENT

Subpart A—General

Sec.
720.1 Statement of applicable law.
720.2 Definitions.
720.3 Other authorities.
720.4 Program information.

Subpart B—Criteria and Standards

720.10 Applicability of this Subpart.
720.11 Statutory basis.
720.12 General criteria.
720.13 Physical plan and program.
720.14 Human service delivery system.
720.15 Housing and population balance.
720.16 Governmental reviews and approvals.
720.17 Environmental quality.
720.18 Welfare of the area.
720.19 Area planning and development.
720.20 Advances in design and technology.
720.21 Capacity and Ownership of the developer.
720.22 Equal opportunity.
720.23 Economic feasibility and financial risk.
720.24 Economic base and growth potential.
720.25 Financial plan.
720.26 Other financial review criteria.
720.27 Amount of Federal guarantee.
720.28 Debt obligations.
720.29 Security for the guarantee.
720.30 Escrow account.
720.31 Terms of guarantee.
720.32 Other financial standards.
720.33 Accounting standards and audit.
720.34 Other requirements.

Subpart C—Procedures for Application, Commitment and Agreement

720.50 Applicability of this Subpart.
720.51 Inquiry.
720.52 Pre-application.
720.53 Compliance with OMB Circular A-95.
720.54 Application for assistance.
720.55 Compliance with National Environmental Policy Act.
720.56 Commitment.
720.57 Project Agreement and other agreements.
720.58 Issuance of guaranteed obligations.
720.59 Additional guarantee assistance.
720.60 Projects initiated under the New Communities Act of 1968.

Subpart D—Project Execution and Monitoring

720.70 Applicability of this Subpart.
720.71 Purpose.
720.72 Inspection.
720.73 Reporting requirements.
720.74 Internal reporting and evaluation.
720.75 Amendments and waivers.
720.76 Remedies of the Secretary.

Subpart E—Other Assistance

720.80 Applicability of this Subpart.
720.81 Multiple forms assistance.
720.82 Supplementary grants.
720.83 Community development block grants.
720.84 Federally-assisted housing.

Subpart F—Fee and Charge Schedule

720.90 Applicability of this Subpart.
720.91 Fees and charges.

AUTHORITY: Sec. 7(d) Department of Housing and Urban Development 42 USC 3535(d), Title VI, Housing and Community Development Act of 1974, 42 USC 5401.

Subpart A—General

§ 720.1 Statement of applicable law.

(a) *Purposes of act.* The declared purposes of Part B of the Urban Growth and New Community Development Act of 1970 (42 U.S.C. 4511–32) are to:

(1) Provide Private Developers and State and Local Public Bodies (including regional or metropolitan public bodies and agencies) with financial and other assistance necessary for encouraging the orderly development of well-planned, diversified, and economically sound new communities, including major additions to existing communities, and to do so in a manner which will rely to the maximum extent on private enterprise;

(2) Strengthen the capacity of State and local governments to deal with local problems;

(3) Preserve and enhance both the natural and urban environment;

(4) Increase for all persons, particularly members of minority groups, the available choices of locations for living and working, thereby providing a more just economic and social environment;

(5) Encourage the fullest utilization of the economic potential of older central cities, smaller towns, and rural communities;

(6) Assist in the efficient production of a steady supply of residential, commercial, and industrial building sites at reasonable costs;

(7) Increase the capability of all segments of the homebuilding industry, including both small and large producers, to utilize improved technology in producing the large volume of well-designed, inexpensive housing needed to accommodate population growth;

(8) Help create neighborhoods designed for easier access between the places where people live and the places where they work and find recreation;

(9) Encourage desirable innovation in meeting domestic problems whether physical, economic, or social; and

(10) Improve the organizational capacity of the Federal Government to carry out programs of assistance for the development of new communities and the revitalization of the Nation's urban areas.

(b) *Applicability of this part.* This Part is applicable to the following authorities of the Secretary (acting through the Corporation for the purposes of paragraph (b)(1) of this section) under the Act and under other provisions of law, to assist new community Projects:

(1) The guarantee of debt obligations issued by, or on behalf of, Developers for the purpose of assisting in the financing of new community Projects;

(2) Making supplementary grants for the purpose of assisting in the provision of facilities which are necessary or desirable for carrying out Projects. The authority to make such grants is subject to the following limitations:

(i) Supplementary grants may be made only for the purpose of assisting in the provision of facilities for which grants have been made under the following provisions of law: Section 3, Urban Mass Transportation Act of 1964 (49 U.S.C. 1602); (23 U.S.C. 120(a)) (highways other than interstate); section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719); Title VI of the Public Health Service Act (42 U.S.C. 291) (hospital and medical facilities); Title II of the Library Services and Construction Act (20 U.S.C. 355(a)); section 5 of the Land and Water Conservation Fund Act of 1961 (16 U.S.C. 460(l)); Title VII of the Housing Act of 1961 (42 U.S.C. 1500); section 702 or 703 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102–3); section 8 of the Federal Water Pollution Control Act (33 U.S.C. 1281); section 306(a)(2) of the Consolidated Farmers Home Administration Act (7 U.S.C. 1926(a)(2)); section 101(a)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131).

(ii) No supplementary grant may exceed 20 percent of the total eligible costs of providing the facility for which the grant is made, as determined by the Federal department or agency which makes a grant specified in paragraph (b)(2)(i) of this section, nor may the total Federal contribution to the cost of the facility exceed 80 percent of such total eligible costs;

(3) Providing other forms of assistance, benefits and priorities to assist in carrying out Projects; and

(4) Assisting Developers in securing other assistance to Projects which may be available under other Federal laws or under State or local laws.

§ 720.2 Definitions.

For the purpose of this Part, the following terms shall mean:

Act. Part B of the Urban Growth and New Community Development Act of 1970 (Title VII of the Housing and Urban Development Act of 1970, 42 U.S.C. 4511–32).

Actual cost. The costs (exclusive of rebates or discounts) incurred by a new community Developer or a Restricted Affiliate for Land Acquisition and in carrying out the Land Development assisted under the Act. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architects' fees, surveys, taxes and interest during development,

organization and legal expenses, such allocation of general overhead expenses as is acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines that there is an identity of interest between the Developer and a contractor, there may be included as part of Actual Cost an allowance for the contractor's profit or risk in an amount deemed reasonable by the Secretary.

Board. The Board of Directors of the Corporation.

Corporation. The New Community Development Corporation established within the Department of Housing and Urban Development under the Act.

Determination of eligibility. A determination by the Secretary, pursuant to section 712 of the Act (42 U.S.C. 4513) that a Project is a new community development program eligible for assistance, other than guarantee assistance, under the Act. The provisions of section 712 appear in § 720.11.

Developer. Any Public Developer or Private Developer.

Development plan. An exhibit to the Project Agreement which describes the Project, establishes the objectives of the Developer and specifies its undertakings with respect to physical and social elements of the Project over the development period.

Escrow account. An account which is security for the sole benefit of the Secretary consisting of the proceeds of all guaranteed obligations investments and other funds as provided in the Project Documents.

Financial plan. A document containing projected revenues and costs, prepared pursuant to § 720.25.

General manager. The chief executive officer of the Corporation.

Indenture. An indenture of mortgage and deed of trust executed by the Developer in favor of a Trustee, creating a lien on real and personal property as security for the Secretary.

Land acquisition. The acquisition of real property for Land Development as part of the project, including the removal of liens and encumbrances thereon.

Land development. The process of clearing and grading land making, installing, or constructing waterlines and water supply installations, sewer lines and sewage or waste disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, community or neighborhood central heating or air-conditioning systems and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial or other uses, or to provide facilities for public or common use. Land Development includes the construction of public facilities, but does not include the construction of any other building unless it is (1) needed in connection with a water supply or sewage or waste disposal installation, a community or neighborhood central heating or air-conditioning system, or a steam, gas, or electric line or installation, or (2) to be owned and maintained by residents of the new community under joint or cooperative arrangements approved by the Secretary.

Local public body or agency. Any public body or agency, including a political subdivision, created by or under the laws of a State or two or more States, or a combination of such bodies or agencies.

Non-project activities. Activities other than Land Acquisition or Land Development.

Person. Any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, entity or government or any agency or political subdivision thereof.

Private developer. Any private entity organized in a form satisfactory to the Secretary for carrying out one or more Projects.

Project. The activities and undertakings required to carry out a program which meets the eligibility standards set forth in the Act and these Regulations.

Project agreement. The legal document by which the Secretary and the Developer agree to comply in all respects with the relevant provisions of the Act and with these Regulations.

Project documents. All Project-related documents executed or required by the Secretary.

Public developer. Any State or Local Public Body or Agency with authority to act as Developer in carrying out one or more Projects.

Regulations. The Regulations adopted by the Secretary under the Act.

Restricted affiliate or subsidiary. A Subsidiary restricted in its business operations pursuant to the Project Documents.

Revolving fund. The fund established by the Secretary pursuant to Section 717 of the Act for the purpose of making authorized program expenditures.

Secretary. The Secretary of Housing and Urban Development or the Secretary's authorized representative (HUD).

State. Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

Subsidiary. A Person of whom the Developer, directly or indirectly through one or more intermediaries, has control.

Trustee. A bank or trust company approved by the Secretary and named as trustee under an Indenture.

§ 720.3 Other authorities.

(a) *Authority of the Corporation.* Section 729(c) of the Act (42 U.S.C. 4532 (c)) directs that functions of the Secretary with respect to guarantees of new community development shall be administered through the Corporation. According to the delegation of authority, dated March 1971 (36 FR 5304), the Corporation performs the functions and duties and exercises the power and authority of the Secretary with respect to Part B of the Act. According to the by-laws of the Corporation (24 CFR 700.1), the Board has general supervision and direction of the Corporation and its officers.

(b) *General manager.* The General Manager is the chief executive officer of the Corporation and, under the general direction of the Board, has responsibility for executive management of the operation of the Corporation.

(c) *Establishment of the new communities administration.* The Secretary has established the New Communities Administration to perform policy, staff and operational roles in support of the Corporation.

(d) *The Administrator of the new communities administration.* An Administrator appointed by the Secretary is the chief executive officer of the New Communities Administration and is responsible directly to the General Manager.

§ 720.4 Program information.

(a) *General information.* Instructions for applying for assistance under this program as well as information on other Federal programs which are related to the establishment and development of new communities may be obtained from the Office of the Administrator, New Communities Administration, Department of Housing and Urban Development, Washington, D.C. 20410.

(b) *Other publications.* Detailed information, supplementing these Regulations and relating to planning, operations and management of new community Projects, is also available in HUD handbooks and guidelines.

Subpart B—Criteria and Standards

§ 720.10 Applicability of this Subpart.

This Subpart sets forth the policies and requirements which shall be met before Developers and Projects may qualify for guarantee assistance under the Act or for a Determination of Eligibility. Developers and Projects shall also comply with applicable Sections of this Subpart during the term of any Project Agreement executed pursuant to § 720.57.

§ 720.11 Statutory basis.

The basis for the criteria and standards set forth in this Subpart is provided by the folowing Sections of the Act:

Section 712. (a) A new community development program is eligible for assistance under this part only if the Secretary determines that the program (or the new community it contemplates)—

(1) Will provide an alternative to disorderly urban growth, helping preserve or enhance desirable aspects of the natural and urban environment or so improving general and economic conditions in established communities as to help reverse migration from existing cities or rural areas;

(2) Will be economically feasible in terms of economic base or potential for economic growth;

(3) Will contribute to the welfare of the entire area which will be substantially affected by the program and of which the land to be developed is a part;

(4) Is consistent with comprehensive planning, physical and social, determined by the Secretary to provide an adequate basis for evaluating the new community development program in relation to other plans (including State, local, and private plans) and ac-

tivities involving area population, housing and development trends, and transportation, water, sewerage, open space, recreation, and other relevant facilities;

(5) Has received all governmental reviews and approvals required by State or local law, or by the Secretary;

(6) Will contribute to good living conditions in the community, and that such community will be characterized by well balanced and diversified land use patterns and will include or be served by adequate public, community, and commercial facilities (including facilities needed for education, health and social services, recreation, and transportation) deemed satisfactory by the Secretary;

(7) Makes substantial provision for housing within the means of persons of low and moderate income and that such housing will constitute an appropriate proportion of the community's housing supply; and

(8) Will make significant use of advances in design and technology with respect to land utilization, materials, and methods of construction, and the provision of community facilities and services.

(b) A new community development program approved for assistance under this part shall be undertaken by a private new community developer or State land development agency approved by the Secretary on the basis of financial, technical, and administrative ability which demonstrates capacity to carry out the program with reasonable assurance of its completion.

Sec. 716. (a) No guarantee or loan shall be made under this part unless the Secretary has determined that the new community development program represents an acceptable financial risk to the United States, taking into consideration (1) the financial and security interests of the United States, including the manner in which the developer proposes to finance and schedule land acquisition, land development, and marketing, and (2) the public purposes of this part and the special problems involved in financing new communities, including (i) the large amount of initial capital required to finance sound new communities, (ii) the extended period before initial returns can be expected, and (iii) the irregular pattern of cash returns characteristic of this type of development.

§ 720.12 General criteria.

(a) *Internal characteristics.* In determining whether a proposed Project (otherwise eligible for assistance and consistent with the purposes of the Act) is a new community within the meaning of the Act, the Secretary will apply the following general criteria:

(1) It must be designed so as to create a newly-built community or major addition to an existing community which includes most, if not all, of the basic services and facilities normally associated with a city or town: housing (including substantial provision for housing for persons and families of low and moderate income), transportation, utilities, industry, commerce, open space and recreation, education and health, cultural, and social facilities and services.

(2) It must, during each major phase of the development, combine the above components to acheve a well-planned and harmonious whole that is socially balanced, economically sound and environmentally attractive as a place to live, work and play.

(3) It must provide a framework for the creation of a substantial number and variety of jobs, both in conjunction with Project development and construction activities and through plans for the inclusion of sites for public and business enterprises within the Project.

(4) It need not be completely self-sufficient. In determining balance for a given Project, consideration shall be given to the adequacy of existing or projected development of services and facilities in the immediate area. However, the Project may not consist of housing alone, or housing with a minimum of commercial facilities serving only the immediate needs of people for neighborhood shopping. Nor may the Project be predominantly an industrial or commercial development, with a minimum supply of new housing.

(5) If a Project is proposed as a major addition to an existing community, the following criteria will be applied to determine whether the Project qualifies for assistance under the Act:

(i) The Project plan must evidence careful integration of the proposed Project development with the existing development.

(ii) The resultant community must be of substantially higher quality and designed to accommodate a substantially larger number of housing units and related urban functions than that which existed.

(b) *Urban growth considerations.* A Project shall provide an alternative to disorderly urban growth, or so improve general and economic conditions in established communities and rural areas as to help stem migration therefrom and shall in any event help to preserve or enhance desirable aspects of the natural and urban environment. In addition to criteria set forth in other Paragraphs of this section, the following factors will be considered in this context:

(1) The development proposed under the Project shall be significantly superior, as measured by environmental, fiscal and other impacts, to development which, in the absence of the Project, would be likely to occur in the area.

(2) The Project shall provide for an increase in available choices for living and working for individuals and families of varying incomes and social needs so as to help relieve pressures causing (i) detrimental and unnecessary migration from existing cities and from rural areas, and (ii) undue concentration of population by income, race, and lifestyle.

(3) The following types of Projects, clasified by functional relationship to the processes of urban growth, may be assisted under the Act. While this classification reflects commonly accepted categories of Projects, it is recognized that a particular Project may exhibit the characteristics of more than one such category or may not specifically fall in any of them. No Project, otherwise eligible for assistance under the Act, shall be disqualified solely on the basis of failure to be clearly identified under one of these categories. The Secretary and the Board may, however, acord priorities for approval based upon such categories:

(i) New Town-In-Town. Major developments within or adjacent to existing cities, on vacant land or land requiring limited redevelopment, whose purpose is to revitalize existing urban centers, stabilize surrounding neighborhoods and provide a wide range of housing within easy access of employment, commercial, recreational, cultural, and other facilities and amenities within such urban centers;

(ii) Satellite or Suburban: Projects located within or close to metropolitan areas which serve as superior alternatives to urban sprawl which would be likely to occur in their absence.

(iii) Small Town Growth Centers: Additions to smaller cities and towns, with potential for growth, which serve to avoid urban sprawl which would be likely to take place in their absence, or which serve to prevent economic decline and consequent migration to metropolitan areas; and

(iv) Free-Standing: Self-sufficient development, remote from existing urban centers, which may provide sound community development when combined with significant, long-term capital investment in hitherto economically underdeveloped areas.

(c) *Size.* The Project population, density or size of site area must be significant in comparison with existing development or communities in the area in which the Project is to be located, but no minimum or maximum population density or size of site area is prescribed. Size and boundary determinations may be influenced by natural features, political boundaries and existing development. Other determinants shall be considered, such as market data indicating the potential for, and absorption rate of, residential, commercial, and industrial growth, through an extended development period necessary to result in a balanced and mature community.

(d) *Access.* A Project shall have access to highways, airports, and other transportation facilities commensurate with its size and the reasonably anticipated requirements of its population, industry and commerce.

(e) *Relationship to surrounding area.* (1) A Project shall contribute to the social and economic welfare of the entire area which it will significantly affect.

(2) Site selection and internal planning for a Project shall reflect consideration of existing and planned development in the area surrounding the Project.

(3) To the extent that vital needs of the Project (such as energy supply, transportation access, water supply, waste treatment and disposal, etc.) are dependent on linkages with facilities and services outside the Project boundary, there must be reasonable assurance that feasible physical, financial and institutional methods and arrangements are available to meet such needs.

(4) A new community may, as appropriate, be incorporated as a separate municipality, or be subject to the jurisdiction of an existing city, town, county or other political entity.

§ 720.13 Physical plan and program.

(a) *General requirement.* A Project shall include a general physical plan and program for creating and maintaining a functional and pleasing environment wrich is responsive to human needs.

(b) *Factors to be considered.* Among the factors which the Secretary shall consider in the evaluation of the general physical plan and program are the following:

(1) *Suitability of the site.* The site must be suitable for the proposed uses, considering its location, size, topography, microclimate and soil characteristics, and there must be a harmonious relationship of these uses with surrounding development, including protection of such uses against undesirable effects from the area surrounding the Project and protection of the area surrounding the Project from undesirable effects from the Project.

(2) *Interrelationship of plan components.* The various elements of the plan must be effectively interrelated through efficient, unified plans for land use, transportation and circulation, population density and distribution, employment, services, recreation and other elements.

(3) *Design controls.* Adequate controls and incentives must be included in the plan and program to create efficient land utilization and quality urban design, and to maintain architectural and environmental standards.

(4) *Phased development.* All elements of the physical plan and program (including housing, industry, utilities, commerce, circulation systems, management of undeveloped land, institutions, open space, recreation, service delivery systems and special features) shall be phased on a schedule compatible with economic feasibility and the achievement of social balance and shall be coordinated with the timing of Land Acquisition, Land Development and Disposition as reflected in the Financial Plan.

(5) *Consideration of alternatives.* Alternative plans, taking into account environmental, social, and other factors specified in this part, must be considered in the planning process.

(6) *Infrastructure and facilities.* The plan must contain adequate infrastructure and other public and private facilities, taking into consideration Project needs, recognized standards and existing facilities in the area. These shall include commercial, transportation, recreational, educational, health, religious and other community facilities as well as utility systems.

(7) *Provision for handicapped and elderly.* Buildings, outdoor areas and facilities must be designed to facilitate movement and self-sufficiency of the physically handicapped and elderly.

(8) *Adaptability of the plan.* The plan must be adaptable to the various needs and alternatives which may arise as the development program proceeds. The size of the initial land area which the Developer owns or controls must be adequate to permit the construction of a comparatively balanced community should completion of planned Land Acquisition prove to be infeasible.

(9) *Advances in design and technology.* The plan and program must show that significant use will be made of advances in design and technology.

§ 720.14 Human service delivery system.

(a) *General requirement.* The Project shall include a plan, satisfactory to the Secretary, for delivery of human services throughout the development period and must provide reasonable assurance of such cooperation of public and private entities as may be necessary to carry out the plan. Such plan shall include the following components:

(1) *Education.* High quality primary, secondary, adult and vocational education, and, as feasible and appropriate, institutions of higher education, directed to the needs of population groups which the new community is likely to attract, making maximum use of advanced methods, facilities, curriculum, and equipment and integrating the educational system into the life of the community.

(2) *Health.* An adequate comprehensive system of health facilities and services, accessible to new community residents of all ages and incomes, including ambulatory, hospital and long-term care, emergency and mental health services, care for the elderly and the mentally or physically handicapped, public health, nursing homes and, where feasible, prepaid health care as in health maintenance organizations.

(3) *Recreation and cultural.* Adequate recreational and cultural facilities and services which allow opportunity for full participation by all residents of the Project and are of sufficient variety to meet needs and preferences of all residents including low income persons, renters, minority group residents, and groups with special needs such as youth, the handicapped and the elderly.

(4) *Public safety.* A public safety system to proivde police and fire protection, emergency medical services, communications and other functions necessary to safeguard persons and property.

(5) *Other services.* Other services and facilities, including child care centers, information and referral systems, manpower development programs, religious institutions, social welfare, counseling, libraries, meeting places, advanced telecommunications systems, and other services identified by local agencies or residents.

(b) *Facilities.* The plan shall provide for the appropriate location of facilities needed to implement the human service delivery system and shall demonstrate that the financing of such facilities (and programs) through public and Developer resources, as they are needed, is feasible.

(c) *Planning and implementation process.* The plan shall provide for an ongoing planning and implementation process with Local Public Bodies, residents, community groups and private agencies to:

(1) Analyze the needs of the population projected for the new community by relevant subgroup to determine the diversity of needs, including consideration of needs by age, race, tenure of residents, sex, national origin, religion, marital status, family size, income and place of employment;

(2) Develop criteria for judging alternative plans for facilities and services based on identified needs;

(3) Inventory and evaluate the quality of existing facilities and services in the surrounding area in terms of ability to expand service and be responsive to the needs of current and future residents of the Project;

(4) Develop plans for providing the service systems discussed above to meet identified needs either through expansion of existing services or through other means; and

(5) Develop systems for insuring ongoing adjustment of plans, coordination of efforts, and evaluation of service delivery.

(d) *Structure for provision of services.* (1) To the maximum extent possible, the provision of services should be the responsibility of Local Public Agencies, preferably agencies of general purpose units of government rather than special purpose districts.

(2) To the extent necessary to meet and maintain the standards of services contemplated by the plan for the Project, the plan may provide for the creation of community associations to provide services which are not provided by Local Public Agencies. Such associations shall provide for membership and opportunity for full participation by all residents of the are which they serve. To the extent that such associations are initially controlled by the Developer, provision acceptable to the Secretary shall be made for the orderly transfer of control from the Developer to the residents. Provision shall be made, as may be appropriate, for the transfer of responsibility for delivery of services from such associations to appropriate government units as the earliest feasible time. All covenants creating community associations and all by-laws governing the boards of directors of such associations shall be approved by the Secretary.

§ 720.15 Housing and population balance.

(a) *General requirement.* A Project shall provide for the development and sale of land in accordance with a plan and program, acceptable to the Secretary, which:

(1) Provides for a variety of housing types within the Project to accommodate persons of a broad range of incomes, ages, household composition and lifestyles;

(2) Makes substantial provisions for housing within the means of persons of low and moderate income, which housing shall constitute an appropriate proportion of the Project's housing supply and of each major construction stage thereof;

(3) Provides for a broad range and mix of employment opportunities through industrial, commercial and institutional enterprises located in or nor the Project;

(4) Provides an opportunity for all persons who work within the Project to reside therein; and

(5) Provides for spatial distribution of housing, by type and price range, so as to avoid excessive concentration of low and moderate income households and afford all residents reasonably equal access to community and neighborhood facilities, services and activities.

(b) *Establishment of housing goals.* (1) *Initial goals.* A Project must be determined by the Secretary to provide a plan for Land Development and sales which will result in an acceptable amount, phasing and mix of housing based upon consideration of the following factors, except that in no case shall the amount of housing within the means of persons of low and moderate income be below a minimum level which may be determined by the Secretary to be necessary to meet the intent of the Act:

(i) Projected age, household composition and incomes of persons likely to be employed within or near the Project, based upon the employment plan and program specified in paragraph (c)(3) of this section and using methods of computation acceptable to the Secretary;

(ii) Current and projected need for housing by age, household size and income for the region and market area;

(iii) Impact of any commitments which may be required of the Developer, in connection with the provision of low and moderate income housing, upon the economic feasibility of the Project; and

(iv) Other factors (including, but not limited to, marketing, economic and social factors) as the Secretary may determine to be relevant to the overall success of the Project and its consistency with the purposes of the Act.

(2) *Periodic readjustment of goals.* The initial housing goals shall be subject to periodic readjustment by the Secretary based upon consideration, in addition to factors specified in paragraph (b)(1) of this section, of the following factors:

(i) Past performance and experience;

(ii) Changes in the income of low and moderate income Project residents;

(iii) Changes in supply and demand factors; and

(iv) Such other factors as the Secretary may determine to be appropriate.

(3) *Definition of low and moderate income.* As used in this Section, low-income refers to the income levels of families classified as "very low-income families" eligible for assistance under Section 8 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437(f)), or under any program designated as a successor program by the Secretary, or, if no such program exists, families within income levels to be established by the Secretary. Moderate-income refers to the income levels of families classified as "lower income families" eligible for assistance under the said Section 8 program, or under any program designated as a successor program by the Secretary, or, if no such program exists, families within income levels to be established by the Secretary. Currently effective income levels shall be provided by the New Communities Administration upon written request.

(c) *Program for achieving housing goals.* The Project must provide for a program acceptable to the Secretary which provides reasonable assurance that the housing goals established pursuant to paragraph (b) of this section will be met. Such program shall include the following elements:

(1) An obligation of the Developer to develop land in accordance with the plan, to use his best efforts to sell such land and, in connection with the sale of land, to bind the buyer thereof to use such land to provide housing in accordance with the plan;

(2) A commitment by the Developer to undertake such other actions as may be determined by the Secretary to be necessary to assure achievement of housing goals, including:

(i) Seeking, or causing others to seek, such assistance as may be available from Federal, State and local low and moderate income housing programs;

(ii) Causing, if economically feasible, unassisted housing for low and moderate income persons to be provided;

(iii) Reducing lot prices and making other financial contributions, subject to overall limitations of the latest approved Financial Plan;

(iv) Requesting and assisting officials of local political jurisdictions to take such action as may be needed to achieve housing goals;

(v) Complying with applicable local property and construction standards and FHA Minimum Property Standards: (MPS) (HUD 4900.1, 4910.1, 4920.1 and 4930.1), and

(vi) Assuring that adequate counseling services related to home maintenance and operation are provided to assist low and moderate income persons residing in the Project; and

(3) The Project shall provide for a program, consistent with market considerations as set forth in § 720.24, to attract a mix of commercial, industrial and institutional enterprises which will offer employment opportunities for persons with a broad range of skills and other qualifications, including, to the maximum extent feasible, employment opportunities for persons of low and moderate income.

(d) *Federal housing assistance programs.* It is the policy of the Secretary to encourage and assist, within budgetary constraints, the construction of a substantial number of housing units for persons of low and moderate income in approved Projects. Accordingly, to the extent determined by the Secretary to be necessary, taking into consideration among other things the elements set forth in paragraph (c)(2) of this section, above, to meet the then current annual housing goals (as determined under paragraph (b) of this section, for provision of low and moderate income housing within the Project), the Secretary shall assure that approved Projects receive a sufficient share of available federal assistance during a given fiscal year.

§ 720.16 Governmental reviews and approvals.

The Developer shall secure all State and local government reviews and approvals required by law or determined by the Secretary to be necessary for initiating and continuing the Project. To the extent significant Project activities will require or depend upon future approvals that are necessarily unobtainable at the time an offer of commitment is made or a Project Agreement is executed, reasonable assurance shall be provided that such approvals will be secured in a timely fashion, as needed. Unless otherwise specified by the Secretary, such assurance shall include the adoption by the governing body of the unit of general local government of a resolution in a form satisfactory to the Secretary, approving the general plan for the development of the new community. In addition, before an offer of commitment shall be accepted, the land proposed to be developed in the initial stage shall be subject to specific zoning or other equivalent required approval which permits development of such land in accordance with the Project plans.

§ 720.17 Environmental quality.

(a) *General requirement.* The Project must be determined by the Secretary to contribute to the preservation or enhancement of desirable aspects of the natural and urban environment.

(b) *Planning and execution.* All factors affecting the environment must be considered at every stage of planning and execution of the Project, incuding site selection and suitability analyses, land use planning, urban design and architecture, engineering, construction and management. The effects of and on probable surrounding development shall also be considered.

(c) *Factors to be considered.* (1) *Environmental components.* The components making up the environment, which must be taken into account in preparing applications and in determining whether the Project meets environmental requirements, include without limitation: air, water, energy, biota geology, soils, facilities and services, special physical features, climate, safety, physical and mental health, aesthetics, comfort and sense of community.

(2) *Relevant statutes and regulations.* Project planning and development must be determined to be in compliance with all applicable Federal, State and local laws and ordinances including, but not limited to, the following Federal statutes, regulations and guidelines which establish substantive environmental requirements and standards:

(i) National Flood Insurance Act (42 U.S.C. 4001 et seq.);

(ii) National Historic Preservation Act of 1966 (16 U.S.C. 470);

(iii) Clean Air Act (42 U.S.C. 1857 et seq.);

(iv) Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(v) HUD Circular 1390.2, Noise Abatement and Control;

(vi) Historical and Archaeological Data Act of 1974 (16 U.S.C. 469);

(vii) Safe Water Drinking Act of 1973 (21 U.S.C. 349; 42 U.S.C. 201, 300f–300j–9);

(viii) Energy Policy and Conservation Act of 1975 (15 U.S.C. 753 et seq.);

(ix) Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.;

(x) Solid Waste Disposal Act as amended by the Resources Recovery Act of 1970 (42 U.S.C. 3259);

(xi) Noise Control Act of 1972 (42 U.S.C. 4901–18); and

(xii) Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661 et seq.).

(d) *Management.* To assure that environmental quality requirements will be achieved, management systems and controls shall be instituted to provide for the monitoring and analysis of components of the Development Plan affecting the environment, particularly major changes in environmental impact, over the life of the Project. Such systems and controls may involve coordination or participation by State, regional or local government.

(e) *Project agreement restrictions.* Reservations and restrictions which are considered by the Secretary to be necessary to assure the achievement of environmental quality objectives shall be incorporated in the Project Agreement.

§ 720.18 Welfare of the area.

The Project must contribute to the welfare of the entire area which will be substantially affected by the Project and of which the land to be developed is a part. Among the factors which the Secretary will consider in determining whether a Project meets this requirement are:

(a) The estimated fiscal impact of the Project on local units of government which are, or will be, responsible for meeting the on-site and off-site needs for public facilities and services generated by the Project. In determining this impact both the estimated expenditures and revenues, on- and off-site, incident to the development of the Project will be considered. Due to its importance, particular and detailed consideration will be given to the fiscal impact associated with the provision of educational facilities and services;

(b) The estimated fiscal impact of development which would be likely to occur in the absence of the Project, on local units of government which would be responsible for meeting the projected on-site and off-site needs for public facilities and services generated by such development. The factors indicated in paragraph (a) of this section will be considered for this purpose; and

(c) Other benefits and costs to the area generated by the Project such as jobs created and similar economic benefits, increased availability and accessibility of transportation, commercial, recreational, health, educational and other community facilities and services, and the anticipated overall effects of the new community upon the quality of development and growth of the area as a whole.

§ 720.19 Area planning and development.

(a) If the area within which the Project is to be located is covered by a comprehensive areawide plan or by an ongoing planning effort by an authorized agency, the Project must be consistent with such comprehensive plan or planning and must reflect consideration of any economic development programs, physical plans, social and service delivery plans and programs, and public works programs of relevant Federal, State, regional, city or county agencies for the area, provided such planning is, in the Secretary's judgment, sufficiently detailed to provide a reasonable basis for evaluating the relationship of the proposed new community to such other plans.

(b) Throughout the development period of the Project, there shall be continued planning coordination by the Developer with the appropriate local, areawide or State planning agencies.

§ 720.20 Advances in design and technology.

(a) *General requirement.* A Project shall make significant use of advances in design and technology with respect to land utilization, materials and methods of construction, and the provision of community facilities and services.

(b) *Scope and nature of advances.* Advances meeting the requirements of this section need not be limited to physical elements of a Project, but may include the Project as a whole, if it involves an advanced general concept or approach to community building, or any significant advance in the planning, design, financing or management of systems and institutional arrangements for meeting the needs of the community.

(c) *Factors to be considered.* The Secretary shall take the following factors into account in determining whether a given element of a Project meets the requirements of this section:

(1) A proposed element may meet this requirement if it constitutes an advance over general practice in the area in which the Project is located, even though it may have been instituted or applied in other areas of the country.

(2) While some degree of risk may be inherent, the probable impact of a proposed advance on marketability or other aspects of the Project shall be considered in relation to the overall economic feasibility of the Project. To the extent that a high risk advance is proposed for an element critical to the success of the entire Project, other feasible options shall be available in the event the advance shall prove to be infeasible.

(3) An advance accepted for the purposes of meeting the requirements of the Act shall, subsequent to its implementation, be subject to evaluation by the Developer or by outside groups, and to arrangements satisfactory to the Secretary for dissemination of information about the advance.

(d) *Financial assistance for advances.* (1) Where substantial costs for studies and implementation are involved, the Project shall include a plan financing of such costs by the Developer, by outside sources or by a combination thereof. Commitments of financing by the Developer shall be subject to overall economic feasibility requirements as set forth in § 720.23.

(2) It is the policy of the Secretary to assist the Developer, within budgetary constraints, in instituting or applying advances approved by the Secretary.

§ 720.21 Capacity and ownership of the developer.

The Developer shall possess the financial, technical, and administrative ability which demonstrates its capacity to carry out the Project with reasonable assurance of its completion in accordance with the Project Agreement. Such capacity shall in part be determined by the criteria and standards set forth in this section and elsewhere in these Regulations.

(a) *Management structure.* The Developer shall establish and maintain throughout the development period a management structure and system which, in the judgment of the Secretary, is appropriate to:

(1) The size and complexity of the Project;

(2) The amount of the debt obligations to be guaranteed or other assistance given;

(3) The current development status of the Project;

(4) The purposes, criteria, requirements and standards of the Act and the Regulations;

(5) Project Documents; and

(6) Principles of sound business practice.

Such plan shall identify the various components of its operation, including kinds and levels of expertise required over the development period. Consideration shall be given to projections of overhead costs, contingencies, and realistic schedules (especially during the initial stage of development) in establishing the workload and expertise needed for efficient and economical management during each stage of development.

(b) *Management system.* The management system shall include the following components:

(1) Establishment of goals and functions to be performed in planning, development and management of the new community;

(2) An identification of the roles to be performed in carrying out these functions by the Developer and by any entities outside the immediate control of the Developer, such as Local Public Bodies or affiliates and Subsidiaries;

(3) Planning and programming techniques, including a sound mechanism for long-range planning, which will permit proper phasing of diverse activities and the ability to adapt to changing requirements of the development process;

(4) A mechanism for measuring results against established criteria and standards;

(5) Provision of accurate and current data and analysis of changing conditions, and the utilization of this data in further decision-making; and

(6) Establishment of management control mechanisms to execute the program in an efficient manner.

(c) *Personnel resources.* (1) The Developer shall have, either in its own organization or available to it, personnel with the requisite managerial, administrative and technical ability and background appropriate to the implementation of the management structure and system as set forth under paragraphs (a) and (b) of this section. Proposed use of consultants, by number and profession, as a supplement to the Developer's management organization, shall be identified by development stage and cost.

(2) Prior to acceptance of the offer of commitment (see § 720.56), person(s) approved by the Secretary, who shall exercise the responsibilities of a chief executive officer for the Project shall be under contract to the Developer. Such approval shall be based upon consideration of background and experience indicating managerial ability and the probity of such individuals as determined pursuant to paragraph (d)(2) of this section.

(d) *Probity of owners and management staff.* (1) *Owners.* Prior to acceptance of the offer of commitment, the Developer shall submit such information as the Secretary shall require in order to conduct a background investigation of the stockholders, partners and any other Person having a direct or indirect ownership interest in the Developer. In the event that the results of any such investigation are adverse as to the probity of any such Person, the Secretary reserves the right to disapprove any such stockholder, partner or other Person. No sale, transfer, pledge or other disposition of all or any portion of a Private Developer's stock or other equity interest may be made without the approval of the Secretary. No sale, transfer, pledge or other disposition of the stock or other equity interest of any entity which directly or indirectly owns or controls any interest in a Private Developer may be made without the approval of the Secretary where either a change in control of the Private Developer may result or the transaction involves a Person or entity whom the Secretary deems to have a substantial relationship to the Project.

(2) *Management staff.* Prior to acceptance of the offer of commitment (and at any time thereafter that a change is proposed), the Developer shall submit such information as the Secretary may require in order to conduct a background investigation of the officers, directors, managing or general partners, and any other individual having a management function with respect to the Developer. In the event that the results of any such investigation are, in the judgment of the Secretary, adverse as to the probity of such Person, the Secretary reserves the right to disapprove any such Person.

§ 720.22 Equal opportunity.

(a) *General requirement.* A Project must be specifically designed and implemented so as to assure compliance with all requirements imposed by or pursuant to any applicable statute, executive order or regulation (as they have been or may be amended from time to time) concerning discrimination on the basis of race, creed, color, religion, sex, or national origin. These include Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601–3619); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)); the Civil Rights Acts of 1866 and 1870 (42 U.S.C. 1981–2); Executive Order 11063 (27 FR 11527); and Executive Order 11625 (36 FR 19967); Executive Order 11246 (30 FR 12319) and Executive Order 11375 (32 FR 14303). These authorities apply variously so as to prohibit discrimination and promote equal opportunity in the use, sale, lease or other disposition of land, housing, or facilities in the Project and in employment in, or in the development of, the Project. Pursuant to the authority in each executive department to issue regulations and take other appropriate action under Executive Order 11063 with respect to its programs, discrimination on the basis of race, color, creed, or national origin in the use, sale, lease or other disposition of any land developed for residential or related uses with assistance under the Act is hereby specifically made a violation of that order enforceable under the terms of section 302 of the order after due notice and hearing. A Project must also be specifically designed and implemented to comply with all requirements imposed by or pursuant to section 3 of the Housing and Ubran Development Act of 1968 (12 U.S.C. 1701(u)), as it may be amended from time to time, regarding job and business opportunities for Project area residents.

(b) *Affirmative action program.* In furtherance of paragraph (a) of this section, and as a condition of the granting or continuation of assistance by the Secretary, the Developer shall formulate and implement an affirmative action program. Such program shall be in addition to any other requirements imposed by or pursuant to the authorities cited in paragraph (a) of this section. Such program shall include: (1) Planning and construction activities as well as marketing practices which provide a full range of individual housing choice and encourage members of various ethnic and racial minorities to live and work in the new community, cooperation with civil rights and civic groups, action to provide equal opportunity within the Developer's staff, and inclusion of equal opportunity provisions in pertinent contracts, subcontracts, covenants, and other documents; (2) an affirmative action program for equal employment opportunity in direct employment by the Developer and employment by contractors and subcontractors of the Developer. In addition, the Developer is encouraged to take all feasible steps to involve minority entrepreneurs in planning and development of the Project.

(c) *Monitoring of Affirmative Action Program.* The Developer shall establish methods to periodically assess the results of each portion of his affirmative action program. He shall incorporate, in a timely manner, appropriate adjustments to achieve the goals of such program.

§ 720.23 Economic feasibility and financial risk.

A Project must be determined by the Secretary to be economically feasible and to constitute an acceptable financial risk to the U.S. Government based upon consideration of the following factors:

(a) The economic potential of the Project, as measured against the criteria and other considerations described in § 720.24 for marketing land in accordance with assumptions as to prices, quantities, types, timing, and other factors specified in the plan for development of the Project;

(b) The Financial Plan for the Project prepared in accordance with § 720.25; and

(c) Other factors, including, without limitation, those set forth in § 720.26, affecting the financial risk to the United States.

§ 720.24 Economic base and growth potential.

A proposed Project must be determined by the Secretary to be likely to accomplish the marketing of land to be developed within the Project in accordance with assumptions as to prices, quantities, types, timing and other factors specified in a plan for development of the Project. Such determination shall be based upon consideration of studies and analyses included as part of the Developer's application, of the following market criteria and factors and such other information, studies and analyses as may be available to the Secretary:

(a) *Market criteria.* The size of the potential market for various categories of land use in the area must be determined, together with expected capture rates for the proposed Project, based upon consideration of the Project relative to other existing and probable development in the area. For each major land use category, consideration shall be given to the following factors:

(1) *Residential land.* (i) *Demand factors.* Historic absorption rates of residential units by type and price range, the current status and the historic and projected growth rate for each of the following market indicators: population, household size, employment, family income, personal income, housing preference and demand by type of units, including subsidized sale and rental housing units.

(ii) *Supply factors.* With respect to probable as well as existing supply: sales of residential land comparable as to the location, price per unit and per acre by type of dwelling unit; size, accessibility, and availabiltiy of other residential sites; utilities and amenities of other residential sites compared with the proposed Project; amount and condition of the housing stock by resident income; housing permits and starts; rental unit by

type and monthly rent; and vacancy rates by type.

(2) *Industrial land.* (i) *Demand factors.* With respect to the market area for industrial land, which may constitute a larger area than that identified for the residential market: employment growth rates by types of industries; sizes and types of major industries located in the market area; capital investment and value added to the local tax base by these industries; the historic absorption rate of land zoned industrial; the size, growth rate and wage rates of the major industrial employers; availability of raw materials, transportation and markets for products; prevailing tax policies in the area, and other relevant factors.

(ii) *Supply factors.* With respect to probable as well as existing supply: availability of industrial sites in the market area by location and size; comparable historical sales and rental activity, including sale price per acre and per square foot rental rates; and availability of utilities and amenities.

(3) *Commercial land.* (i) *Demand factors.* Projections of retail sales to expected residents of the new community; identification of population in the trade area by driving time intervals, income profile and area consumer expenditure patterns; conversion of retail sales projections into space and land requirements; identification of existing and proposed commercial developments; capital investment by commercial center; and historic absorption rates of land zoned for commercial use.

(ii) *Supply factors.* Comparable sales and rental data and availability of sites outside the Project but within the trade area; generally the same type of information indicated in paragraph (a)(2)(ii) of this section.

(4) *Office land.* (i) *Demand factors.* Size of the market area; projections of white collar employment; space requirements per employee, industry or service; identification of existing and proposed office building centers; capital investment for office building; absorption rates of land zoned for office use; and historic vacancy rates.

(ii) *Supply factors.* Comparable sales and rental data and availability of sites outside the Project but within the market area; generally the same type of information indicated in paragraph (a)(2)(ii) of this section.

(b) *Non-market criteria.* In addition to the market criteria specified in paragraph (a) of this section, the following special criteria shall be considered in determining the economic base or potential for economic growth in the indicated types of Projects.

(1) *Free-standing and growth center projects.* In the case of free-standing and small town growth centers, as described in § 720.12(b)(3), prior to the issuance of guarantees there shall be reasonable assurance, in the form of commitments or otherwise from industry and/or governments, that major employment generators will locate within the Project at an early development stage specified in the plan for development of the Project.

(2) *New-towns-in-town.* In the case of new-towns-in-town; as described in § 720.12(b)(3), prior to issuance of guarantees, there shall be such local government commitments of funds and other support for basic infrastructure and other municipal services as may be necessary to provide reasonable assurance of successful development of the Project.

§ 720.25 Financial plan.

(a) *General requirement.* A Project must be developed according to a Financial Plan which sets forth, in a format prescribed by the Secretary, the projected revenues and costs of the Developer, any community association as may be established pursuant to § 720.14(d), and each Subsidiary over the development period. The Financial Plan must demonstrate compliance with all of the criteria and standards of these Regulations and shall contain or provide for:

(1) An optimal financial strategy based upon consideration of alternative assumptions with regard to costs, market demand, interest rates and other factors critical to the Project;

(2) Projections of the sources and uses of cash for each year of the development period (based upon the planned development of the Project), projections of the financial position statements and statements of operations for short-term development and an analysis of the escrow funds and security requirements;

(3) Achievement of a break-even point or a positive cash surplus after all costs, debt and borrowings have been repaid and assurance that investments in the land will be recovered by the end of the development period;

(4) An appropriate allowance for contingencies;

(5) Separate financial projections for all community associations and Subsidiaries which demonstrate the ability of such entities to attain financial self-sufficiency, based upon the development of regular and recurrent revenue.

All assumptions of the Financial Plan shall be set forth with specificity and fully documented in a format prescribed by the Secretary.

(b) *Revenues.* Revenues shall include funds derived from land sales, and all other sources. Land sales revenues shall be reflected in a marketing schedule which is based upon the criteria and factors set forth in § 720.24. Projected land sales revenues may assume reasonable increases in property value due to population pressures and and growth of the Project. Revenues should reflect actual cash receipts expected in any given year based on actual and anticipated contracts of sale and financing arrangements. Other sources of revenues may include, but shall not be limited to, rebates from utility companies, sale of land not within the Project, income from the sale of timber, minerals and agricultural products, and rental income from the use of Project property.

(c) *Costs.* Costs shall include the estimated Actual Cost of Land Acquisition and Land Development. Costs of the Developer other than Actual Cost shall be identified as being for Non-Project Activities and must be specifically approved by the Secretary. The costs of Land Acquisition shall be based on the terms of actual purchase agreements and options as well as on reasonable terms of contracts for anticipated land purchases. Actual Cost of Land Development shall be supported by detailed engineering estimates or recent bid prices for comparable work in the area where the Project is located. Actual Cost shall also include the cost of providing those public facilities and municipal services normally funded by local government or otherwise which are consistent with the plan for development of the Project and which must be or are reasonably expected to be funded by the Developer, any community association, or any Subsidiary. The costs of such facilities and services shall be supported, among other things, by a projection of the total cost of providing such public facilities and services.

(d) *Determination of eligibility.* In those instances where the Developer has requested only a Determination of Eligibility, the determination that the Project is economically feasible will be based on an analysis of the Financial Plan which takes into consideration any financial resources or support to be provided. In such cases, the Financial Plan need not include the extensive documentation required for a loan guarantee. In lieu thereof, the Secretary will specify the type of documentation needed for each Project.

§ 720.26 Other financial review criteria.

The following other financial review criteria must be met.

(a) *Experience.* The Developer and its principals must be determined by the Secretary to have the experience appropriate to develop the Project based upon consideration of credit ratings, earnings history, previous and current lender and investor relationships and growth prospects of all other ventures sponsored by the Developer.

(b) *Borrowings.* The Developer shall demonstrate (1) its ability to obtain any necessary borrowings within the next two-year period, and (2) the extent to which it is likely to obtain any necessary borrowings beyond such two-year period.

(c) *Equity.* There shall be an equity contribution (including loans to the Developer that are subordinated, both as to principal and interest, to the Government guaranteed debt obligations) in an amount sufficient to assure Project liquidity and to assure that the Developer and its principals have sufficient financial incentive in the Project to complete it in accordance with the Development Plan. The amount of equity required in relation to the total amount of funds needed for development of the project shall be determined by the Secretary.

(d) *Agreement and compliance.* The Developer and other Persons shall, as

appropriate, comply with the provisions of § 720.27 through § 720.34.

(e) *Strategic risk factors.* The Secretary must be satisfied with certain strategic risk factors including, without limitation: Completeness of land assembly, competitive location of large parcels of land under single ownership or control; dependence of the Project on an interstate highway or other major public improvement that is not yet in place; the structure of local government; diversity and favorable recent history of local building industry; availability and interest of successful small residential developers; and availability of local sources or outlets of mortgage credit for homeowners.

(f) *Developer's statement of estimated disbursements.* Prior to the issuance of guaranteed debt obligation, the Secretary must approve the Developer's statement of estimated disbursements from the Escrow Account.

§ 720.27 Amount of Federal guarantee.

(a) *General formula and limitations.* The maximum outstanding indebtedness which may be guaranteed under the Act for any Project shall be:

(1) *Public developer.* In the case of a Public Developer, an amount not exceeding 100 percent of the sum of the Secretary's estimate of the value of the real property before development and the estimated Actual Cost of the Land Development, or

(2) *Private developer.* In the case of a Private Developer, an amount not exceeding the sum of 80 percent of the Secretary's estimate of the value of the real property before development and 90 percent of the estimated Actual Cost of the Land Development. In no event shall the principal amount of the outstanding debt obligations guaranteed under the Act with respect to a single Project exceed $50 million. No debt obligation of any Public Developer shall be guaranteed under the Act if the income from such obligation is exempt from Federal taxation.

(b) *Future transactions.* The value of land which is yet to be acquired and Actual Costs of Land Development which are yet to be incurred at the time an offer of commitment is made may be included as a basis for determining the maximum commitment.

(c) *Prior transactions.* To assist the Secretary in the determination of the value of the real property before development, the Developer shall notify the Secretary of all transactions involved in the determination of the amount of debt obligations to be guaranteed which would otherwise be classified as a transaction with an Interested Person as defined in § 740.32(m).

§ 720.28 Debt obligations.

(a) *Kind of obligations.* The debt obligations guaranteed under the Act may include any bond, debenture, or other obligation issued by a Developer for public or private sale.

(b) *Use of Federal Financing Bank.* The debt obligations guaranteed shall be sold to the Federal Financing Bank unless another disposition is approved by the Secretary.

(c) *Terms of guaranteed debt obligations.* Rates of interest and any other charges relating to guaranteed debt obligations, and the repayment, maturity, and redemption privilege provisions of such obligations shall be approved by the Secretary.

§ 720.29 Security for the guarantee.

(a) *General requirements.* All obligations guaranteed under the Act must contain, or be issued subject to, such provisions relating to the security interests of the United States as may be required by the Secretary. These shall include general provisions under which the United States acquires rights of subrogation and such special provisions relating to the security of the United States in the specific property, including real property being acquired and developed or other property satisfactory to the Secretary. The value of the real property which is security, plus other elements of security, shall at all times equal or exceed a prescribed percentage of the principal amount of outstanding guaranteed debt obligations.

(b) *First lien on real property.* Unless otherwise approved by the Secretary, the security of the United States shall include a first lien on the real property of the Developer. Such lien shall constitute security for the sole benefit of the Secretary. Upon or before the issuance of obligations guaranteed under the Act, the lien shall be created in favor of the Secretary and/or the Trustee. The Indenture and any other instruments creating such lien must be satisfactory to the Secretary.

(c) *Release of real property.* The Indenture shall include provisions for the release of real property from the lien as such property is sold or otherwise disposed of for Project purposes in accordance with such schedules and procedures as the Secretary may require to assure that upon the sale or other disposition of such property (1) adequate release payments will be applied to the redemption of the guaranteed debt obligations or paid into an appropriate fund, or (2) other appropriate action will be taken or assurances received as may be required to protect the security interests of the United States.

(d) *Real property valuation.* The real property in security shall be valued initially and may be revalued periodically as required by the Secretary. During the period between the initial valuation and any revaluations, the security value of the real property is assumed to increase by the amount of certain Actual Costs of Land Acquisition and Land Development certified to the Secretary as set forth in § 720.30(c). Prior to the initial valuation and each revaluation the Secretary shall undertake or commission an appraisal. An independent appraisal may also be furnished by the Developer at an appropriate time, as determined by the Secretary. Appraisals, regardless of source, are subject to review, modification, and acceptance by the Secretary.

(1) *Initial valuation.* An initial valuation of the real property which is security shall be made upon the first issuance of the guaranteed debt obligations. Appraisals must be prepared in strict accordance with the latest instructions issued by the Secretary. If the Secretary finds that any factor (including zoning), which has been included in the value estimated by the appraiser has been influenced by the expectation of the Federal guarantee of debt obligations, the Secretary will adjust such value estimate to exclude such influence.

(2) *Revaluations.* Revaluation of real property which is security shall be based on the Secretary's review of appraisals prepared in accordance with the latest instructions issued by the Secretary.

(e) *Personal property.* Personal property constituting security shall consist of the Escrow Account and any other personal property acceptable to the Secretary.

§ 720.30 Escrow account.

(a) *Administration.* The Escrow Account shall be held and administered by the Trustee as security for the sole benefit of the United States. Funds in the Escrow Account may be invested by the Trustee as provided in the Project Documents.

(b) *Maximum disbursement amounts.* (1) *Initial issuance.* Upon the initial issuance of the guaranteed debt obligations the amount approved for disbursement shall be 80 percent of the Secretary's valuation of the real property (less the value of any permitted encumbrances) subject to the lien of the Indenture and approved Actual Costs as determined by the Secretary.

(2) *Subsequent to initial issuance.* Subsequent to the initial issuance of guaranteed debt obligations for Projects approved under the Act, the amount endorsed shall be 80 percent of the Actual Cost of Land Acquisition and 90 percent of the Actual Cost of Land Development. For Projects approved under the New Communities Act of 1968, the amount endorsed shall be 75 percent of the Actual Cost of Land Acquisition and 90 percent of the Actual Cost of Land Development. Subject to paragraphs (c) and (d) of this section the Trustee shall, upon request of the Developer, disburse the amounts so endorsed to the Developer.

(c) *Disbursement procedures.* In order to obtain the release of funds in the Escrow Account the Developer shall certify to the Secretary, in a form satisfactory to him, Actual Cost incurred subsequent to the initial issuance of the guaranteed debt obligations and shall submit with such certification such supporting documentation as the Secretary may require to assure that such costs have actually been incurred and are eligible for endorsement. The Secretary shall review such certifications and, if he determines that such costs (or a portion thereof) have actually been incurred and are eligible for assistance under the Act, shall furnish an endorsement in whole or in part to the Developer.

(d) *Limitation on disbursements.* Without the prior written consent of the Secretary, no funds may be disbursed by the Trustee unless the Developer presents its certificate stating that no default exists under the Project Documents. Further limitations on disbursements shall be set forth in the Project Documents. Such limitations shall relate, but not be limited to: the progress of work completed, the maintenance by the Developer of required levels of equity and working capital, the possibility of overruns or unanticipated costs, the extent to which allowable land values exceed costs, or the amount of excess security available, and such other factors as the Secretary may deem relevant.

§ 720.31 Terms of guarantee.

(a) *Nature and scope.* The full faith and credit of the United States is pledged to the payment of all guarantees made under the Act with respect to principal, interest, and any redemption premiums. The guarantee extends to interest accruing between the date of default under a guaranteed debt obligation and the payment in full of the amount in respect of which the default occurred. Any such guarantee made by the Secretary shall be conclusive evidence of eligibility of the debt obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed debt obligation.

(b) *Claims and payment upon default.* Upon default by a Developer in payment of interest or premium on, or principal of, a debt obligation guaranteed under the Act, the first recourse of the holder shall be a claim under the guarantee for payment of defaulted interest, premium, or principal. Upon payment thereof in accordance with the terms of such guarantee, the holder shall have no further recourse. All payments thereunder shall be made in cash from the Revolving Fund.

§ 720.32 Other financial standards.

The Developer shall comply with the following financial standards except as otherwise approved by the Secretary. For the purpose of this section, "the Developer" shall be deemed to include any Restricted Affiliate. The Developer shall comply with the following standards:

(a) *Financial tests.* The Developer shall comply with financial tests designed by the Secretary for the purpose of assuring the Developer's ability to meet its liabilities.

(b) *Maintenance of good standing and properties.* The Developer and any Subsidiary shall maintain its legal existence, pay all taxes, assessments and governmental charges and all claims for labor, materials and supplies which might result in property encumbrance, maintain its properties in good repair, and service and preserve prior security interests on property which is security for the Secretary's guarantee.

(c) *Insurance.* The Developer shall maintain insurance coverage in form and amount satisfactory to the Secretary.

(d) *Condemnation.* In the event that any property subject to the lien of the Indenture be taken by eminent domain, any award for the property so taken shall be paid to the Trustee to be held as security for the guarantee.

(e) *Non-project activities.* The Developer shall not engage in Non-Project Activities.

(f) *Limitation on debt.* The Developer shall not create, incur, assume, or suffer to exist any debt other than: Debt evidenced by the guaranteed debt obligations; debt subject to an agreement subordinating such debt to both principal and interest on the Government-guaranteed debt obligations; debt, if any, secured by permitted encumbrances; and other debt specifically permitted in writing by the Secretary.

(g) *Sale or acquisition of assets; merger.* The Developer shall not enter into any merger or consolidation or acquire all or substantially all the assets of any Person, or sell, lease or otherwise dispose of any substantial portion of its assets except in the ordinary course of business.

(h) *Extension of credit.* The Developer shall not lend to any Person except as provided in the Project Documents.

(i) *Investments of developer.* The Developer shall not purchase, acquire or hold obligations or stock of, or any interest in, any Person other than as provided in the Project Documents.

(j) *Sale and leaseback.* The Developer shall not directly or indirectly enter into any arrangements whereby the Developer shall sell or transfer any part of its assets and thereupon, or within one year thereafter, lease the assets so sold or transferred.

(k) *Leases.* The Developer shall not enter into any lease of real property except as provided in the Project Documents.

(l) *Change in form or control.* No sale, transfer, pledge or other disposition of the stock or other equity which directly or indirectly represents ownership or control of any interest in a Developer or Subsidiary shall be made without the written approval of the Secretary.

(m) *Transactions with interested persons.* The Developer shall not enter into any transaction directly or indirectly involving the transfer of money or other items of value with any "Interested Person," except as authorized in writing by the Secretary. "Interested Person" means any:

(1) Person who is a limited or general partner of the Developer;

(2) Person who is an officer or director of (i) the Developer or (ii) a limited or general partner of the Developer;

(3) Stockholder of the Developer;

(4) Person owning or controlling any interest in the profits or voting rights of the Developer;

(5) Person directly or indirectly owning or controlling a 3.5 percent or greater interest in any Person described in paragraphs (m) (1) through (4) of this section, but excluding stockholders of an entity which directly or indirectly owns the Developer, and whose stock is publicly traded, as to whom the Project Documents' definition of Interested Person shall apply;

(6) Person of which a 10 percent or greater interest in profits or voting rights is directly or indirectly owned or controlled by a Person described in paragraphs (m) (1) through (4) this section or by the Developer;

(7) Person owning or having an interest in subordinated debt of the Developer.

For the purposes of this definition, any direct or indirect ownership or control held by a Person's spouse or by any parent, child, grandchild, brother or sister of such Person or such Person's spouse shall be attributed to such Person.

(n) *Reimbursement of payments under guarantees; interest on delinquent payments.* Immediately upon the payment by the United States of any amount under any guarantee, the Developer shall pay to the Secretary the amount of such guarantee payment, with interest at the rate borne by the guaranteed debt obligations with respect to which such payment has been made from the date of such guarantee payment until reimbursement thereof to the Secretary in full. The Developer shall pay to the Secretary on demand the amount of any overdue annual fee (as specified in § 720.91(e) due the Secretary, with interest at the highest rate borne by any of the underlying debt obligations from the due date until repayment in full.

(o) *Accounting systems and records.* The Developer shall keep and shall cause each Subsidiary to keep true and complete books of records and accounts satisfactory to the Secretary. The Developer and each Subsidiary shall maintain an accounting system which shall include complete books of original entry supported by adequately detailed journals and underlying source documents maintained in accordance with sound management practices. The accounting system shall also include a system of internal accounting controls satisfactory to the Secretary. The Developer and each Subsidiary shall use the same fiscal year.

(p) *Financial reporting and monitoring.* The Developer shall submit to the Secretary, in accordance with a schedule and in a format prescribed by the Secretary, operating and budget plans, financial reports and financial statements that show the financial performance and financial condition of the Developer, each Subsidiary, and each community association. The Developer shall submit annually financial statements that have been audited by an independent public accountant who has been approved by the Secretary.

(q) *Agreement of restricted affiliates.* The Developer shall cause each Restricted Affiliate to agree to financial, record, and other covenants satisfactory to the Secretary.

§ 720.33 Accounting standards and audit.

(a) *Financial statement standards.* All financial statements and financial test calculations shall be prepared in ac-

cordance with generally accepted accounting principles, and examinations required shall be conducted in accordance with generally accepted auditing standards. The terms "generally accepted accounting principles" and "generally accepted auditing standards" refer to the principles, standards, methods, and practices of accounting and auditing sanctioned by the American Institute of Certified Public Accountants, the Financial Accounting Standards Board or any successor thereof, as evidenced in its Statement of Auditing Standards and Opinion, bulletins, and circulars published periodically by it or by authoritative bodies designated by it, and applied on a consistent basis. The form, frequency, and scope of the financial statements and reports shall conform to the requirements of the Secretary.

(b) *Auditing by the government.* Upon request, all records and all agreements relevant thereto shall be made available for examination by the Secretary. Insofar as such records and agreements relate to any grants, loans, or guarantees from the Government, the financial transactions may also be audited by the General Accounting Office (GAO under rules and regulations issued by the Comptroller General of the United States. The Secretary and representatives of the Secretary and GAO shall have access to all books, accounts, records, files, and all other papers, materials, or property belonging to or in use by such recipients of Federal assistance which pertain to such financial transactions and are necessary to facilitate the audit. Such documents shall be retained by recipients of Federal assistance for audit purposes until the Secretary notifies such recipients in writing that they are no longer required.

§ 720.34 Other requirements.

(a) *Labor standards.* (1) All laborers and mechanics employed by the Developer or by contractors or subcontractors in Land Development assisted under this Part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a et seq.) and as it may be amended from time to time. No assistance shall be extended under this part for any Project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work involved in Land Development within the Project. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan No. 14 of 1950 (5 U.S.C. p. 242) and 40 U.S.C. 276c. Proceeds of debt obligations guaranteed under this Part may not be disbursed to a Developer with respect to Land Development construction unless these labor standards have been complied with to the satisfaction of the Secretary.

(2) All construction contracts and subcontracts for Land Development assisted under this part shall contain labor standards clauses in furtherance of the Act and of the applicable regulations of the Secretary of Labor as they may be amended from time to time. The Developer shall comply with the provisions of said labor standards clauses. The regulations of the Secretary and the Secretary of Labor with respect to ineligible contractors shall be observed by the Developer. The Developer shall furnish such certification for filing as necessary to assure compliance with the provisions of said labor standards clauses, be filed as necessary to assure compliance with the provisions of said labor standards clauses.

(b) *Small builders.* The Developer shall, in a manner satisfactory to the Secretary, encourage and help maintain a diversified, local homebuilding industry by making an adequate supply of building sites available to local and small builders and contractors at competitive prices and terms.

(c) *Work safety and health standards.* No laborer or mechanic employed by the Developer or by contractors or subcontractors in Land Development assisted under this part shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation pursuant to Section 107 of the Contract Work Hours and Safety Standards Act (52 U.S.C. 333).

(d) *Ineligible contractors.* No contract shall be entered into with a contractor or subcontractor where the name of such contractor or subcontractor or their affiliate's name appears on the Consolidated List of Debarred, Suspended and Ineligible Contractors and Grantees established by the Secretary pursuant to the regulations contained in 24 CFR, Chapter 1, Part 24. Proceeds of debt obligations guaranteed under this Part may not be disbursed to a Developer with respect to Land Development performed by a contractor or subcontractor whose name or whose affiliate's name appears on such list.

(e) *Interstate land sales.* The Developer shall comply with the regulations issued by the Office of Interstate Land Sales (24 CFR, Chapter IX).

(f) *Relocation.* When relocation of elxsting residents and businesses during the course of the development of a Project becomes necessary, the relocation program shall be carried out in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1899; 42 U.S.C. 4601 et seq.), and other applicable Federal, State and local laws and regulations.

(g) *Regulation of utilities.* Utilities or other public facilities which are established to provide services to a Project and which are operated by a non-public body, shall be regulated as to rates and charges, capital structure, rate of return, and methods of operation by a public body or by other means satisfactory to the Secretary.

Subpart C—Procedures for Application, Commitment and Project Agreement

§ 720.50 Applicability of this Subpart.

This Subpart describes the procedures for applying for initial guarantee assistance, a Determination of Eligibility, and additional guarantee assistance.

§ 720.51 Inquiry.

After acquainting themselves with the Act and the Regulations, prospective applicants for an initial guarantee or a Determination of Eligibility are encouraged to meet with the General Manager or his designated representatives to discuss their proposals and obtain an understanding of the goals and requirements of the program.

§ 720.52 Pre-application.

(a) *Purpose.* The pre-application procedures for initial guarantee assistance and for a Determination of Eligibility under the Act are designed to provide an initial screening, prior to submission of detailed plans by the Developer. This will permit an initial determination as to whether the Developer and the selected site have the potential to comply with the requirements of the Act, these Regulations and other policies and priorities of the Secretary and the Board. It will also provide an opportunity to work with the Developer from the earliest stages of Project planning.

(b) *Submission.* The first formal step by an applicant seeking assistance under the Act, is the submission of a pre-application to the General Manager, New Community Development Corporation, U.S. Department of Housing and Urban Development, Washington, D.C. 20410. The pre-application should deal in summary form with the criteria for Project evaluation set forth in Subpart B of this Part and should contain evidence that initial notice has been submitted (in accordance with § 720.53) to each appropriate clearinghouse for review and comment.

(c) *Review and action.* The General Manager, upon completion of his review of each pre-application, shall inform the applicant in writing of his findings and:

(1) State his willingness to accept a full application where the pre-application appears to meet and be consistent with the program criteria and priorities mentioned above;

(2) Discourage an application, listing the reasons therefore, where the proposal does not appear to be consistent with program criteria and priorities; or

(3) Require the resolution of certain problems and issues before proceeding with an application.

(d) *Significance of action.* Acceptance of or indication of willingness to accept an application does not constitute or imply an assurance of eventual approval of such an application.

(e) *Resubmission.* If the applicant is not encouraged to submit an application, but nevertheless believes that the Project may qualify under the Act, he may resubmit the pre-application for further

review with such changes as, in his opinion, will overcome the initial objections of the General Manager.

§ 720.53 Compliance with OMB Circular A–95.

(a) *Applicability and purpose.* The provision of initial guarantee assistance under the Act is subject to compliance with the provisions of Attachment A, Part I of Circular A–95 issued by the Office of Management nad Budget (41 FR 2052).

(1) A major purpose of the Circular is to secure the assistance of State and areawide planning and development clearinghouses in the coordination of proposals for Federally assisted projects and programs with State, areawide and local planning for orderly growth and development.

(2) To achieve this objective, the Circular establishes a system for review and comment by appropriate State, regional and local agencies of Projects for which Federal assistance is sought and for adequate consideration of such comments by the applicant prior to submission of an application and by the concerned Federal agency prior to taking action on such application.

(b) *General procedures.* Detailed instructions for compliance will be provided at the time of inquiry (§ 720.51). In general, the following procedures shall be adhered to with respect to Projects for which assistance is sought under the Act.

(1) *Notification.* (i) At the earliest possible time, but no later than the submission of the pre-application (§ 720.52) to the General Manager, the applicant is required to provide notification (including a summary description of the Project as specified in Circular A–95) of intent to apply for assistance under the Act to the clearinghouse of the State and, if one exists, of the region in which the Project is to be located. Each clearinghouse under Circular A–95 has up to 30 days after receipt of the notification to transmit to the applicant any comments or recommendations which it or its constituent agencies may have with respect to the Project.

(ii) The applicant shall forward copies of any communications received from each clearinghouse, together with a summary of the nature and status of oral consultations, if any, with each clearinghouse, to the General Manager. No final action on a pre-application proposal shall be taken until the General Manager has received either (A) copies of all written communications and a summary of all oral communications with each clearinghouse following the notification or (B) a statement from the applicant that at least 30 days have elapsed since the filing of notification with each appropriate clearinghouse and that no response therefrom has been received.

(2) *Application review and comment.* (i) Before submission to the General Manager, the applicant shall send a copy of the proposed application to each clearinghouse for review and comment. Each clearinghouse under Circular A–95 has up to 30 days after receipt in which to review the completed application and to transmit to the applicant any comment or recommendations the clearinghouse or its constituent agencies may have. The applicant shall give appropriate consideration to such comments and recommendations, including such modification of the application as may, in the applicant's judgment, be appropriate. If substantive changes in the application are made at this point, the revised proposed application shall be submitted to each clearinghouse for further review and comment.

(ii) Copies of any comments and recommendations made by or through each clearinghouse, together with a statement that such comments have been considered, shall be appended to the application submitted to the General Manager (§ 720.54). No application shall be processed by the General Manager unless it contains either (A) materials described in paragraph (b) (i) of this section above or (B) a statement from the applicant that the procedures outlined in this section have been followed and that no comments or recommendations have been received from the appropriate clearinghouses.

(c) *Other procedural requirements.* (1) Any substantial amendment to an application made after submission to the General Manager will, at the applicant's initiative or at the request of the General Manager, be sent by the applicant to each clearinghouse for review and comment. In such a case, the procedures set forth in paragraph (b) (2) of this section shall be followed.

(2) An application for additional guarantee assistance may, at the determination of the General Manager, require compliance with the procedures as outlined in paragraph (b) of this section.

(3) Any request for modification of the procedures set forth in this section shall be submitted in writing to the General Manager.

§ 720.54 Application for assistance.

An application for initial guarantee assistance (see § 720.59 concerning additional guarantee assistance) or for a Determination of Eligibility may be submitted to the General Manager following submission and review of pre-applications pursuant to § 720.52 and upon payment of the application charge specified in § 720.91(a). The application shall contain information, supporting documentation and analysis adequate to enable the Secretary, acting through the Corporation, to make a determination as to whether or not the Developer and the proposed Project meet the requirements of the Act, of these Regulations, and other policies of the Secretary and the Corporation. Applications shall be in a format specified in instructions issued by the General Manager and may be submitted in stages or parts so that basic obstacles to Project approval can be identified early in the application process.

§ 720.55 Compliance with National Environmental Policy Act.

(a) *Applicability and purpose.* Assistance under the Act is subject to compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (NEPA) and with issuances implementing NEPA which have been promulgated by the Council on Environmental Quality (CEQ), (40 CFR Part 1500) and by HUD (HUD Handbook 1390.1, as amended; 38 FR 19182, 39 FR 38922; 41 FR 23878). The purpose of this section is to indicate to applicants and others the effect of such compliance by the Secretary upon the procedures and timing for processing and taking action on applications for assistance under the Act. Interested individuals should consult the above-cited issuances for detailed policies and procedures.

(b) *General procedures for Compliance.* (1) *Draft environmental impact statement.* (i) *Preparation.* Based upon an analysis of the application submitted in accordance with § 720.54 and such other information as may be needed for this purpose, the General Manager shall prepare a draft environmental impact statement addressing the issues set forth in section 102(2)(c) of NEPA (42 U.S.C. 4332(c)) and in accordance with applicable policies, guidelines and procedures pursuant thereto. Normally draft statements will be prepared within 60 days after receipt by the General Manager of a complete application. Such time period is, however, subject to adjustment depending on the complexity of the Project, the existence of unusual environmental issues, and the adequacy of the information included in the application.

(ii) *Circulation.* After internal clearance within the Department in accordance with HUD regulations (normally up to 30 days), the draft statement will be circulated for review and comment to relevant Federal, State, and local agencies and made available to the public. The period for comment is 45 days subject to extensions of up to 15 additional days, if necessary, upon request to HUD.

(2) *Final environmental impact statement.* Based upon consideration of the comments on the draft statement and such other analyses as may have been performed, the General Manager shall prepare a final environmental impact statement. The final statement shall include a discussion of problems and objections, if any, raised by reviewing agencies and the public and a statement of the disposition of issues involved. The final statement, together with comments, shall be filed with the CEQ, sent to appropriate agencies, and made available to the public. The period for comment on the final statement is 30 days from the date of filing with the CEQ.

(3) *Offer of commitment.* For purposes of compliance with NEPA and CEQ guidelines, the "major Federal action significantly affecting the quality of the human environment" is the offer of commitment as described in § 720.56. In accordance with applicable regulations, no offer of commitment shall be made sooner than 90 days after a draft statement has been circulated, nor sooner than 30 days after the final statement has been filed with the CEQ, sent to appropriate agencies, and made available to the public.

(c) *Exceptions to compliance procedures.* Exceptions to the above procedures are permitted, under unusual circumstances, by the CEQ guidelines. Circumstances which might warrant such an exception should be brought to the attention of the General Manager by the applicant as soon as possible.

(d) *Issuance of environmental impact statement during project execution.* Any proposed change in the Development Plan of an approved Project which, in the determination of the Secretary, would constitute a "major Federal action significantly affecting the quality of the human environment" shall require circulation of an environmental impact statement. No approval of such a change shall be made until after full compliance with the review procedures of NEPA and CEQ guidelines.

§ 720.56 Commitment.

(a) *Review and action.* After review of the complete application, the Secretary shall either issue an offer of commitment, require changes in the application before an offer of commitment can be issued, or deny the application.

(b) *Offer of commitment.* (1) If the General Manager's determination referred to in § 720.54 is favorable to the applicant, the Secretary (acting through the Corporation) may address a letter to the applicant stating, in effect, that based upon the information contained in the applicant's preapplication and application and any other information which may have been reviewed by the Secretary, the Secretary is prepared to enter into a Project Agreement regarding (i) a Determination of Eligibility, or (ii) the guarantee of a specified maximum principal amount of debt obligations to be issued by the Developer. Such offer shall be subject to approval by the Secretary of:

(2) The initial investors (in the case of a private sale of such obligations) or the terms and conditions of the underwriting (in the case of a public sale of such obligations) if the debt obligations are not sold to the Federal Financing Bank (§ 720.28(b));

(3) The rate of interest to be borne by such obligations or the formula by which such rate shall be determined if such obligations are not purchased by the Federal Financing Bank;

(4) The repayment and maturity provisions of such obligations;

(5) The specific measures for the protection of the security interests of the United States, and release of liens, and payment of taxes;

(6) All other terms and conditions of the financing arrangements which affect the interests of the United States; and

(7) Such further conditions as the Secretary may prescribe.

(c) *Acceptance of offer of commitment.* The offer of commitment shall expire 120 days after the issuance thereof unless accepted by the applicant during such period by payment of the commitment charge specified in § 720.91(b) and by meeting such conditions to acceptance as the Secretary may impose. The Secretary may in his discretion extend the expiration date of the offer of commitment. Within 120 days after the expiration of such offer of commitment, the applicant may request in writing to the Secretary accompanied by tender of the commitment charge and the reopening charge as specified in § 720.91 (b) and (c), that the offer be reopened. If the Secretary in his discretion approves such a request, the offer may be accepted by the applicant. An accepted offer of commitment shall remain effective as a commitment to enter into a Project Agreement pursuant to § 720.57 for six (6) months, at which time the commitment shall expire unless the applicant has taken all steps that the Secretary determines to be required under this Part as a prerequisite to the execution of such Project Agreement or unless such six (6) month period is extended at the discretion of the Secretary.

§ 720.57 Project agreement and other agreements.

(a) *Project Agreement.* Following acceptance of the offer of commitment by the applicant (§ 720.56(c)), and before or simultaneously with the making of any guarantee or Determination of Eligibility, the Developer shall be required to enter into a Project Agreement satisfactory to the Secretary. The Project Agreement shall set forth the understandings or the Secretary and the Developer with respect to implementation of the entire Project during the development period. The Project Agreement shall also set forth the Developer's agreement to carry out the Project in accordance with application documents and other information and plans, as approved or deemed relevant by the Secretary, and the Secretary, and the Secretary's agreement to guarantee debt obligations of the Developer issue pursuant to those plans, subject to the limitations set forth in the Act, these Regulations and the Project Agreement. The Project Agreement (or a related agreement) shall further include:

(1) An express covenant to the effect that the United States' interest in the Project is not limited to its financial interest, but extends to accomplishment of the public purposes of the Act;

(2) A Development Plan setting forth the objectives, plans and undertakings of the Developer over specific time periods to assure the Secretary of compliance with the purposes of the Act and with these Regulations as they may be amended during the development period and to protect the Secretary's financial interest as guarantor of the debt obligations;

(3) Provisions setting forth the duties and responsibilities of the Developer with respect to parts or portions of the Project which will not be carried out by the Developer;

(4) Provisions governing the security to be provided to the United States;

(5) Provisions setting forth the rights and remedies of the United States in the event of default, including rights to seek injunctive or other equitable relief;

(6) Special provisions as necessary to assure compliance with environmental, equal opportunity, relocation, historic preservation, barrier-free, labor standards, and other particular requirements;

(7) Duties of the Developer to provide information, data, and reports as required by the Secretary; maintain adequate books and records; and permit and provide as necessary for inspections and on-site examinations by or on behalf of the Secretary; and

(8) Such other provisions as the Secretary may require as necessary or appropriate to assure adherence to the Project as approved to the provisions of the Act or of these Regulations, or to protect the United States against loss.

(b) *Other agreements.* The Developer, and such other parties as the Secretary shall designate, shall execute, simultaneously with the Project Agreement, an Indenture, and such other documents all of which shall be satisfactory to the Secretary.

§ 720.58 Issuance of guaranteed obligations.

Pursuant to the Project Agreement (§ 720.57) and upon satisfaction of the conditions specified in such Agreement, the Secretary shall endorse his guarantee upon debt obligations duly issued by the Developer pursuant to a purchase or underwriting agreement approved by the Secretary. The guarantee fee specified in § 720.91(d) shall be paid at the time any guarantee is made, subject to waiver in whole or in part, at the discretion of the Secretary, in the case of debt obligations issued by a Public Developer with respect to which the Secretary determines that the interests of the United States are protected by appropriate recourse to, or other arrangements with, State or local governments.

§ 720.59 Additional guarantee assistance.

(a) *Applications.* Developers whose debt obligations have been guaranteed under the Act in an amount less than the statutory maximum of $50,000,000 per project, may submit to the General Manager an application for additional guarantee assistance, subject to this maximum. The application shall be prepared in accordance with instructions of the General Manager who shall commence review of such application upon receipt of the application charge specified in § 720.91(a). The application shall contain sufficient information, supporting documentation, and analysis to enable the Secretary, acting through the Corporation, to make a determination as to whether or not the Developer and the Project meet the requirements of the Act, these Regulations, and other policies of the Secretary and the Corporation. Applications shall be in a form specified in instructions issued by the General Manager and may be submitted in stages or parts so that basic obstacles to issuance of an offer of commitment can be identified early in the application process.

(b) *Additional information.* In addition to consideration of the application, the Secretary, acting through the Cor-

poration, may base his determination of whether to provide additional guarantee assistance on:

(1) A revaluation of the security;

(2) The results of one or more market studies commissioned or undertaken by the Secretary;

(3) An audit report on the Project prepared by an independent certified public accountant under instructions approved by the Secretary; and

(4)Such other information, reports and analyses as the Secretary may deem appropriate.

(c) *Processing requirements.* The provisions of §§ 720.53(b), 720.55(d), 720.56 and 720.57 shall be applicable to the processing of applications for additional guarantee assistance.

§ 720.60 Projects initiated under the New Communities Act of 1968.

A Developer to whom a commitment of guarantee assistance has been offered under the New Communities Act of 1968 (42 U.S.C. 3901 et seq.) may elect, as to any outstanding portion of such commitment, to proceed under the Act and this Part or to proceed under the New Communities Act of 1968 and the regulations issued thereunder. If the Developer elects to proceed under the Act, it may do so only after the Secretary has determined that the Developer and the Project have satisfied all requirements of the Act and have met the standards and criteria of these Regulations. All preapplication proposals, applications, and materials in support thereof, submitted in respect of Projects for which no commitment has been offered under the New Communities Act of 1958, shall be deemed submitted under the Act and this Part.

Subpart D—Project Execution and Monitoring

§ 720.70 Applicability of this Subpart.

This Subpart is applicable to the monitoring of Projects which have received a guarantee or a Determination of Eligibility.

§ 720.71 Purpose.

Among the purposes of Project monitoring and evaluation are the following:

(a) To protect the security interests of the United States.

(b) To facilitate the measurement and evaluation of the progress of each Project throughout the development period in compliance with the objectives and requirements of the Act, the Regulations and the Project Documents.

(c) To provide the Secretary with the opportunity to take appropriate and timely action to resolve Project problems and to assist the Developer.

(d) To facilitate the retrieval and assembly of relevant data, statistics and information in a uniform format for the purpose of:

(1) Analyzing Project problems and experiences;

(2) Evaluating program effectiveness with respect to overall new community program goals and in conjunction with national urban growth policy;

(3) Making comparisons among Projects; and

(4) Developing basic educational and training materials for Developers, institutions and others interested and involved in new community development.

(e) To encourage evaluation and monitoring of the Project by the Developer, independent of Federal requirements, pursuant to sound management practices.

§ 720.72 Inspection.

The Secretary shall be afforded access to the Project site and to the records of the Developer and Subsidiaries at all reasonable times for purposes of inspection and monitoring of Project development.

§ 720.73 Reporting requirements.

(a) *General requirement.* To ensure that the Project is being executed in a manner consistent with the objectives of the Act and as provided in the Project Documents, the Developer shall be required to submit periodic financial and non-financial reports and projections on Project execution.

(b) *Financial reports.* Financial reports shal be prepared and submitted according to requirements of § 720.32(p) except that Projects receiving a Determination of Eligibility shall follow these requirements as adapted by the Secretary to the organizational and financial structure of the Developer and described in Project Documents.

(c) *Non-financial reports.* Non-financial reports; consisting of statistical and narrative information in a format specified by the Secretary, will be prepared and submitted as set forth in the Project Documents.

(d) *Other reports.* Other reports and studies specifically required by the Secretary are identified in Project Documents. In addition, the Developer shall furnish to the Secretary any reports or analyses reviewing or evaluating any aspect of the Project undertaken by, for or on behalf of the Developer, any Federal, State or Local Public Body or any other Person as well as such other information with respect to the Project as the Secretary may from time to time request.

(e) *Special notification requirements.* The Developer shall ascertain and give immediate notice to the Secretary of any facts or conditions which may adversely and substantially affect or impede the implementation of the Project, including: (1) Notice of litigation affecting (i) the status or powers of, or ownership interests in the Developer or any Restricted Affiliate, (ii) outstanding debt obligations, (iii) Project property or (iv) Project requirements; (2) changes in laws, ordinances or official plans related to the Project; (3) major damage to Project property; (4) work stoppages for longer than five business days on any part of the Project; (5) defaults on contracts or sub-contracts covering Project activities and (6) changes in financial condition of any shareholder, principal or partner of the Developer.

§ 720.74 Internal monitoring and evaluation.

(a) *Internal reporting and monitoring.* The Developer shall develop an internal reporting and monitoring system to meet its own management needs which is compatible with requirements and guidelines established by the Secretary.

(b) *Developer's evaluation.* The Developer shall undertake evaluation as an integral part of its monitoring activities in order to provide a continuing assessment of performance and development progress measured against approved goals and projections.

(c) *Secretary's evaluation.* The Secretary may contract with outside experts, undertake field surveys, and make use of other Federal agencies for evaluation of approved Projects.

§ 720.75 Amendments and waivers.

Development Plans, financial requirements and all other terms and conditions in the Project Agreement, Indenture and other Project Documents that do not specifically require the consent of all or a portion of the holders of the guaranteed debt obligations that were initially approved by the Secretary, may be amended or waived. All proposals by the Developer for amendments or waivers shall be submitted to the Secretary for approval. The Secretary may recommend or require such amendments, modifications or waivers as he shall deem necessary or desirable to ensure the financial viability of the Project, to protect the security interests of the United States or to otherwise preserve his ability to carry out the purposes of the Act.

§ 720.76 Remedies of the Secretary.

(a) *General.* The Secretary shall have the remedies set forth in the Project Documents, together with such other remedies as are available at law or equity.

(b) *Foreclosure.* (1) When an event occurs which, under the Project Documents, entitles the Secretary or the Trustee to foreclose against any of the real property subject to the lien of the Indenture, the Secretary or the Trustee may foreclose in full or in part, in either case regardless of whether acceleration of maturity of any outstanding guaranteed debt obligations has occurred.

(2) The Secretary shall have no obligation to accelerate the maturity of any guaranteed debt obligations regardless of the amount realized from foreclosure.

(c) *Extinguishment.* (1) The authority to extinguish granted to the Secretary under 42 U.S.C. 4527(3) and under the Project Documents may be exercised by the Secretary to extinguish rights and equities of redemption.

(2) No compensation shall be payable to any party on account of the extinguishment of any of such party's rights.

(d) *Deed in lieu of foreclosure.* The Secretary may accept a deed-in-lieu of foreclosure upon terms and conditions satisfactory to him.

Subpart E—Other Assistance

§ 720.80 Applicability of this Subpart.

This Subpart applies to assistance, other than guarantee assistacne, available under the Act and other provisions of law to assist in carrying out Projects for which guarantee assistance has been provided under the Act or for which a Determination of Eligibility has been made.

§ 720.81 Multiple forms of assistance.

The award of any form of assistance provided under this Subpart shall not in itself exclude the availability of any other form of assistance under this Subpart. The availability of any form of assistance under this Subpart is not conditioned upon action taken with respect to any other form of assistance under this Subpart.

§ 720.82 Supplementary grants.

Following are the general requirements and procedures applicable to Supplementary Grants for Public Facilities as described in § 720.1(b)(2).

(a) *Application for basic grant.* The first step in applying for a supplementary grant is the submission of an application for a grant (referred to herein as the "basic grant") under one of the statutory authorities cited in § 720.1(b)(2)(i). Such application and the subsequent processing and approval thereof must be in accordance with the requirements of the Federal agency responsible for the administration of the basic grant program. No application for a supplementary grant shall be accepted by the General Manager unless an application for the corresponding basic grant has been made.

(b) *Application for supplementary grant.* An application for a supplementary grant, in a form prescribed by the General Manager, shall only be made to the General Manager at or subsequent to the time an application for the corresponding basic grant is made. A copy of the application for the basic grant shall accompany the application for the supplementary grant.

(c) *Approval of supplementary grant.* A supplementary grant shall be approved only if:

(1) The Secretary determines that the facility proposed to be assisted by the supplmentary grant is necessary or desirable for carrying out a Project;

(2) The related basic grant has been approved by the basic granting agency; and

(3) A Project Agreement has been entered into for the Project which the facility is intended to serve.

§ 720.83 Community development block grants.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 301) authorizes grant assistance for certain community development activities, including such activities in behalf of Projects under the Act and under the New Communities Act of 1968 (42 U.S.C. 3901 et seq.). The policies and procedures applicable to this program are contained in 24 CFR, Part 570. Developers and others intending to apply for assistance under Title I in behalf of new communities should consult with the General Manager.

§ 720.84 Federally-assisted housing.

Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437(f)), authorizes the making of housing assistance payments on behalf of lower income families renting housing pursuant to the United States Housing Act of 1937 (42 U.S.C. 1430 et seq.), including such families renting such housing in new community Projects. The policies and procedures applicable to this program are contained in 24 CFR, Ch. II.

Subpart F—Fee and Charge Schedule

§ 720.90 Applicability of this Subpart.

This Subpart specifies the fees and charges which have been established for payment to HUD in connection with applications for and approval of guarantees and other assistance.

§ 720.91 Fees and charges.

(a) *Application charge.* A non-refundable application charge of $10,000 shall accompany the initial submission of all or part of an application by a Public or Private Developer for guarantee assistance or a Determination of Eligibility (§ 720.54).

(b) *Commitment charge.* A commitment charge equal to 0.5 percent of the principal amount of the guarantee commitment by the Secretary up to $30 million, and in addition, 0.1 percent of the principal amount above $30 million shall be paid by the Developer upon acceptance of an offer of commitment (§ 720.56(c)) or at the time a guarantee is made (§ 720.58), which ever occurs first. Should the Project become impractical, infeasible, or imposible to undertake prior to issuance of a guarantee, the Secretary may refund such portion of the commitment charge as he deems equitable.

(c) *Reopening charge.* A timely reopening request (§ 720.56(c)) shall be accompanied by a charge of 0.05 percent of the expired offer of commitment for guarantee assistance. An offer of commitment which has expired because of the failure to pay the commitment charge may be reopened and accepted only upon payment by the Developer of the commitment charge and the reopening charge.

(d) *Gurantee fee.* A guarantee fee equal to 3 percent of the principal amount of guaranteed debt obligations shall be paid by the Developer at the time of the issuance of such obligations, subject to waiver in whole or in part at the discretion of the Secretary in the case of debt obligations issued by a Public Developer, as provided in § 720.58.

(e) *Annual fee.* An annual fee equal to 0.5 percent of the average principal amount of guaranteed debt obligations and unused guarantee commitment, outstanding during the preceding year, shall be paid on the first anniversary date of the guarantee, until the seventh anniversary date. Thereafter an annual fee of 1 percent of the average principal amount of guaranteed debt obligations and unused guarantee commitment outstanding during the preceding year shall be paid on each subsequent anniversary date of the initial guarantee until the total debt obligation is paid in full. Annual fees may, however, be waived in whole or in part at the discretion of the Secretary.

(f) *Transfer charge.* Upon application for approval of a substitution of Developers (§ 720.21(d)), a transfer charge of 0.05 percent of the unused portion of the commitment for guarantee assistance shall be paid by either the initial Developer or the substitute Developer.

Issued at Washington, D.C. August 18, 1976.

JOHN B. RHINELANDER,
Under Secretary of Housing and Urban Development.

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WEDNESDAY, AUGUST 25, 1976



PART IV:

FEDERAL ENERGY ADMINISTRATION

■

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlements

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for June 1976

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program, the monthly notice specified in § 211.67(i) is hereby published.

Based on reports submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills and eligible product imports for June 1976, imported naphtha utilized as a petrochemical feedstock in Puerto Rico in May and June 1976, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for June 1976 is calculated to be .328463.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of June 1976, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .170926 of a barrel of deemed old oil.

The issuance of entitlements for the month of June 1976 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner and other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of June 1976 at $7.91, which is the exact differential as reported for the month of June between the weighted average per barrel costs to refiners of old oil and of imported crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of June 1976 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of June 1976 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of June 1976 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through May 1976 pursuant to 10 CFR 211.67(j)(1). Pursuant to an amendment to § 211.67(j)(2), corrections for reporting errors for months prior to September 1975 will be reflected in the entitlement notices for the months July 1976 through February 1977. The proposed dollar amounts of these latter corrections are set forth in the special correction notice issued by FEA on July 22, 1976 (41 FR 31793, July 29, 1976).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals.

The listing also reflects entitlements issued to refiners and one other firm for volumes of naphtha imported into Puerto Rico for petrochemical use in May and June 1976 pursuant to the newly adopted provisions of § 211.67(d)(5). These entitlement issuances are shown in the Exceptions and Appeals column in the listing. Except for one refiner (Corco) that received exception relief with respect to imported naphtha for petrochemical feedstock use through the month May 1976, entitlements issued hereby pursuant to § 211.67(d)(5) relate to the months May and June 1976. For purposes of these entitlement issuances only, but not for any other purposes under FEA's regulations, FEA has treated the Puetro Rico subsidiary of Phillips Petroleum Company as a separate firm. This subsidiary is shown in the listings as Phillips–PR.

One eligible firm is shown in the listing with a negative product entitlement issuance nad a corresponding purchase obligation as a result of corrections effected for a prior month's reporting error.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 10,139,129 barrels for June 1976. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 28,784,032 barrels.

The total number of entitlements required to be purchased and sold under this notice is 22,023,390.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for June 1976 must be made by August 31, 1976.

On or prior to September 10, 1976, each firm which is required to purchase or sell entitlements for the month of June 1976 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of June. FEA has mailed the monthly transaction report forms for the month of June to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by August 31, 1976 contact FEA at 202–254–6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to August 31, 1976, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 24, 1976.

Issued in Washington, D.C. on August 19, 1976.

MICHAEL F. BUTLER,
General Counsel.

ENTITLEMENTS FOR DOMESTIC CRUDE OIL

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
A-JOHNSON	0	130,097	0	26,250	0	130,097
ALLIED	47,596	86,812	0	0	0	39,216
AMER-PETROFINA	1,805,993	1,751,112	0	0	54,881	0
AMERADA-HESS	2,861,441	4,754,913	0	179,578	0	1,893,472
AMOCO	12,084,140	10,863,556	0	14,717	1,220,584	0
APCO	491,862	617,326	0	0	0	125,464
ARCO	6,897,668	6,457,410	0	0	440,258	0
ARIZONA	24,750	26,730	11,778	0	0	1,980
ASAMERA	10,895	24,275	0	0	0	13,380
ASHLAND	1,815,042	3,595,972	0	0	0	1,780,930
ASIATIC	0	177,658	0	177,658	0	177,658
BAYOU	32,953	44,252	0	0	0	11,299
BEACON	275,181	275,181	83,237	0	0	0
BELCHER	0	150,596	0	150,596	0	150,596
CALUMET	11,455	30,451	0	0	0	18,996
CANAL	63,804	67,443	0	0	0	3,639
CARIBOU	102,219	124,665	0	0	0	22,446
CF-PETROLEUM	0	799,740	0	0	0	799,740
CHAMPLIN	2,089,235	1,390,105	0	0	699,130	0
CHARTER	598,228	437,001	0	0	161,227	0
CITGO	3,735,621	2,435,950	0	0	1,299,671	0
CLAIBORNE	8,802	18,546	0	0	0	9,744
CLARK	398,726	1,099,397	0	0	0	700,671
COASTAL	821,872	1,398,902	0	0	0	577,030
COLONIAL	0	35,574	0	35,574	0	35,574
CONOCO	3,772,959	3,674,295	0	31,191	98,664	0
CORCO	0	1,508,254	208,907	0	0	1,508,254
CRA-FARMLAND	512,647	714,107	0	0	0	201,460
CROSS	24,344	291,527	0	0	0	267,183
CROWN	399,363	831,912	0	0	0	432,549
CRYSTAL-OIL	181,245	190,186	0	0	0	8,941
CRYSTAL-REF	1,818	49,287	0	0	0	47,469
DEEPWATER	0	7,850	0	7,850	0	7,850
DELTA	426,253	422,221	0	0	4,032	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
DIAMOND	602,337	563,222	0	0	39,115	0
DORCHESTER	9,904	13,917	0	0	0	4,013
DOW	52,995	146,645	0	0	0	93,650
E-SEABOARD	0	228,237	0	228,237	0	228,237
EDDY	48,048	45,546	0	0	2,502	0
EDGINGTON-OIL	625,457	406,176	129,325	0	219,281	0
EDGINGTON-OXN	5,752	11,046	0	0	0	5,294
EVANGELINE	41,422	32,753	0	0	8,669	0
EXXON	13,908,397	12,224,593	0	756,877	1,683,804	0
FAMARISS	253,096	415,918	0	0	0	162,822
FARMERS-UN	200,441	440,628	0	0	0	240,187
FLETCHER	5,495	180,781	0	0	0	175,286
FLINT	12,175	11,598	0	0	577	0
GARY	32,056	101,256	0	0	0	69,200
GETTY	849,146	946,076	0	0	0	96,930
GIANT	11,672	34,121	0	0	0	22,449
GLACIER-PARK	80,565	50,476	0	0	30,089	0
GLADIEUX	92,942	167,079	0	0	0	74,137
GOLDEN-EAGLE	4,421	181,888	0	0	0	177,467
GOOD-HOPE	342,599	342,599	97,188	0	0	0
GUAM	0	349,556	0	0	0	349,556
GULF	11,455,900	8,480,819	0	8,517	2,975,081	0
GULF-STS	59,501	78,193	0	0	0	18,692
HIRI	0	654,669	0	0	0	654,669
HOWARD	0	48,707	0	48,707	0	48,707
HOWELL	791,145	382,045	0	0	409,100	0
HUNT	245,446	325,756	0	0	0	80,310
HUSKY	575,313	575,313	65,356	0	0	0
INDIANA-FARM	91,061	272,518	0	0	0	181,457
INGER-OIL	51	167	0	0	0	116
IRVING	0	16,160	0	16,160	0	16,160
J&W	43,617	54,899	30,821	0	0	11,282
KENTUCKY	3,088	7,079	0	0	0	3,991
KERN	315,124	293,560	57,090	0	21,564	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
KERR-MCGEE	1,658,163	1,571,211	0	0	86,952	0
KOCH	405,066	1,285,522	0	14,089	0	880,456
LAGLORIA	501,598	358,104	0	0	143,494	0
LAKESIDE	18,341	51,434	0	0	0	33,,093
LAKETON	94,795	94,795	9,583	0	0	0
LITTLE-AMER	347,781	347,781	111,199	0	0	0
LOUISIANA-LAND	135,608	368,854	0	0	0	233,246
MACMILLAN	90,131	218,123	0	0	0	127,992
MARATHON	4,269,902	2,979,752	0	0	1,290,150	0
MARION	145,655	239,585	0	0	0	93,930
MID-AMER	11,033	42,872	0	0	0	31,839
MIDLAND	211,355	257,443	0	0	0	46,088
MOBIL	9,089,522	8,409,273	0	21,525	680,249	0
MOHAWK	436,029	436,029	83,546	0	0	0
MONSANTO	419,332	409,511	0	0	9,821	0
MORRISON	7,396	7,490	0	0	0	94
MOUNTAINEER	5,097	4,985	0	0	112	0
MURPHY	790,108	972,713	0	0	0	182,605
N-AMER-PETRO	29,205	76,482	0	0	0	47,277
NATL-COOP	416,269	587,411	0	0	0	171,142
NAVAJO	442,600	438,037	53,743	0	4,563	0
NEW-ENGL-PETRO	0	476,221	0	476,221	0	476,221
NEWHALL	97,009	73,569	0	0	23,440	0
NORTHEAST-PETRO	0	-7,108 *	0	-7,108 *	7,108	0
NORTHLAND	41,050	70,767	0	0	0	29,717
NORTHVILLE	0	17,937	0	17,937	0	17,937
OIL-SHALE	2,563,184	1,554,387	0	0	1,008,797	0
OKC	382,653	382,653	109,960	0	0	0
PASCO	946,022	739,660	272,713	0	206,362	0
PATCHOGUE	0	15,231	0	15,231	0	15,231
PENNZOIL	807,787	572,444	0	0	235,343	0
PETRO-HEAT-CT	0	2,463	0	2,463	0	2,463
PHILLIPS	3,342,344	3,043,767	0	0	298,577	0
PHILLIPS-PR	0	527,304	527,304	0	0	527,304

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
PIONEER	16,787	186,527	0	0	0	169,740
PITTSTON	0	73,739	0	73,739	0	73,739
PLACID	153,433	438,870	0	0	0	285,437
PLATEAU	106,336	144,259	0	0	0	37,923
POWERINE	314,689	444,745	0	0	0	130,056
PRIDE	135,136	330,738	0	0	0	195,602
QUAKER-ST	116,377	296,428	0	0	0	180,051
ROAD-OIL	551	18,360	0	0	0	17,809
ROCK-ISLAND	514,888	399,175	502	0	115,713	0
SABER-TEX	32,349	165,686	0	0	0	133,337
SABRE-CAL	56,359	56,359	22,237	0	0	0
SAGE-CREEK	2,210	5,855	0	0	0	3,645
SAN-JOAQUIN	173,339	226,321	62,810	0	0	52,982
SEARS	0	19,510	0	19,510	0	19,510
SEMINOLE	0	45,981	0	0	0	45,981
SHELL	13,118,934	10,048,933	0	0	3,070,001	0
SIGMOR	14,541	19,230	0	0	0	4,689
SKELLY	1,330,032	811,554	0	0	518,478	0
SO-HAMPTON	33,613	217,612	0	0	0	183,999
SOCAL	9,503,602	9,921,978	0	17,953	0	418,376
SOHIO	1,493,512	4,184,334	0	0	0	2,690,822
SOMERSET	55,646	68,132	0	0	0	12,486
SOUND	70,457	36,111	0	0	34,346	0
SOUTHLAND	373,806	322,978	95,937	0	50,828	0
SOUTHWESTERN	2,778	3,045	0	0	0	267
SPRAGUE	0	40,937	0	40,937	0	40,937
STEUART	0	38,733	0	38,733	0	38,733
SUNLAND	180,522	180,522	65,177	0	0	0
SUNOCO	6,333,368	4,861,137	0	0	1,472,231	0
SWANN	0	42,654	0	42,654	0	42,654
TENNECO	945,784	893,998	0	0	51,786	0
TESORO	998,357	880,937	0	0	117,420	0
TEXACO	12,248,826	10,541,832	0	347,103	1,706,994	0
TEXAS-ASPH	901	2,938	0	0	0	2,037

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	REQUIRED TO BUY	********** REQUIRED TO SELL
TEXAS-CITY	202,751	788,734	0	0	0	585,983
THAGARD	107,497	107,497	47,758	0	0	0
THE-REFINERY	117,572	216,642	0	0	0	99,070
THRIFTWAY	27,396	43,763	0	0	0	16,367
THUNDERBIRD	90,403	191,295	0	0	0	100,892
TONKAWA	32,692	50,243	0	0	0	17,551
TOTAL-LEONARD	164,771	474,495	0	0	0	309,724
UCC-CARIBE	0	312,559	312,559	0	0	312,559
UNION-OIL	5,630,865	4,109,173	0	0	1,521,692	0
UNION-PETRO	0	22,611	0	22,611	0	22,611
UNION-TEXAS	119,560	153,107	0	0	0	33,547
UNTD-REF	267,131	488,715	0	0	0	221,584
US-OIL	23,962	180,313	0	0	0	156,351
USA-PETROCHEM	30,165	161,197	0	0	0	131,032
VICKERS	252,953	638,374	0	0	0	385,421
VULCAN	13,689	53,244	0	0	0	39,555
WALLER	0	10,839	0	10,839	0	10,839
WARRIOR	34,773	36,042	0	0	0	1,269
WEST-COAST	34,474	64,659	0	0	0	30,185
WESTERN	38,395	43,587	0	0	0	5,192
WICKETT	84,250	83,546	0	0	704	0
WINSTON	137,558	221,803	0	0	0	84,245
WIREBACK	486	1,585	0	0	0	1,099
WITCO	143,330	222,664	0	0	0	79,334
YETTER	567	1,850	0	0	0	1,283
YOUNG	76,821	76,821	28,644	0	0	0
TOTAL	153,919,507	153,919,507	2,487,374	2,836,349	22,023,390	22,023,390

*Reflects a correction to a prior month's report.

[FR Doc.76-24851 Filed 8-20-76;11:53 am]

federal register

WEDNESDAY, AUGUST 25, 1976



PART V:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

■

PRIVACY ACT OF 1974

Systems of Records

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

PRIVACY ACT OF 1974

Notices of Systems of Records

On February 24, 1976, there was published in the Federal Register (41 FR 8144) a notice of proposed systems of records in accordance with Section 552a of the Privacy Act of 1974. Interested parties were given the opportunity to submit, not later than March 15, 1976, written data, comments, views or arguments regarding the proposed systems of records.

Since no unfavorable comments were received, the proposed systems of records, which contain non-substantive revisions resulting from this Sections final review and correction of typographical errors, are adopted as set forth below.

Pursuant to 5 U.S.C. 552a(e)(4), International Boundary and Water Commission, United States, and Mexico, United States Section hereby publishes the systems of records as currently maintained by the agency.

Effective date: April 30, 1976.

Signed at El Paso, Texas, on August 6, 1976.

Frank Fullerton,
Special Legal Assistant.

IBWC/US SEC.—1

System name: Attendance, Leave, and Payroll records of employees.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Name, Social Security Number and employee number, grade, step, and salary; organization (code), retirement or FICA data as applicable; Federal, State and local tax deductions, as appropriate; Internal Revenue Service tax lien data; savings bond and charitable deductions; regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost-of-living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to United States Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes.

Reporting: Tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health insurance to the insurance carriers and the United States Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance when open is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Cut off at the end of a calendar year; retained for 3 years or until after General Accounting Office audit, whichever is earlier; and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Resister (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individuals concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individuals, supervisors, timekeepers, official personnel records, and Internal Revenue Service.

IBWC/US SEC.—2

System name: Accounts Receivable.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons owing money to the United States Section, including employees, former employees, business firms, general public, and institutions.

Categories of records in the system: Names and addresses; amounts owed and services performed, overpayment or other accounting therefor; invoice numbers, if any; and United States Treasury certificates of deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For billing purposes to obtain funds due the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and invoice number, as appropriate.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained until payment is received and account audited, then disposed of in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, EL Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, EL Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individual; Procurement Section; and accounting records.

IBWC/US SEC.—3

System name: Confidential statements of employment and financial interests.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees paid at a level of the Executive Schedule in subchapter II of 5 U.S.C.53, and Section employees who are required by Executive Order 11222 to file such statements, including former employees.

Categories of records in the system: Statements of personal and family holdings and other interests in business enterprises; listing of creditors, outside employment and opinion of reviewing official; and any confirmation material.

Authority for maintenance of the system: Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To comply with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 735). Records form an effective system of review for disclosing conflicts or apparent conflicts of interest on the part of employees. Records from this system may be forwarded to the United States Civil Service Commission when requested. Information may not be disclosed from a statement other than to designated employees who have an official need, except as the Chairman of the United States Civil Service Commission, or the Commissioner of the Section, may determine for a good cause shown.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in sealed envelopes.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a locked box in a combination safe-metal file cabinet in a secured room, with access limited under very controlled conditions to those individuals whose official duties require access.

Retention and disposal: These records are disposed of 2 years after separation of the employee, in accordance with standard procedures.

System manager(s) and address: Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the Commissioner, United States Section, International Boundary and Water Commission, Room 200, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Commissioner, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Employees on whom records are required to be maintained:

IBWC/US SEC.—4

System name: Individual identification cards.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Categories of records in the system: Names, titles, nationalities, places of birth, physical descriptions (color of hair, eyes, and height, etc.), and photographs.

Authority for maintenance of the system: 1944 Water Treaty; 5 U.S.C. 301, and 44 U.S.C.3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the identification of key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by name—alphabetically.

Safeguards: Records are located in metal card-file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for 6 years after cancellation, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained form Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individuals to whom identification cards pertain.

IBWC/US SEC.—5

System name: Certificates of Medical Examination.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Medical certificates (SF-78* or equivalent) and any other medical records of examinations used to determine an employee's fitness for the job, and may include employee's name, date of birth, and Social Security Number. (* Parts D, E, and F of SF-78 are not considered a medical record, and are filed in the Official Personnel Folder.)

Authority for maintenance of the system: 5 U.S.C 3301, 3302; and Executive Order 10577.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine medical eligibility for appointment, and for changes in assignment within the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Upon employee's transfer to another agency or separation from Federal service, the sealed envelope with medical records attached on the right side of the Official Personnel Folder will be forwarded to National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118, within thirty (30) days after separation from Federal service, or to the agency to which the employee is transferring within thirty (30) days from such transfer. In the case of disability retirements, medical information is obtained and forwarded to the United States Civil Service Commission's Medical Officer in the El Paso, Texas area.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above. Information may be released upon receipt of a subpoena, or to a nonfederal entity or person, upon written authorization from employee, and the extent of the information will be in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Contesting record procedures: Rules for access to records for contesting contents and appealing initial determinations by the in-

dividual concerned, as published in the Section's rules in the Federal Register (41 FR 19625), are in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Record source categories: Individual's physician or Section's designated physician covering individuals to whom the records pertain.

Systems exempted from certain provisions of the act: Subject system from Pub. L. 93-579, 552a, Sec. 3. (k)(6), unless approved for release by the Regional Medical Officer of the United States Civil Service Commission. Information will be given to the employee if determined by the Regional Medical Officer that the material is not considered detrimental to the employee's well-being. Medical information may also be released to a licensed physician designated in writing for that purpose by the individual to whom the information pertains, or to his or her designated representative.

IBWC/US SEC.—6

System name: Equal Employment Opportunity.

System location: Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees or applicants for employment who have filed complaints of discrimination against the Section.

Categories of records in the system: Affidavits concerning the complaint; correspondence and written documentation related to the complaint; and copies of personnel records and information covering how the complaint was resolved.

Authority for maintenance of the system: Executive Order 11478; Pub. L. 92-261; and Pub. L. 93-259.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain records of discrimination complaints filed by employees or applicants for employment with the Section, and all documentation and information pertaining thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Records are retained for 7 years after close of the matter, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, Equal Employment Opportunity, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: From employees of, or applicants for employment with, the Section involved as complainants, witnesses, etc., in discrimination complaints; reports of investigations, and other materials prepared by the Equal Employment Opportunity Director, Equal Employment Opportunity Assistant, counselors, coordinators, and investigators; copies of Section documents relevant to any Equal Employment Opportunity investigations; and records of hearings on complaints.

IBWC/US SEC.—7

System name: Occupational Health and Injury Files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who have sustained injuries or have other occupational health problems.

Categories of records in the system: Accident reports (CA-1 and CA-2); claims for compensation for injury or occupational disease (CA-4); claims for continuance of compensation on account of disability (CA-8); logs of employees receiving medical services or who have sustained a work-related injury or disease; health and medical records, including medical reports on the compensation forms or in response to medical treatment and examination; and related correspondence.

Authority for maintenance of the system: 5 U.S.C. 81; 5 U.S.C. 7153; 5 U.S.C. 7901; The Occupational Safety and Health Act of 1970; and Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide information, including statistical data, required by the Occupational Safety and Health Administration, Department of Labor, and Office of Workers' Compensation Programs, Department of Labor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a lockable metal file cabinet in a secured area, with access limited to those individuals whose official duties require access.

Retention and disposal: Files are maintained indefinitely while individual is in employ of the Section. Upon separation, records are retained for 5 years and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundry and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Official records are maintained by the Office of Workers' Compensation Programs (OWCP), New Orleans, Louisiana, or other district offices of the OWCP, and records contested must be filed with that agency under its contesting procedures. Information and address may be obtained from the Comptroller, address as noted under notification section above.

Record source categories: From employees who have suffered a work-related illness or injury; Section supervisory personnel; medical authorities treting or examining employee; and witnesses to an accident or occurrence giving rise to a claim.

Systems exempted from certain provisions of the act: Pub. L. 93-579, 552a, Sec. 3.(k)(1) and (4). Records maintained under this system are unofficial copies of OWCP records and are maintained to assist in processing compensation claims. Persons seeking information under this system should follow the directions given in the notification procedure above. Information will be given to supervisors and to the employee covered by the record if the material is not considered detrimental to the employee's well-being. Requests for information which appear detrimental will be referred to the OWCP for opinion prior to release.

IBWC/US SEC.—8

System name: Motor Vehicle Operator Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are seeking or holding a United States Government Motor Vehicle Operator's Identification Card.

Categories of records in the system: Applications for government driver's licenses, Social Security Numbers, physical fitness statements, driving violation records, road test results, and pertinent correspondence.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, et. seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide the Section with information necessary and relevant to the accomplishment of its functions covering motor vehicle operators; and to request information from State and local police departments to determine an employee's eligibility for a government license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained 3 years after separation of employee or 3 years after rescission of authorization to operate a government-owned vehicle, whichever occurs earlier; then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individuals to whom records pertain, witnesses to driving violations, police and court records, and road test examiners.

IBWC/US SEC.—9

System name: Employees' travel records—initial appointment and/or change of duty stations.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees and applicants selected for appointment in shortage category occupations.

Categories of records in the system: Names, addresses, estimated travel expenses, modes of travel, employment service agreements, and travel orders.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document authority for change of duty station travel and the payment of authorized travel expenses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: Filed in chronological order.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained according to General Services Administration Federal Travel Regulations, and then disposed of and destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: Subject individual, supervisors, and Finance Office standard references.

IBWC/US SEC.—10

System name: Freedom of Information Act requests for records.

System location: Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons requesting copies of records from the United States Section under the provisions of the Freedom of Information Act, as amended.

Categories of records in the system: Names, addresses and telephone numbers of requesters; description or identification of records requested, furnished, and/or denied; dates of request and response; amount of fees paid, reduced, or waived, if any; payment delinquencies, if any; petitions of indigency; appeals of denials; final determinations; and names and titles of denying officials and determining officials.

Authority for maintenance of the system: Freedom of Information Act, as amended (Pub. L. 93-502).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Annual Report to the Congress under section (d) of the Freedom of Information Act, as amended; and available for public inspection at all times.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed chronologically by date received.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved requests and denied requests which do not result in appeals or litigation: completed actions cut off at close of fiscal year and destroyed two years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation: cut off at close of fiscal year in which final determination is made. Transferred to Federal Archieves Records Center, Forth Worth, Texas, two years after cut off, and destroyed ten years after cutoff in accordance with standard procedures.

System manager(s) and address: Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individuals, Section officers, and employees engaged in processing or making determinations with respect to Freedom of Information Act requests.

IBWC/US SEC.—11

System name: General Personnel Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902, or Field Office where individual is employed.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: General correspondence and files relating to employment or conditions of employment; promotion, Notification of Personnel Action (SF-50), and request for Personnel Action (SF-52) files; leave and training records; Central Personnel Data File (CPDF), and retirement records relating to person-

nel actions and determinations concerning an individual while employed. These records may contain information about an individual relating to name; date of birth; home address; telephone number; emergency addresses; Social Security Number; Veteran's Preference; tenure; work connected injuries; handicap code; employment history; qualification background; past and present salaries; grades and position titles; training; awards and other recognition; counseling; performance appraisal; conduct; pay and leave; and data documenting reasons for personnel actions; decisions or recommendations concerning an employee; and background data and documentation leading to an adverse action being taken against an employee.

Authority for maintenance of the system: 5 U.S.C. 1302, 2951, 4118, 4308, 4506, 7501, 7511, 7521; and Executive Order 10561.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

(A) By an agency of the Federal government having oversight or review authority, such as the United States Civil Service Commission.

(B) In the event an appeal is made outside the Section, records which are relevant may be referred to the appropriate agency charged with rendering a decision on the appeal.

(C) Information, without prior employee consent, can be disclosed as follows:

1. To the public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3. To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal government); and date/reason for separation (from Notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5. To a credit firm:

(a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

(b) May only be verified (the firm may be advised if its information is correct; if not correct, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, and computer printouts.

Retrievability: Records are indexed by any combination of name, date of birth, Social Security Number, or employee identification number.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained during the period of individual's employment with the Section; transferred to individual's Official Personnel Folder upon resignation, transfer or separation from Section service.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: From information supplied by applicable individuals, or as provided by applicable Section supervisors.

IBWC/US SEC.—12

System name: Investigative records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: Name, address, date and place of birth; citizenship status; physical characteristics; employment and military service history; arrest records; Federally-employed relatives; dates and purposes of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and conflicts of interest, security, and suitability material.

Authority for maintenance of the system: Executive Orders 10450 and 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine suitability for Federal employment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by employee name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, and access limited to those individuals whose official duties require access.

Retention and disposal: The records consist of confidential background investigations for Section employees; and are filed in manila envelopes attached on the outside of the Official Personnel Folder, the envelopes bearing employee name and Social Security Number. When the employee transfers or separates, these records are placed in the Official Personnel Folder and disposed of as part of such Official Personnel Folder.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States section, International boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the section's rules published in the Federal Register (41 FR 19625).

Record source categories: Applications and other personnel and security forms furnished by the individual; investigative and other record material furnished by other Federal agencies; notices of personnel actions furnished by other Federal agencies; personal investigations or written inquires from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications; and published hearings of Congressional Committees.

Systems exempted from certain provisions of the act: Certain records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). Reference Section's rules published in the Federal Register (41 FR 19625).

IBWC/US SEC.—13

System name: Employees' vehicle accident reports.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Full names and addresses of persons involved and their individual statements; vehicle tag number; service and repairs required; invoice number; cost code; and applicable appropriation symbol.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1941, as amended (40 U.S.C. 471, et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Finance Section employees to complete billing procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, date of accident, and invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retain on hand 3 fiscal years, and then dispose of and destroy in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: From subject individual, supervisors and/or Finance Section's standard references.

IBWC/US SEC.—14

System name: Records of cash receipts.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals and companies making payments to cover goods acquired and services rendered; reimbursements for overpayments; and miscellaneous monies received by the Section.

Categories of records in the system: Names of individuals or companies; goods acquired or services rendered; amounts; dates; check numbers; locations; bank deposit information; and United States Treasury deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Accounting for all monies received by the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: By name and/or account or invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for one year following the end of the fiscal year; then transferred to Federal Archives Records Center, Fort Worth, Texas.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Subject individual and/or company.

IBWC/US SEC.—15

System name: Disciplinary Action, Appeal, and Grievance Files; and Unfair Labor Practice Charges/Complaints.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Section employees who have had disciplinary actions taken against them, and who have filed appeals or grievances.

Categories of records in the system: Warning letters and official reprimand files; grievance files (Section or negotiated); adverse action decision letters; disciplinary action files; appeals hearing transcripts (if held); background information in support of disciplinary and adverse actions; and unfair labor practice charges/complaints.

Authority for maintenance of the system: Executive Orders 10987, 11491, 11787; and 5 U.S.C. 77.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) To the United States Civil Service Commission upon request in conjunction with any appeal or in conjunction with its official duties pertaining to personnel matters and investigations regarding complaints of Federal employees or applicants for employment.

(b) To designated officers and employees of other Federal agencies conducting investigations of an individual for the purpose of granting security clearance or access determination, and having a need to evaluate qualifications, suitablility and loyalty to the United States Government in connection with employment.

(c) In the event of any indication of violation or potential violation of the law, to the appropriate Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcement or implementation of the statute, rule, regulation or order issued pursuant thereto.

(d) To respond to a court subpoena or response to a district court in connection with a civil suit.

(e) To designated hearing examiners, arbitrators, and third-party appellate authorities involved in the hearing or appeal processes.

(f) To investigative officials of the Department of Labor and Federal Labor Relations Council for settlement of a complaint or appeal.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, filed alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Records involving court actions are retained permanently; all others retained 7 years after completion of action, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individuals to whom records pertain; Section officials; affidavits or statements from employees; testimony of witnesses; official documents relating to appeals, grievances, or complaints; and correspondence from specific organizations or individuals.

IBEW/US SEC.—16

System name: Official Personnel Folders.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official Personnel Folders containing name, Social Security Number; date of birth; employment history; education; job and pay data; performance reviews; letters of commendation; reprimands; training certificates; salary and benefits information, to include allowance and insurance data; travel orders and general correspondence; other personnel data such as security clearance, loyalty, military service evidence, injury reports, suggestions, health qualification records, etc.

Authority for maintenance of the system: Executive Order 10561; and United States Civil Service Commission Regulations (Federal Personnel Manual Chapters 293 and 294).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(A) To provide hard-copy documentation on employees' current job and pay data, past job history, career progression, etc. Used to determine qualifications and to provide information for processing personnel actions.

(B) Information, without prior employee consent, can be disclosed as follows:

1. To the public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3. To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal government); and date/reason for separation (from Notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5. To a credit firm:

(a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

(b) May only be verified (the firm may be advised if its information is correct; if not, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders

Retrievability: Filed by employee name—alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Retained for duration of employment, and then folders are transmitted to the Personnel Records Center (Civilian) at 111 Winnebago Street, St. Louis, Missouri, 63118, within 30 days after separation—except for those employees leaving on military furlough, or with retirement applications pending, or compensation cases which are pending and which have not been adjudicated.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, as conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for acess for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Applications for employment; applications for fidelity bonds; college transcripts; personnel actions; performance reviews and/or personnel evaluation reports; letters of commendation or reprimand; training certificates; travel orders; employee insurance data; certificates of clearance; and loyalty affidavits.

IBWC/US SEC.—17

System name: Service records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official summary of employment history to include name, Social Security Number, date of birth, service computation date, Veteran's Preference, life insurance enrollment, retirement data, handicap code, performance reviews (date and type), service award data, and employment record to include date, type, job, pay, and separation data.

Authority for maintenance of the system: United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 293-31).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To have a ready reference to official summary of employment histories, chronology of personal and service data of employees, and provide information for processing personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records filed in Kardex or file box.

Retrievability: Arranged by (a) budgeted position in organization sequence; (b) pay plan; and (c) descending grade level within each pay plan.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retain 3 years after employee's separation from the Section, then dispose of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Personnel actions, performance reviews and/or personnel evaluation reports; application forms, and training and service award certificates.

IBWC/US SEC.—18

System name: Employment resources files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Applicants for employment with the United States Section.

Categories of records in the system: Applications for employment; personal qualifications statement (SF-171); and other pertinent employment data.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 634(b)(6); and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain a source of qualified applicants for the purpose of filing vacancies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records files in file folders.

Retrievability: Grouped by positions for which applicants appear qualified; arranged by name within position groupings.

Safeguards: Records are located in lockable metal file cabinets or metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Applications considered active for 2 years; then destroyed after 2 years from date signed, in accordance with standard procedures—except upon written request that they be returned to individuals.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules published in the Federal Register (41 FR 19625).

Record source categories: Applicants; previous employers.

IBWC/US SEC.—19

System name: Incentive Awards files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section, or non-employees who submit suggestions.

Categories of records in the system: Award certificates; letters of commendation, citation, and awards; letters of non-adoption of suggestions.

Authority for maintenance of the system: 5 U.S.C. 45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document staff or other agency comments in support of justification for, or disapproval of, award nominations in order to present findings to Incentive Awards Committee or other Section officials or, at its request, to the United States Civil Service Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Suggestions—by number; performance nominations—chronologically by type of award.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured room or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of calendar year, retained for 2 years, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC, Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Employees, supervisors, management officials, Incentive Awards Committee, officials of other agencies, and members of the public, if appropriate.

IBWC/US SEC.—20

System name: Travel advance information files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are required to travel.

Categories of records in the system: Employees' names, areas of assignment, and dollar amounts advanced.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: By the Finance Section to monitor travel advance expenditures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by employee name, alphabetically.

Safeguards: Records are located in metal card file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of fiscal year; retained for 3 years, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: From Imprest Fund receipts signed by employee-traveler when amount is under 150 dollars, and from Bureau schedules for checks issued by the United States Treasury to employee-traveler when the amount is above 150 dollars.

IBWC/US SEC.—21

System name: Employer's tax return files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Federal and State monthly and/or quarterly employee withholding tax form information; computer printouts, magnetic tapes and related documents showing reports of Federal and State taxes withheld from employees, and the banking and payment thereof.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reconciliation and payment of taxes withheld from employees and employer's share; to provide Internal Revenue Service with record representing wages covered by Social Security.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at the close of fiscal year, retained for 2 years, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, General and Financial Services, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Data stored in payroll master file.

IBWC/US SEC.—22

System name: Privacy Act request file.

System location: Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals requesting information on records concerning them or someone on whose behalf the individual is authorized to act which are in the custody of the United States Section, or individuals requesting access or amendment to such records under the provisions of The Privacy Act of 1974, 5 U.S.C. 552a.

Categories of records in the system: Copies of correspondence between individuals and Section custodian official; written summaries of conversations with individuals; coordination documents between the Section and other Federal, State, and local government agencies when records which are the subject of an individual inquiry were originated by another agency; and copies of documents which are the subject of an individual inquiry. Originals of amendment requests, refusals, and appeals accumulated by the custodian of the records concerned are included in the file containing those records.

Authority for maintenance of the system: The Privacy Act of 1974, 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To process and coordinate requests for information, access, and amendment of personal records; to process and record appeals by individuals against Section rulings; and to assure timely response to requesters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by requester's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved and/or denied requests not resulting in appeals or litigation—completed actions cut off at close of fiscal year and destroyed 2 years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation—cut off at close of fiscal year in which final determination is made; transferred to Federal Archives Record Center, Fort Worth, Texas, 2 years after cutoff; destroyed 10 years after cutoff in accordance with standard procedures.

System manager(s) and address: Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from Comptroller, United States Section, International Boundary and Water Commission, Room 212, IBWC, Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to Comptroller, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the Federal Register (41 FR 19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (41 FR 19625).

Record source categories: Individual requesters, and agencies of the Federal, State, and local governments.

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