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List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3113 is amended to show that, regardless of job category, positions of agents engaged in field work jointly financed by the Consumer and Marketing Service and a non-Federal cooperating organization may be filled under Schedule A when selection is jointly made by the Department and the cooperating organization.

Effective on publication (1–8–72), subparagraph (1) of paragraph (a) of § 213.3113 is amended as set out below.

§ 213.3113 **Department of Agriculture.**

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. This authority is not applicable to positions in the Agricultural Research Service, positions in the Animal and Plant Health Service, or positions in the Statistical Reporting Service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to the following positions in the Consumer and Marketing Service: Agricultural commodity grader (grain) and (meat), agricultural commodity aid (grain), and poultry and tobacco inspection positions.

* * * * *

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

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

[FR Doc.72–304 Filed 1–7–72;8:47 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3214 is amended to show that not to exceed 35 positions of Minority Business Opportunity Specialist at grades GS–9 through GS–15 in the Office of Minority Business Enterprise are excepted under Schedule B until December 31, 1973.

Effective on publication in the FEDERAL REGISTER (1–8–72), paragraph (c) is added to § 213.3214 as set out below.

§ 213.3214 **Department of Commerce.**

* * * * *

(c) *Office of Minority Business Enterprise.* (1) Until December 31, 1973, not to exceed 35 positions of Minority Business Opportunity Specialist at grades GS–9 through GS–15.

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

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

[FR Doc.72–305 Filed 1–7–72;8:47 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Chief, Field Office, Anti-Trust Division, and one position of Special Assistant to the Assistant Attorney General, Internal Security Division, are no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (1–8–72), subparagraph (1) of paragraph (d) and subparagraph (5) of paragraph (p) of § 213.3310 are amended as set out below:

§ 213.3310 **Department of Justice.**

* * * * *

(d) *Anti-Trust Division.* (1) Chief, Field Office (two positions).

* * * * *

(p) *Internal Security Division.* * * *

(5) One Special Assistant to the Assistant Attorney General.

* * * * *

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

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

[FR Doc.72–308 Filed 1–7–72;8:48 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that one position of Special Assistant to the Assistant Administrator for Air and Water Programs (Intergovernmental Relations) is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (1–8–72), paragraph (i) is added to § 213.3318 as set out below.

§ 213.3318 **Environmental Protection Agency.**

* * * * *

(i) *Office of the Assistant Administrator for Air and Water Programs.* (1) One Special Assistant to the Assistant Administrator (Intergovernmental Relations).

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

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

[FR Doc.72–307 Filed 1–7–72;8:47 am]

PART 213—EXCEPTED SERVICE

Action

Section 213.3359 is amended to show that one position of Deputy Associate Director for SCORE/ACE, Office of the Associate Director for Domestic and Anti-Poverty Operations, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (1–8–72), paragraph (d) is added to § 213.3359 as set out below.

§ 213.3359 **Action.**

* * * * *

(d) One Deputy Associate Director for SCORE/ACE.

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

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

[FR Doc.72–303 Filed 1–7–72;8:47 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Confidential Secretary to the Associate Director for Health Affairs is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (1–8–72), paragraph (h) is added to § 213.3373 as set out below.

§ 213.3373 **Office of Economic Opportunity.**

* * * * *

(h) *Office of the Associate Director for Health Affairs.* (1) One Confidential Secretary to the Associate Director.

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

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

[FR Doc.72-309 Filed 1-7-72;8:48 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that a second position of Assistant (Special Projects) to the Commissioner, Federal Housing Administration, is excepted under Schedule C. This section is further amended to show that the position of Assistant to the Assistant Commissioner for Programs, Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Administration Commissioner, is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (1–8–72), subparagraph (3) is amended and subparagraph (5) of paragraph (b) of § 213.3384 is revoked as set out below.

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(b) *Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Administration Commissioner.* * * *

(3) Two Assistants to the Commissioner (Special Projects).

* * * * *

(5) [Revoked]

* * * * *

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

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

[FR Doc.72-306 Filed 1-7-72;8:47 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 11]

PART 121—SMALL BUSINESS SIZE STANDARDS

Revision of Small Business Size Standards Regulation Revision 11 of Part 121 rescinds Revision 10, including Amendments 1 through 11 thereof, of the Code of Federal Regulations. In addition to incorporating the amendments to Revision 10, this revision revises § 121.3–4, Size Determinations to give SBA regional directors or their delegatees additional authority to make size determinations for the purpose of the Government Timber Sales Program. Part 121 of Chapter 1 of Title 13 of the Code of Federal Regulations is hereby revised to read as follows:

Sec.

AUTHORITY: The provisions of this Part 121 issued under Public Law 85–536, sec. 5(b)6, 72 Stat. 385.

§ 121.3 Statutory provisions.

(a) Small Business Act, as amended.

SEC. 3. For the purpose of this Act, a small business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria the Administrator, in making a detailed definition, may use these criteria, among others. Number of employees and dollar volume of business. Where the number of employees is used as one of the criteria in making such definition for any of the purposes of this Act, the maximum number of employees which a small business concern may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

* * * * *

SEC. 8(b). It shall also be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

* * * * *

(6) To determine within any industry the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises which are to be designated "small business concerns" for the purpose of effectuating the provisions of this Act. To carry out this purpose the Administrator, when requested to do so, shall issue in response to each such request an appropriate certificate certifying an individual concern as a "small business concern" in accordance with the criteria expressed in this Act. Any such certificate shall be subject to revocation when the concern covered thereby ceases to be a "small business concern." Offices of the Government having procurement or lending powers, or engaged in the disposal of Federal property or allocating materials or supplies, or promulgating regulations affecting the distribution of materials or supplies, shall accept as conclusive the Administration's determination as to which enterprises are to be designated "small business concerns," as authorized and directed under this paragraph.

(b) Small Business Investment Act of 1958, as amended.

SEC. 103. As used in this Act—

* * * * *

RULES AND REGULATIONS

(5) The term "small business concern" shall have the same meaning as in the "Small Business Act."

* * * * *

§ 121.3–1 Purpose and method of establishing size standards.

(a) *Purpose.* This part defines "small business concerns" and establishes standards, criteria, and procedures to determine which concerns are "small business concerns" within the meaning of the Small Business Act, as amended (hereinafter referred to as the "Act") and the Small Business Investment Act of 1958, as amended (hereinafter referred to as the "Investment Act").

(b) *Method of establishing size standards*—(1) *Use of Standard Industrial Classification Manual.* The Standard Industrial Classification (SIC) Manual, as amended, prepared and published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President, will be used by SBA as a guide in defining industries. Its use therefore is advisory and not mandatory.

(2) *Size standards policy.* (i) The fundamental purpose of Small Business Administration assistance is to preserve free competitive enterprise by strengthening the competitive position of small business concerns.

(ii) It is the Small Business Administration's view that, in the absence of proof to the contrary, there is a segment of each industry wherein concerns by reason of their small size are at a competitive disadvantage. Therefore, the definition of small business for each industry should be limited to that segment of the industry struggling to become or remain competitive.

(iii) Smaller concerns often are forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible. It should be lowered in any case where the SBA determines that a few concerns under the size standard umbrella have, because of their size, gained undue competitive strength as compared with other concerns under the umbrella.

(iv) It is the Small Business Administration view that concerns which, with or without assistance under the Small Business Act, have grown to a size which exceeds the applicable small business size standard, should compete for Government contracts not reserved for small business concerns or should seek commercial markets in the same or related fields. Under such circumstances small business concerns should not rely on continuing assistance under the Small Business Act from the cradle to the grave, but should plan for the day on which they become other than small business

and should be able to compete without assistance.

(3) *Factors in formulating size standards.* The following factors shall be considered in formulating industry size standards:

(i) Concentration of output; that is, the portion of the total output of an industry which is accounted for by a limited number of companies.

(ii) Coverage ratio; that is, the ratio of the industry's shipments of its primary products, to the total shipments by all industries of the primary products of the industry in question.

(iii) Specialization ratio; that is, the ratio of the industry's shipments of its primary products to its total shipments of primary and secondary products.

(iv) The total number of concerns in the industry.

(v) The size of industry leaders.

(vi) The SBA program for which the size standard is established.

In formulating industry size standards for the purpose of Government procurement, the additional factor of Government procurement history shall be used. The use of this additional factor may cause the size standards for the purpose of Government procurement and the size standards for the purpose of financial assistance to differ for the same industry.

(4) *Product classification.* For size standards purposes, a product or service shall be classified into only one industry, even though, for other purposes, it could be classified into more than one industry. In determining the SIC industry into which particular products shall be classified for size standard purposes, consideration shall be given to all appropriate factors including:

(i) Alphabetic indices published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President, Bureau of the Census, and the Business and Defense Services Administration.

(ii) Description of the product under consideration.

(iii) Previous Government procurements for the same or similar products, and

(iv) Published information concerning the nature of companies which manufacture such products.

A product or service shall be classified in the industry whose definition best describes the principal nature of the product or service being procured. The end use of a product does not govern the industry into which it is to be classified. In a borderline situation the product or service shall be classified in the industry whose size standard would best serve to accomplish the purposes of the Small Business Act. When a procurement is for two or more items with different size standards a bidder must qualify as a small business under the definition of a small business applicable to any item on which it bids. If a multiitem procurement requires the successful bidder to deliver all items and/or perform all services being procured the applicable size standard is that for the industry whose products or services account for the greatest proportion of the contract price.

(5) *Product classification decision.* The SBA Regional Director or his delegatee of the SBA Region in which the principal office of the applicant, not including its affiliates, is located, shall determine the appropriate SIC classification, except that for procurement purposes the determination shall be made by the official specified in § 121.3–8, and for lease guarantee reinsurance purposes the determination shall be made by the Associate Administrator for Financial Assistance. Such determination shall be subject to appeal in the manner provided in § 121.3–6.

§ 121.3–2 Definition of terms used in this part.

(a) Affiliates: Concerns are affiliates of each other when either directly or indirectly (1) one concern (other than an investment company licensed under the Small Business Investment Act of 1958 or registered under the Investment Company Act of 1940, as amended), controls or has the power to control the other, or (2) a third party or parties (other than an investment company licensed under the Small Business Investment Act of 1958 or registered under the Investment Company Act of 1940, as amended), controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: *Provided, however,* That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure. Where a concern is a subcontractor pursuant to section 8(a)(2) of the Small Business Act and, in connection therewith, is the subject of a Divestiture Agreement approved by SBA for the benefit of socially or economically disadvantaged individuals, the receipts, employment, and other factors of the concern attributable to the section 8(a)(2) subcontract shall not be included in determining the size of either concern during the term of such divestiture agreement. Other contracts and business of such subcontractor may also be excluded in determining the size if, in the judgment of SBA, substantial beneficiaries of such other contracts and business will be the socially or economically disadvantaged individuals in question.

(b) "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than a year its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. Except as set forth in § 121.3–10, if a concern has acquired an affiliate during the applicable accounting period it is necessary in computing the applicant's annual receipts, to include the affiliates receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

(c) "Appeal" means a written communication addressed to the Size Appeals Board requesting it to review a determination relating to a size matter made by a district director or his delegatee, or by a Contracting Officer.

(d) "Area of substantial unemployment," for the purpose of small business size determination, means a geographical area within the United States which:

(1) Is classified by the Department of Labor either as an "Area of Substantial Unemployment," or an "Area of Substantial and Persistent Unemployment," and such classification has been listed in that Department's publication "Area Labor Market Trends" continuously from September 15, 1961, until a size determination is made; or

(2) Is individually certified by the Department of Labor as an "Area of Substantial Unemployment" and has been eligible for such certification continuously since September 15, 1961. If an area has been removed from the publication, "Area Labor Market Trends," or if an area becomes ineligible for certification at any time, such area is excluded from the above definition and cannot be reinstated for the purpose of size determinations unless it is designated as a Redevelopment Area by the Department of Commerce. (See paragraph (v) of this section.)

(e) "Base maintenance" means furnishing at an installation within the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands, or the District of Columbia, three or more services which may include but are not limited to such maintenance activities as janitorial and custodial services, protective guard services, commissary services, base housing maintenance, fire prevention services, safety engineering services, messenger services, grounds maintenance and landscaping services, and

air-conditioning and refrigeration maintenance: *Provided, however,* That whenever the contracting officer determines prior to the issuance of bids that the estimated value of one of the foregoing services constitutes more than 50 percent of the estimated value of the entire contract, the contract shall not be classified as base maintenance but in the industry in which such service is classified.

(f) "Bona fide feed stocks" means crude and any other hydrocarbon material actually charged to refinery processing units, as distinguished from materials used as components in products to be delivered after merely filtering, settling, or blending.

(g) "Crude-oil capacity" means the maximum daily average crude throughput of a refinery in complete operation, with allowance for necessary shutdown time for routine maintenance, repairs, etc. It approximates the maximum daily average crude runs to stills that can be maintained for an extended period.

(h) "Certificate of competency" means a certificate issued by SBA pursuant to the authority contained in section 8(b)(7) of the Act stating that the holder of the certificate is competent as to capacity and credit to perform a specific Government procurement or sales contract.

(i) "Concern" means any business entity organized for profit with a place of business located in the United States, including, but not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see paragraph (a) of this section) any business entity, whether organized for profit or not, and any foreign business entity shall be included.

(j) "Contracting officer" means the person executing a particular contract on behalf of the Government and any other employee who is properly designated contracting officer; the term includes the authorized representative of a contracting officer acting within the limits of his authority.

(k) "Convalescent or nursing home" means those facilities for the accommodation of convalescents or other persons who are not acutely ill or not in need of hospital care but who may require nursing care and related medical services, which facility is privately owned and operated for the purpose of obtaining profits which shall inure to the benefit of its owners, stockholders, or members.

(l) "Department store" means a concern employing twenty-five (25) or more persons engaged in the retail sale of some items in each of the following merchandise lines: (1) Furniture, home furnishings, appliances, radio, and television sets; (2) a general line of apparel for the family; and (3) household linens and dry goods: *Provided, however,* That sales within any one of the preceding merchandise lines do not exceed eighty percent (80%) of the concern's total sales and the aggregate of such merchandise lines account for at least fifty percent (50%) of the concern's total sales.

(m) "Forest products industry" as used in § 121.3–9(b) means logging, wood preserving, and the manufacture of lumber and wood-related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood-related products are the principal raw material.

(n) "Gross leasable area" means the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet measured from the centerline of a joint partition and from outside wall faces.

(o) "Hospital" means a health facility duly licensed as a hospital providing in-patient medical or surgical care of the sick or injured, including obstetrics, which facility is privately owned and operated for the purpose of obtaining profits which shall inure to the benefits of its owner, stockholders, or members.

(p) "Industry" means a grouping of establishments primarily engaged in similar lines of activity as listed and described in the Standard Industrial Classification Manual, as amended (SIC Manual), prepared and published by the Bureau of the Budget (now office of Management and Budget), Executive Office of the President.

(q) "Medical and dental laboratory" means those facilities which provide services to doctors, dentists, hospitals, and similar health facilities, which facilities are privately owned and operated for the purpose of obtaining profits which shall inure to the benefit of its owners, stockholders, or members.

(r) "Nonmanufacturer" means any concern which in connection with a specific Government procurement contract, other than a construction or service contract, does not manufacture or produce the products required to be furnished by such procurement. Nonmanufacturer includes a concern which can manufacture or produce the products referred to in the specific procurement but does not do so in connection with that procurement.

(s) A concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(t) "Number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters. If a concern has not been in existence for four full calendar quarters, "number of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month. If a concern has acquired an affiliate during the applicable accounting period it is necessary in computing the applicant's number of employees, to include the affiliates' number of employees during the entire applicable accounting period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

(u) "Protest" means a statement in writing from any bidder or offeror on a particular procurement or disposal (or from any other party interested therein), alleging that another bidder or offeror on such procurement is not a small business concern. Such statement shall contain the basis for the protest, together with specific detailed evidence in support of the protestant's claim. A protest received after the time limits set forth in § 121.3–5(a) shall be acted on but such determination shall not apply to the procurement in question.

(v) "Redevelopment area" for the purpose of small business size determinations means a geographical area within the United States which has been designated as a "redevelopment area" in accordance with the Public Works and Economic Development Act of 1965 (Public Law 89–136, sec. 401, 75 Stat. 48).

(w) "Shopping center" means a group of commercial establishments planned, developed, owned, and managed as a unit with off-street parking provided on the property.

(x) "Size determination" means an SBA ruling, in writing, that a concern is or is not, or was or was not, a small business within the meaning of this part. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of a formal SBA inquiry, is not a "size determination" as that term is used in this part.

(y) "United States" as used in this regulation includes the several States, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.

§ 121.3–3 Organization—size functions.

The Assistant Administrator for Administration shall:

(a) Develop and recommend small business size standards to the Administrator of SBA for promulgation;

(b) Conduct industry hearings pertaining to size matters;

(c) In concert with the Office of General Counsel, issue interpretations of the Size Standards Regulation;

(d) Consider and take appropriate action on written petitions objecting to or

requesting amendments or recision of a published size standard;

(e) Establish procedures for the implementation of all size programs; and

(f) Perform such other related functions as may be appropriate to administer the SBA size program.

§ 121.3–4 Size determinations.

Original size determinations shall be made by the Regional Director, or his delegatee, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Financial Assistance. The Regional Director, or his delegatee, or the Associate Administrator for Financial Assistance, promptly shall notify, in writing by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall be final unless appealed in the manner provided in § 121.3–6. For the purpose of Government procurements a size determination shall be made only in the event of a protest pursuant to § 121.3–5, a request for a redetermination pursuant to § 121.3–14(e), a request for a Certificate of Competency, or on request by the U.S. General Accounting Office, provided however that a Regional Director or his delegatee may, whenever he deems such action necessary, determine the size status of a concern for the purpose of the Government Timber Sales Program.

§ 121.3–5 Protest of small business status.

(a) How to protest: Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular procurement or disposal. Such challenge shall be made by delivering a protest to the contracting officer responsible for the particular procurement involved. Such protest must be filed prior to the close of business on the fifth day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening, except that in the case of negotiated procurements, a protest may be filed by any other offeror or other interested party within five (5) days exclusive of Saturdays, Sundays, and legal holidays after receipt from the contracting officer of notification of the identity of the offeror being protested. *Provided, however,* That a protest received after such time shall be deemed to be timely for the purpose of the procurement in question, if, in the case of mailed protest, such protest is sent by registered or certified mail and the postmark thereon indicates that the protest would have been delivered within this time limit but for delays beyond the control of the protestant or, in the case of telegraphed protests, the telegram date and time line indicate that the protest would have been delivered within this time limit but for delays beyond the control of the protestant. Any contracting officer who receives a protest shall promptly forward such protest to the SBA district office serving the geographical area in which the prinicipal office of the protested concern, not including its affiliates, is located. A contracting officer may at any time after bid opening question the small business status of any bidder or offeror for the purpose of a particular procurement by filing a protest with the SBA district office serving the area in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement in question whether filed before or after award.

(b) Notification of protest: Upon receipt of such protest, the SBA district director or his delegatee shall immediately notify the Contracting Officer and the protestant of the date such protest has been received and that the size of the concern being protested is being considered by SBA. The district director or his delegatee shall also advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Size Determination, by certified mail, return receipt requested. Such bidder must, within three (3) working days after receipt of the copy of the protest and SBA Form 355, file the completed form as directed by SBA, and must attach thereto a statement in answer to the allegations of the letter of protest, together with evidence to support such position. If such bidder or offeror does not submit the completed SBA Form 355 within the filing period provided above, or within any additional period of time granted by SBA for cause, SBA will rule the protested concern is other than a small business.

(c) Notification of determination: After receipt of a protest and responses thereto, SBA shall determine the small business status of the protested bidder or offeror and, by certified mail, return receipt requested, notify the Contracting Officer, the protestant, and the protested bidder or offeror of its decision within 10 working days if possible.

(d) If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

§ 121.3–6 Appeals.

(a) *Organization.* The Size Appeals Board shall review appeals from size determinations made pursuant to §§ 121.3–4 and 121.3–5 and from product classifications made pursuant to §§ 121.3–8 and 121.3–10 and shall make final decisions as to whether such determinations or classifications should be affirmed, reversed or modified. Size Appeals Board proceedings are essentially factfinding and nonadversary in nature. The Size Appeals Board shall conduct such proceedings as it determines appropriate to enable it to discharge its duties.

(1) The Size Appeals Board shall consist of five members, to wit: The Deputy Administrator (Chairman), the Associate Administrator for Procurement and Management Assistance (Vice Chairman), the Associate Administrator for Financial Assistance, the Assistant Administrator for Planning, Research and Analysis, and the Associate Administrator for Investment.

(2) Each member of the Size Appeals Board shall, in writing, designate one or more alternates to serve in his stead in the event of absence or disability. Each member or his alternate shall have one vote, except that the Chairman, or the Vice Chairman acting in his stead, shall vote only in the event of a tie.

(b) *Method of appeal*—(1) *Who may appeal.* An appeal may be filed by:

(i) Any concern or other interested party which has protested the small business status of another concern pursuant to § 121.3–5 and whose protest has been denied by a Regional Director or his delegatee;

(ii) Any concern or other interested party which has been adversely affected by a decision of a Regional Director or his delegatee or by the Associate Administrator for Financial Assistance pursuant to §§ 121.3–4 and 121.3–5;

(iii) Any concern or other interested party which has been adversely affected by a decision of a Contracting Officer regarding product classification pursuant to § 121.3–8; and

(iv) The Small Business Administration Associate Administrator for the Small Business Administration program involved.

(2) *Where to appeal.* Written notices of appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416.

(3) *Time for appeal.* (i) An appeal from a size determination or product classification by a Regional Director, or his delegatee, may be taken at any time, except that because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement may be taken within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a Regional Director or his delegatee. Unless written notice of such appeal is received by the Size Appeals Board before the close of business on the fifth day, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned.

(ii) An appeal from a product classification determination by a Contracting Officer may be taken: (*a*) Not less than 10 days, exclusive of Saturdays, Sundays, and legal holidays, before bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is more than 30 days after the issuance of the invitation for bids or request for proposals or quotations, or (*b*) not less than five (5) days, exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or

quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is 30 or less days after the issuance of the invitation for bids or request for proposals or quotations, and

(iii) The timeliness of an appeal under subdivisions (i) and (ii) of this subparagraph shall be determined by the time of receipt of the appeal by the Size Appeals Board: *Provided, however,* That an appeal received after such time limits have expired shall be deemed to be timely and shall be considered if, in the case of mailed appeals, such appeal is sent by registered or certified mail and the postmark thereon indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant, or in the case of telegraphed appeals, the telegram date and time line indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant.

(4) *Notice of appeal.* No particular form is prescribed for the notice of appeal. However, the appellant shall submit to the Board an original and four legible copies of such notice and, to avoid time-consuming correspondence, the notice should include the following information:

(i) Name and address of concern on which the size determination was made;

(ii) The character of the determination from which appeal is taken and its date;

(iii) If applicable, the IFB or contract number and date, and the name and address of the contracting officer;

(iv) A concise and direct statement of the reasons why the decision of a Regional Director, or his delegatee, the Contracting Officer or the Associate Administrator for Financial Assistance is alleged to be erroneous;

(v) Documentary evidence in support of such allegations; and

(vi) Action sought by the appellant.

(c) *Notice to interested parties.* The Size Appeals Board shall promptly acknowledge receipt of the Notice of Appeal and shall send a copy of such Notice of Appeal to the appropriate Regional Director or his delegatee and to the Contracting Officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Board shall also send a copy of the notice to such concern. The Board shall notify all known interested parties that the appeal has been filed. The Board in its discretion may also provide any of such interested parties with copies of applicant's Notice of Appeal, or parts thereof, when the Board determines that this would be in the interest of fairness or would assist it in the performance of its functions.

(d) *Statement of interested parties.* After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with four legible copies thereof, as to why the appeal should or should not be denied. Such statement shall be accompanied by appropriate evidence. Such statements and supporting evidence shall be mailed or delivered to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within five (5) days of the receipt of appropriate notification of appeal or other action in the proceeding unless an extension is for cause granted by the Chairman of the Size Appeals Board. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements and appropriate evidence submitted in connection with the appeal or a reconsideration thereof to such appellant.

(e) *Consideration by the Size Appeals Board.* (1) The Size Appeals Board shall consider the appeal on the written submission of the parties, the Board may also, in its discretion, conduct an oral inquiry. After consideration of all relevant information, the Board shall promptly render a decision which shall state the reason for such decision.

(2) Procedures in oral inquiries. In considering size appeals, and in reconsidering size appeals decisions, the Size Appeals Board may hold an oral inquiry to assist it in arriving at facts necessary in deciding the appeal. The following rules shall govern such oral inquiries:

(i) Oral inquiries may be held by the Size Appeals Board upon the request of any party to a size appeal or by the Board on its own motion. The Board will, in its discretion, determine whether an oral inquiry will be of assistance in its determination of a size appeal. The Board shall inform the party making a request for oral inquiry whether its request is granted. If the Board grants the request for an oral inquiry, it will so notify all other interested parties.

(ii) Oral inquiries held by the Board are investigative in nature and not adversary. Such inquiries shall be conducted informally in a manner which will facilitate the Board's factfinding function and insure fairness to all participants.

(iii) Whenever the Board permits the appearance of two or more parties before it in an oral inquiry, cross-examination shall not be permitted between or among such parties; however, any party appearing in such oral inquiry may suggest questions for the Board to direct to other parties which may assist the Board in its determination of relevant facts.

(f) *Decision of the Size Appeals Board.* The decision of the Size Appeals Board shall be predicated upon the entire record, and it shall state in writing the basis for its findings and conclusions. The Chairman shall promptly notify, in writing, the appellant and the other interested parties of the Board's decision together with the reasons therefor.

(g) *Reconsiderations.* (1) Following any decision in a size appeals case, an interested party, within no more than five (5) business days following the decision, may petition the Board for reconsideration upon presentation of appropriate justification therefor. The petition for reconsideration to the Board may be in any form, with an original and four copies. The Board will notify interested parties that a petition for reconsideration has been received.

(2) The Board shall consider the petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Board, in its discretion, deems necessary.

(3) Grounds for reconsideration. Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant information not previously considered by the Board or relevant information not previously available to any of the parties involved;

(iii) When a request for reconsideration is made by any of the interested parties, such requesting party must demonstrate to the Board that the grounds for reconsideration involve facts or information which were not previously presented to the Board through no fault or omission of such party.

(4) If the Board denies the request for reconsideration, it shall notify all parties. If the request for reconsideration is granted, the Board shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board may, in its discretion, provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in performing its factfinding functions.

(5) Following its reconsideration of the matter, the Board will promptly render a decision pursuant to paragraph (f) of this section. The decision of the Board shall constitute the final administrative remedy afforded by this Agency.

§ 121.3–7 Differentials.

(a) Alaska: If an applicant for a size determination is a concern which has fifty percent (50%) or more of its annual sales or receipts attributable to business activity within Alaska then, whenever "annual sales or annual receipts" are used in any size definition contained in this part, said dollar limitation is increased by twenty-five percent (25%) of the amount set forth therein.

(b) Substantial or persistent unemployment areas; areas of concentrated unemployment or underemployment; certified eligible concerns; and redevelopment areas—(1) Assistance under sections 7(a) and 8(a) of the Small Business Act. Notwithstanding any other provision of this part, the applicable size standards for the purposes of assistance under sections 7(a) and 8(a) of the Act are increased by twenty-five percent (25%) whenever the concern maintains or operates a plant, facility, or other business establishment within an Area of Substantial Unemployment or Underemployment or Redevelopment Area as defined in § 121.3–2 (d) and (v) or is designated as a Certified Eligible concern by the Department of Labor

and agrees to use the assistance within such area or, if it does not maintain a plant, facility, or other business establishment within such area, agrees to utilize the assistance for the establishment and/or operation of a plant, facility, or other business establishment within such area.

(2) Small business investment companies and development companies. Notwithstanding any other provision of this part, the size standard for a small business concern receiving assistance from a small business investment company or receiving assistance from a development company in connection with section 501 or section 502 loan is increased by twenty-five percent (25%) whenever such concern qualifies for a similar differential under subparagraph (1) of this paragraph.

(3) Government procurement assistance, sales of Government property and Government subcontracting. Except as is provided in subparagraphs (1) and (2) of this paragraph, this paragraph is not applicable to size determinations for the purpose of Government procurement assistance, sales of Government property or Government subcontracting.

§ 121.3–8 Definition of small business for Government procurement.

A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. When computing the size status of a bidder or offerer, the number of employees, annual receipts, or other applicable standards of the bidder or offerer and all of its affiliates shall be included. In the submission of a bid or proposal on a Government procurement, a concern which meets the criteria provided in this section and which either has not been determined by SBA to be ineligible, or has been determined to be ineligible but subsequently has on the basis of a significant change in ownership, management or contractual relations, applied for recertification and had its application granted, may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the Contracting Officer shall accept the self-certification at face value for the particular procurement involved. If the contracting officer has cause to question the veracity of a self-certification and elects to do so, he shall refer the eligibility issue to SBA by filing a formal protest pursuant to § 121.3–5. If a procurement calls for more than one item and the bidder can bid on any or all items, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item and a bidder is required to bid on all or none of such items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value. The determination of the appropriate classification of a product or service shall be made by the contracting officer. Both classification and the applicable size standard (number of employees, average annual receipts, etc.) shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed in the manner provided in § 121.3–6. If no standard for an industry, field of operation or activity (e.g., animal specialty; fin fish; management-logistics support to be performed outside of the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands, or the District of Columbia) has been set forth in this section, a concern bidding on a Government contract is a small business, if including its affiliates, it is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and has 500 employees or less.

(a) *Construction.* Any concern bidding on a contract for work which is classified in Division C, Contract Construction of the Standard Industrial Classification Manual, as amended, prepared and published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President, is:

(1) Small if its average annual receipts for its preceding three (3) fiscal years do not exceed $7½ million.

(2) Small if it is bidding on a contract for dredging and its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(b) *Manufacturing.* Any concern bidding on a contract for a product it manufactured is classified:

(1) As small if it is bidding on a contract for food canning and preserving and its number of employees does not exceed 500 persons, exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

(2) As small if it is bidding on a contract for a product classified within an industry set forth in Schedule B of this part and its number of employees does not exceed the size standard established for that industry.

(3) As small if it is bidding on a contract for a product classified within an industry not set forth in Schedule B of this part and its number of employees does not exceed 500 persons.

(4) As small if it is bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112: *Provided,* That (i) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture, (ii) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less than five percent (5%) of the value of all such tires manufactured in the United States during said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than ten percent (10%) of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(5) As small if it is bidding on a contract for passenger cars within Census Classification Code 37171: *Provided,* That (i) the value of the passenger cars within Census Classification Code 37171 which it manufactured or otherwise produced in the United States during the preceding calendar year is more than fifty percent (50%) of the value of its total worldwide manufacture or production of such passenger cars, (ii) the value of the passenger cars within Census Classification Code 37171, which it manufactured or otherwise produced during the preceding calendar year was less than five percent (5%) of the total value of all such manufactured or produced in the United States during the said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold during the preceding calendar year is less than ten percent (10%) of the total value of such product manufactured or otherwise produced or sold in the United States during said period.

(6) Rebuilding on a factory basis or equivalent: As small if it is bidding on a contract for rebuilding machinery or equipment on a factory basis, the purpose of which is to restore such machinery or equipment to as serviceable and as like new condition as possible and its number of employees does not exceed the number of employees specified for the classification code applicable to the manufacturer of the original item.

NOTE: The size standard contained herein is not limited to concerns who are manufacturers of the original item but it is applicable to all bidders or offerers. The term "rebuilding on a factory basis" as used in this subsection does not include ordinary repair services such as those involving minor repair and/or preservation operations.

(c) *Nonmanufacturing.* Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product not manufactured by said bidder or offerer, is deemed to be a small business concern when:

(1) Its number of employees does not exceed 500 persons, and

(2) (i) In the case of Government procurement reserved for or involving the preferential treatment of small businesses, such nonmanufacturer furnishes in the performance of the contract the products of a small business manufacturer or producer whose products are manufactured or produced in the United States; *Provided, however,* If the goods to be furnished are woolen, worsted, knitwear, duck, and webbing, dealers and converters shall furnish such products which have been manufactured or produced by a small weaver (small knitter

for knitwear), and if finishing is required, by a small finisher. If the procurement is for thread, dealers and converters shall furnish such products which have been finished by a small finisher. (Finishing of thread is defined as all "dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specifications but excluding, mercerizing, spinning, throwing, or twisting operations.")

(ii) If the procurement is for a refined petroleum product, other than a product classified in Standard Industrial Classification Industries No. 2951, Paving Mixtures and Blocks; No. 2952, Asphalt Felts and Coatings; No. 2992, Lubricating Oils and Greases; or No. 2999, Products of Petroleum and Coal, Not Elsewhere Classified; paragraph (g) of this section is for application.

(d) *Research, development, and testing.* Any concern bidding on a contract for research, development, and/or testing is classified:

(1) As small if it is bidding on a contract for research and/or development which requires delivery of a manufactured product and (i) it qualifies as a small business manufacturer within the meaning of paragraph (b) of this section for the industry into which the product is classified, or (ii) it qualifies as a small business nonmanufacturer within the meaning of paragraph (c) of this section.

(2) As small if it is bidding on a contract for research and/or development which does not require delivery of a manufactured product or on a contract for testing and its number of employees does not exceed 500 persons.

(e) *Services.* Any concern bidding on a contract for services, not elsewhere defined in this section, is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $1 million.

(1) Any concern bidding on a contract for engineering services other than marine engineering services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(2) Any concern bidding on a contract for motion picture production or motion picture services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(3) Any concern bidding on a contract for janitorial and custodial services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(4) Any concern bidding on a contract for base maintenance is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(5) Any concern bidding on a contract for marine cargo handling services is classified as small if its annual receipts do not exceed $5 million for the preceding three (3) fiscal years.

(6) Any concern bidding on a contract for naval architectural and marine engineering services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $6 million.

(7) Any concern bidding on a contract for food services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $4 million.

(8) (i) Any concern bidding on a contract for laundry services including linen supply, diaper services, and industrial laundering is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(ii) Any concern bidding on a contract for cleaning and dyeing including rug cleaning services is classified as small if its average annual receipts for the preceding three (3) fiscal years do not exceed $1 million.

(9) Any concern bidding on a contract for computer programing services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(10) Any concern bidding on a contract for flight training services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(11) Any concern bidding on a contract for motorcar rental and leasing services or truck rental and leasing services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(12) Any concern bidding on a contract for tire recapping services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(13) Any concern bidding on a contract for data processing services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(14) Any concern bidding on a contract for computer maintenance services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(f) *Transportation.* Any concern bidding on a contract for passenger or freight transportation, not elsewhere defined in this section, is classified:

(1) As small if its number of employees does not exceed 500 persons.

(2) As small if it is bidding on a contract for air transportation and its number of employees does not exceed 1,500 persons.

(3) As small if it is bidding on a contract for either trucking (local and long-distance), warehousing, packing, and crating and/or freight forwarding, and its annual receipts do not exceed $5 million.

(g) *Refined petroleum products.* Any concern bidding on a contract for a refined petroleum product other than a product classified in Standard Industrial Classification Industries No. 2951, Paving Mixtures and Blocks; No. 2952, Asphalt Felts and Coatings; No. 2992, Lubricating Oils and Greases; or No. 2999, Products of Petroleum and Coal, Not Elsewhere Classified; is classified as small if (1) (i) its number of employees does not exceed 1,000 persons; (ii) it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis), or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased; and (iii) the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks; *Provided, however,* That a petroleum refining concern which meets the requirements in subdivisions (i) and (ii) of this subparagraph may furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, in effect on the date of the bid or offer, between the bidder or offeror and the refiner of the product to be delivered to the Government which requires exchanges in a stated ratio on a refined petroleum product for a refined petroleum product basis, and precludes a monetary settlement, and that the products exchanged for the products offered and to be delivered to the Government meet the requirement in subdivision (iii): *And, provided further,* That the exchange of products for products to be delivered to the Government, will be completed within 90 days after the expiration of the delivery period under the Government contract: and that any product furnished pursuant to a bona fide exchange agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District pursuant to Schedule G of Part 121, as that in which the small refinery is located; or (2) its number of employees does not exceed 500 persons and the product to be delivered to the Government has been refined by a concern which qualifies under subparagraph (1) of this paragraph.

§ 121.3–9 Definition of small business for sales of Government property.

In the submission of a bid or proposal for the purchase of Government-owned property, a concern which meets the criteria provided in this section may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certifiation at face value for the particular sale involved.

(a) *Sales of Government-owned property other than timber.* A small business concern for the purpose of the sale of Government-owned property other than timber is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field operation, and can further qualify under the following criteria.

(1) *Manufacturers.* Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons;

Provided, however, That a concern primarily engaged in SIC Industry 2911, Petroleum Refining, is small if its number of employees does not exceed 1,000 persons and it does not have more than 30,000 barrels-per-day crude oil or bona fide stock capacity from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis) or a throughput or other forms of processing agreement, with the same effect as though such facilities had been leased.

(2) *Other than manufacturers.* Any concern which is primarily not a manufacturer (except as specified in subparagraph (3) of this paragraph) is small if its annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(3) *Stockpile purchasers.* Any concern primarily engaged in the purchase of materials which are not domestic products is small if its annual sales or annual receipts for its preceding three (3) fiscal years do not exceed $25 million.

(b) *Sales of Government-owned timber.* (1) In connection with sale of Government-owned timber a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of subparagraph (1) of this paragraph, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than thirty percent (30%) of such timber or, in the case of timber from certain geographical areas set forth in Schedule E of this part, more than the percentage established therein for such area.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in subparagraph (1) of this paragraph, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under subparagraph (1) of this paragraph as a small business.

§ 121.3–10 Definition of small business for SBA loans.

A small business concern for the purpose of receiving an SBA loan is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can further qualify under the criteria set forth below. A concern which is a small business under § 121.3–8 which has applied for or received a Certificate of Competency is a small business eligible for an SBA loan to finance the contract covered by the Certificate of Competency. If no standard for an industry, field of operation, or activity has been set forth in this section, a concern seeking determination shall submit SBA Form 355 to the Assistant Administrator for Administration, Washington, D.C. 20416. If an applicant for an SBA loan has one or more affiliates primarily engaged in industries different than that of the applicant, the applicant's size status shall be determined by computing the percentage that the applicant's size is of the size standard for the industry in which it is primarily engaged and adding it to the percentage that the size of each of its affiliates is of the size standard for the industry in which each affiliate is primarily engaged. In order for the applicant to be eligible under this revision, the total of such percentages must not exceed one hundred percent (100%). A concern's primary industry is that which produced the greatest percentage of gross receipts for its past fiscal year.

(a) *Construction.* Any construction concern is small if its average annual receipts do not exceed $5 million for the preceding three (3) fiscal years.

(b) *Manufacturing.* Any manufacturing concern is classified:

(1) As small if its number of employees does not exceed 250 persons;

(2) As large if its number of employees exceeds, 1,500 persons;

(3) Either as small or large depending on its industry and in accordance with the employment size standards set forth in Schedule "A" of this part, if its number of employees exceeds 250 persons, but not more than 1,500 persons;

(4) As small if it is primarily engaged in the food canning and preserving industry and its number of employees does not exceed 500 persons exclusive of agricultural labor as defined in subsection (k) of the Federal Employment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

(c) *Retail.* (1) Any retailing concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule D of this part and its annual receipts do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule D of this part and its annual sales do not exceed $1 million.

(d) *Services.* Any service concern is classified:

(1) As small if its annual receipts do not exceed $1 million;

(2) As small if it is primarily engaged in the hotel and motel industry and its annual receipts do not exceed $2 million;

(3) As small if it is primarily engaged in the power laundry industry and its annual receipts do not exceed $2 million;

(4) As small if it is primarily engaged in the trailer court and parks industry and its annual receipts do not exceed $1 million: *Provided,* That a minimum of fifty percent (50%) of the annual receipts is derived from the rental of space to tourist trailers for periods not in excess of thirty (30) days.

(5) As small if it is primarily engaged in owning and operating a hospital and its capacity does not exceed 150 beds (excluding cribs and bassinets);

(6) As small if it is primarily engaged in owning and operating a convalescent or nursing home and its annual receipts do not exceed $1 million;

(7) As small if it is primarily engaged in owning and operating a medical or dental laboratory and (i) it is operated in connection with an eligible proprietary hospital or (ii) it is not operated in connection with an eligible proprietary hospital and its annual receipts do not exceed $1 million;

(8) As small if it is primarily engaged in the motion picture production industry and its annual receipts do not exceed $5 million;

(9) As small if it is primarily engaged in the motion picture services industry and its annual receipts do not exceed $5 million;

(10) As small if it is primarily engaged in rendering engineering services and its annual receipts do not exceed $2.5 million.

(e) *Shopping centers.* (1) Any concern primarily engaged in operating shopping centers is small if (i) it does not have assets exceeding $5 million, (ii) it does not have net worth in excess of $2½ million, (iii) it does not have an average net income, after Federal Income Taxes, for the preceding two (2) fiscal years in excess of $250,000 (average net income to be computed without benefit of any carryover loss), and (iv) it does not lease more than twenty-five percent (25%) of the gross leasable area to concerns which do not meet the small business definitions contained in this section.

(2) For the purpose of size determinations, shopping center operators will not be considered affiliated with their tenants merely because of lease agreements.

(f) *Transportation and warehousing.* Any concern primarily engaged in passenger and freight transportation or warehousing is classified:

(1) As small if its annual receipts do not exceed $1 million;

(2) As small if it is primarily engaged in the air transportation industry and its number of employees does not exceed 1,000 persons;

(3) As small if it is primarily engaged in the storage of grain and it does not

have more than 1 million bushels capacity in owned and leased facilities, and its annual receipts do not exceed $1 million;

(4) As small if it is primarily engaged in trucking, warehousing, packing, and crating and/or freight forwarding and its annual receipts do not exceed $5 million.

(g) *Wholesale.* (1) Any wholesaling concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule C of this part and its annual receipts do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule C of this part and its annual receipts do not exceed $5 million.

(2) Any concern primarily engaged in wholesaling, but also engaged in manufacturing, is not a "small business concern" unless it qualifies under both the manufacturing and wholesaling standards.

(h) *Custom livestock feeding.* Any concern primarily engaged in custom livestock feeding is classified as small if its annual receipts do not exceed $2 million.

§ 121.3–11 Definition of small business for assistance by small business investment companies or by development companies.

A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies is one which:

(a) Together with its affiliates, is independently owned and operated, is not dominant in its field of operation, does not have assets exceeding $7½ million, does not have net worth in excess of $2½ million, and does not have an average net income, after Federal Income Taxes, for the preceding 2 years in excess of $250,000 (average net income to be computed without benefit of any carryover loss); or

(b) Qualifies as a small business concern under § 121.3–10.

§ 121.3–12 Definition of small business Government subcontractors.

(a) Any concern in connection with subcontracts of $2,500 or less which relate to Government procurements will be considered a small business concern if, including its affiliates, its number of employees does not exceed 500 persons.

(b) Any concern in connection with subcontracts exceeding $2,500 which relate to Government procurements will be considered a small business concern if it qualifies as such under § 121.3–8: *Provided, however,* That a nonmanufacturer is considered as small business for the purpose of Government subcontracting if, including its affiliates, its number of employees does not exceed 500 persons.

§ 121.3–13 Definition of small business for the purpose of lease guarantee.

A small business concern for the purpose of lease guarantee is a concern that qualifies as a small business under § 121.3–11.

§ 121.3–14 Interpretations.

(a) [Reserved]

(b) *Section 121.3–9(b), "Sales of Government-owned timber."* Any concern which self-certifies as a small business concern for the purpose of the sale of Government-owned timber is expected to maintain sufficient documentary evidence to show that it did so in good faith. This means that a concern which sells more than 30 percent (30%) of the purchased timber will have to maintain the names and addresses of the concerns to whom the timber is sold and the size status of such concerns, unless an exemption has been granted on sales of mixed stumpage of hardwood and softwood species. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber and timber by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the timber into lumber or timbers.

(c) *Section 121.3–2(a), "Affiliates"*— (1) *Nature of Control.* Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

EXAMPLE. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since he can block any action of the other stockholders. Also, the bylaws of a corporation may be drawn up in such a manner which would permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party, or other parties, may be in control of the concern at the will of the party or parties with the power to control.

(2) *Meaning of "party or parties."* The term "party or parties" includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(3) *Control through stock ownership.* (i) A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

(ii) A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls, or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each own, control or have the power to control less than 50 percent of the voting stock of a concern and such minority blocks are (*a*) equal or substantially equal in size, and (*b*) large as compared with any other block outstanding, there is a presumption that each of such parties controls or has the power to control such concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(iii) If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

EXAMPLE. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock but no officer or director has a block sufficient to give him control or the power to control and remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(4) *Stock options, convertible debentures, and agreements to merge.* Stock options and convertible debentures exercisable at the time of, or within a relatively short time after a size determination, and agreements to merge in the future, are considered as having a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are treated as though the rights held thereunder had been exercised prior to the date of the determination.

EXAMPLE. If, on the date of the determination, Company "A" holds an option to purchase a controlling interest in Company "B" and such option can be exercised at any time by Company "A", the situation is treated as though Company "A" had exercised its rights and had become owner of a controlling interest in Company "B" prior to the determination. Further, if, as of the date of a determination, Company "A" has entered into an agreement to merge with Company "B" in the future, the situation is treated as though the merger had taken place prior to the date of the determination.

(5) *Voting trusts.* If the purpose of a voting trust or similar agreement is to separate voting power from beneficial ownership of voting stock, for the purpose of shifting control of, or the power to control a concern, in order that such concern or another concern may qualify as a small business within the size regulation, such voting trust shall not be considered valid for this purpose, regardless of whether the trust is or is not valid within the appropriate jurisdiction. However, if a voting trust is entered into for a legitimate purpose other than that described above, and it is a valid trust within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination, provided such consideration is determined to be in the best interest of the small business program.

(6) *Control through common management.* A concern is considered as controlling or having the power to control another concern when one or more of the following circumstances are found to exist, and it is reasonable to conclude

that under the circumstances, such concern is directing or influencing, or has the power to direct or influence the operation of such other concern.

(i) *Interlocking management.* Officers, directors, employees, or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.

(ii) *Common facilities.* One concern shares common office space, and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operation, or where such concerns were formerly affiliated.

(iii) *Newly organized concern.* Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, and/or other facilities, whether for a fee or otherwise.

(7) *Control through contractual relationships*—(i) *Definition of a joint venture for size determination purposes.* A joint venture, for size determination purposes, is an association of persons or concerns with interest in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single business venture, such as a Government contract, for joint profit, for which purpose they combine their efforts, property, money, skill, or knowledge, but without creating a corporation or partnership in the legal or technical sense of the term.

(ii) *Joint ventures—financial assistance.* For the purpose of financial assistance to a joint venture, the parties thereto are considered as controlling or having the power to control each other and are considered as being affiliated. For the purpose of financial assistance to a concern which has requested assistance for its own use, but which is incidentally a party to a joint venture, such concern is not considered as being affiliated with its joint venturer.

(iii) *Joint venture—procurement assistance.* Concerns bidding on a particular procurement as joint venturers are considered as controlling or having the power to control each other with regard to performance of the contract, and therefore are considered as being affiliated. However, a concern which is a party to one or more joint ventures, but which is bidding on a procurement as an individual concern, is not considered as being affiliated with its joint venturers since they have no power to control its performance of the contract being bid on. Where a concern is not considered as being an affiliate of a concern with which it is participating in a joint venture, it is necessary, nevertheless, in computing annual receipts, etc., for the purpose of applying size standards to include such concern's share of the joint venture receipts (as distinguished from its share of the profits of such venture).

(iv) *Franchise and license agreements.* If a concern operates or is to operate under a franchise (or a license) agreement, the following policy is applicable: In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the restraints imposed on a franchisee by its franchise agreement shall not be considered, provided that the franchisee has the right to profit from its effort and the risk of loss or failure, commensurate with ownership. Even though a franchisee may not be controlled by the franchisor by virtue of the contractual relationship between them, the franchisee may be controlled by the franchisor or others through common ownership or common management, in which case they would be considered as affiliated.

(d) *Section 121.3–8, Definition of small business for Government procurement*—(1) *Sawmills.* For the purpose of a size determination, a sawmill is considered as the manufacturer of treated lumber, even if it contracts out the treatment of the lumber. Therefore, a small business sawmill can deliver in the performance of a set-aside procurement lumber which has been treated by a concern which does not qualify as a small business concern.

(2) *Oxygen converters.* For the purpose of a size determination, a concern which converts liquid oxygen to gaseous oxygen with or without additives, is a nonmanufacturer of the gaseous oxygen and therefore must furnish gaseous oxygen converted from liquid oxygen manufactured by a small business concern.

(e) *Section 121.3–8.* Section 121.3–8 provides that, in the submission of a bid or proposal on a Government procurement, a concern which meets the size standards criteria provided in § 121.3–8, may represent that it is a small business, provided further, however, that a concern which has been determined by SBA to be ineligible as a small business under a particular size standard: (1) Shall, if it has self-certified as a small business on a pending procurement subject to the same or lower number of employees or annual receipts size standard (whichever is applicable), immediately notify the contracting officer of such adverse size determination and, (2) shall not thereafter self-certify on a procurement subject to the same or a lower employee or annual receipts size standard (whichever is applicable) until it has applied for recertification based on a significant change in its ownership, management or contractural relations, and has been determined eligible as a small business under such size standards by either the regional office which issued the adverse determination or the Small Business Size Appeals Board.

(f) *Section 121.3–4 "Application for small business size status determination."* Contracting officers, in order to determine whether to set particular contracts aside for exclusive award to small business concerns or whether to send invitations for bids to particular concerns, may require information from SBA concerning the small business size status of such concerns and be unable to wait for a formal small business size determination. In such cases, informal advice or information may be given based on the best evidence available concerning the small business size of such a concern. However, such informal advice is not a small business size determination within the meaning of that term in the Small Business Size Standards Regulation and is not binding with respect to eligibility as a small business for the purpose of a particular Government procurement. Further, an opinion as to a concern's future small business size status, based on proposed but unexecuted changes in its organization, management, or contractual relations, is not a small business size determination.

(g) *Section 121.3–6 "Appeals."* The Size Appeals Board only has jurisdiction to consider appeals from formal determinations as to a concern's small business size status and appeals from product or service classification determination made by contracting officers for the purpose of Government procurements. It has no jurisdiction to consider an appeal from an informal opinion or advice concerning a company's small business size status, an opinion as to a company's future small business size status based on proposed but unexecuted changes in its organization, management, or contractual relations, or an appeal based on an allegation that the small business size standard established by SBA for a particular industry or field of operation is improper for the purpose intended.

(h) *Sections 121.3–2(s) and 121.3–8(c) "Definition of nonmanufacturer."* For size determination purposes there can only be one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which with its own forces transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination is not for determination by the contracting officer. The decision shall be made by the appropriate SBA regional director or his delegate and need not be consistent with the contracting officer's decision as to whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act, etc.

(i) *Section 121.3–8(g) "Refined petroleum products."* The proviso in § 121.3–8(g)(1)(iii) that the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks, contemplates that, in accomplishing such refining, the bidder will utilize its own employees and facilities which it owns or obtains under a bona fide lease as distinguished from any other arrangement having the same effect as a lease.

The proviso in § 121.3–8(g) permitting a concern which meets the requirements in subdivisions (i) and (ii) of § 121.3–8 (g)(1) to furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, which meets prescribed requirements, contemplates that the product exchanged by the bidder for the product to be furnished, shall have been refined by the bidder utilizing only its own employees and its own facilities or facilities obtained through a bona fide lease.

(j) *Section 121.3–10 Definition of Small Business for SBA Loans.* Following is an example of the method to be utilized in computing a diversified concern's size status for the purpose of an SBA loan:

Concern A applies for an SBA loan. It is affiliated with Concern B. Concern A has 15 employees and $2.5 million in receipts and is primarily engaged in the retail sale of groceries (Industry No. 5411) for which the size standard is $5 million in annual receipts. Concern B has 100 employees and $3 million in receipts and is primarily engaged in the manufacture of macaroni (Industry No. 2098) for which the size standard is 250 employees. The receipts of Concern A are only 50 percent of the size standard for its industry and the employment of Concern B is only 40 percent of the size standard for its industry. Since the combined percentages are less than 100 percent, Concern A can qualify for an SBA loan.

(k) *Section 121.3–8(e)(12).* The Small Business Size Appeals Board has interpreted this section to apply only to procurements requiring the services of tire retreading and repair shops (Standard Industrial Classification Industry No. 7534, Tire Retreading and Repair Shops) and not to procurements for the repairing and/or retreading of pneumatic aircraft tires which, by reason of the extent and nature of the equipment and operations required, is considered for size standards purposes to be manufactured within the meaning of Standard Industrial Classification Industry No. 3011, Tires and Inner Tubes.

(l) *Section 121.3–8(c) "Definition of Nonmanufacturer."* The Government often purchases items in the form of kits such as, but not limited to, tool kits and survival kits, which are not manufactured items but merely assemblages of separate manufactured items. Accordingly, a concern which purchases some or all of such items and packages them into kit form is considered to be a nonmanufacturer for size determination purposes. Such a concern can qualify as a small business only if it meets all other qualifications of a small nonmanufacturer set forth in this part and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.

Effective date. This revision shall become effective December 31, 1971.

Dated: December 22, 1971.

THOMAS S. KLEPPE,
Administrator.

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

(The following size standards are to be used when determining the size status of applicants for SBA business loans, displaced business loans, economic opportunity loans, and as alternate standards for sections 501 and 502 loans, and SBIC assistance)

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
	Major Group 23—Apparel and Related Products (except men's dress shirts and nightwear)	250
2321	Men's dress shirts and nightwear	500
	Major Group 28—Chemicals and Allied Products:	
2879	Agricultural chemicals, n.e.c.	500
2873	Agricultural pesticudes and other agricultural chemicals, n.e.c.	500
2812	Alkalies and chlorine	1,000
2831	Biological products	250
2895	Carbon, black	500
2823	Cellulose manmade fibers	1,000
2899	Chemicals and chemical preparations, n.e.c. (except fatty acids)	250
28151	Cyclic (coal tar) crudes	500
2815	Cyclic intermediates, dyes, organic pigments (lakes and toners) except cyclic (coal tar) crudes	750
2892	Explosives	750
28992	Fatty acids	500
2871	Fertilizers	500
2872	Fertilizers, mixing only	500
2891	Glue and gelatin	250
2861	Gum and wood chemicals	500
2813	Industrial gases	1,000
2819	Industrial inorganic chemicals, n.e.c.	1,000
2818	Industrial organic chemicals, n.e.c.	1,000
2816	Inorganic pigments	1,000
2833	Medicinal chemicals and botanical products	750
2851	Paints, varnishes, lacquers, enamels and allied products	250
2844	Perfumes, cosmetics, and other toilet preparations	500
2834	Pharmaceutical preparations	750
2821	Plastics materials, synthetic resins, and nonvulcanizable elastomers	750
2893	Printing ink	250
2841	Soap and other detergents, except specialty cleaners	750
2842	Specialty cleaning, polishing, and sanitation preparations, except soap and detergents	500
2843	Surface active agents, finishing agents, sulfonated oils and assistants	250
2824	Synthetic organic fibers, except cellulosic	1,000
2822	Synthetic rubber (vulcanizable elastomers)	1,000
	Major Group 36—Electrical Machinery, Equipment, and Supplies:	
3624	Carbon and graphite products	750
3672	Cathode ray picture tubes	750
3643	Current-carrying wiring devices	500
3634	Electric housewares and fans	750
3641	Electric lamps	1,000
3611	Electric measuring instruments and test equipment	500
3694	Electrical equipment for internal combustion engines	750
3629	Electrical industrial apparatus, n.e.c.	500
3699	Electrical machinery, equipment and supplies, n.e.c.	500
3679	Electronic components and accessories, n.e.c.	500
3639	Household appliances, n.e.c.	500
3631	Household cooking equipment	750
3633	Household laundry equipment	1,000
3632	Household refrigerators and home and farm freezers	1,000
3635	Household vacuum cleaners	750
3622	Industrial controls	750
3642	Lighting fixtures	250
3621	Motors and generators	1,000
3644	Noncurrent carrying wiring devices	500
3652	Phonograph records	750
3612	Power, distribution and specialty transformers	750
3692	Primary batteries, dry and wet	1,000
3651	Radio and television receiving sets, except communication types	750
3671	Radio and television receiving type electron tubes, except cathode ray	1,000
3662	Radio and television transmitting-signaling, and detection equipment, and apparatus [2]	750
3693	Radiographic X-ray, fluoroscopic X-ray, therapeutic X-ray, and other X-ray apparatus and tubes	500
3674	Semiconductors and related devices	500
3636	Sewing machines	750
3691	Storage batteries	500
3613	Switchgear and switchboard apparatus	750
3661	Telephone and telegraph apparatus	1,000
3673	Transmitting, industrial and special purpose electron tubes	750
3623	Welding apparatus	250
	Major Group 34—Fabricated Metal Products, Except Ordnance, Machinery, and Transportation Equipment:	
3446	Architectural and ornamental metal work	250
3452	Bolts, nuts, screws, rivets and washers	500
3479	Coating, engraving, and allied services, n.e.c.	250
3496	Collapsible tubes	250
3421	Cutlery	500
3471	Electroplating, plating, polishing, anodizing and coloring	250
3431	Enameled iron and metal sanitary ware	750
3499	Fabricated metal products, n.e.c.	250
3498	Fabricated pipe and fabricated pipe fittings	250
3443	Fabricated platework (boiler shops)	250
3441	Fabricated structural steel	250
3423	Hand and edge tools, except machine tools and hand saws	250
3425	Hand saws and saw blades	250
3429	Hardware, n.e.c.	250
3433	Heating equipment, except electric	500
3411	Metal cans	1,000
3442	Metal doors, sash, frames, molding, and trim	250
3497	Metal foil and leaf	500
3491	Metal shipping barrels, drums, kegs, and pails	500
3461	Metal stampings	250
3481	Miscellaneous fabricated wire products	250
3449	Miscellaneous metal work	250
3432	Plumbing fixture fittings and trim (brass goods)	500
3492	Safes and vaults	500
3451	Screw machine products	250
3444	Sheet metal work	250
3493	Steel springs	500
3494	Valves and pipe fittings, except plumbers' brass goods	500
	Major Group 20—Food and Kindred Products:	
2094	Animal and marine fats and oils	250
2063	Beet sugar	750
2052	Biscuit, cracker, and pretzels	750
2045	Blended and prepared flour	500
2086	Bottled and canned soft drinks and carbonated waters	250
2051	Bread and other bakery products, except biscuit, cracker, and pretzels	250
2071	Candy and other confectionery products	250
2061	Cane sugar, except refining only	250
2062	Cane sugar refining	750
2031	Canned and cured seafoods	250
2033	Canned fruits, vegetables, preserves, jams and jellies	500
2032	Canned specialities	1,000
2043	Cereal preparations	1,000
2022	Cheese, natural and processed	250
2073	Chewing gum	500
2072	Chocolate and cocoa products	500
2023	Condensed and evaporated milk	500
2091	Cottonseed oil mills	250
2021	Creamery butter	250
2085	Distilled, rectified, and blended liquors	750
2034	Dried and dehydrated fruits and vegetables	500

See footnotes at end of table.

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING—Continued

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
2087	Flavoring extracts and flavoring sirups, n.e.c.	500
2041	Flour and other grain mill products	500
2026	Fluid milk	500
2099	Food preparations, n.e.c.	250
20991	Desserts (ready-to-mix)	500
20994	Baking powder and yeast	500
2036	Fresh or frozen packaged fish	250
2037	Frozen fruits, fruit juices, vegetables and specialities	500
2024	Ice cream and frozen desserts	500
2098	Macaroni, spaghetti, vermicelli, and noodles	250
2083	Malt	250
2082	Malt liquors	500
2097	Manufactured ice	250
2011	Meatpacking plants	500
2035	Pickled fruits and vegetables; vegetable sauces and seasonings; salad dressings	250
2015	Poultry and small game dressing and packing, wholesale	250
2042	Prepared feeds for animals and fowls	250
2044	Rice milling	250
2095	Roasted coffee	250
2013	Sausage and other prepared meat products	500
2096	Shortening, table oils, margarine, and other edible fats and oils, n.e.c.	750
2092	Soybean oil mills	500
2093	Vegetable oil mills, except cottonseed and soybean	1,000
2046	Wet corn milling	750
2084	Wines, brandy, and brandy spirits	250
	Major Group 25—Furniture and Fixtures:	
2599	Furniture and fixtures, n.e.c.	250
2519	Household furniture, n.e.c.	250
2515	Mattresses and bedsprings	250
2514	Metal household furniture	250
2522	Metal office furniture	500
2542	Metal partitions, shelving, lockers, and office and store fixtures	250
2531	Public building and related furniture	250
2591	Venetian blinds and shades	250
2511	Wood household furniture, except upholstered	250
2512	Wood household furniture, upholstered	250
2521	Wood office furniture	250
2541	Wood partitions, shelving, lockers, and office and store fixtures	250
	Major Group 31—Leather and Leather Products:	
3131	Boot and shoe cut stock and findings	250
3141	Footwear, except house slippers and rubber footwear	500
3142	House slippers	250
3121	Industrial leather belting and packing	250
3151	Leather dress, semidress, and work gloves	250
3199	Leather goods, n.e.c.	250
3111	Leather tanning and finishing	250
3161	Luggage	250
3172	Personal leather goods, except handbags and purses	250
3171	Women's handbags and purses	250
	Major Group 24—Lumber and Wood Products, Except Furniture	250
	Major Group 35—Machinery, Except Electrical:	
3581	Automatic merchandising machines	250
3562	Ball and roller bearings	750
3564	Blowers, exhaust and ventilating fans	250
3574	Calculating and accounting machines, except electronic computing equipment	1,000
3582	Commercial laundry, drycleaning and pressing machines	250
3531	Construction machinery and equipment	750
3535	Conveyors and conveying equipment	250
3573	Electronic computing equipment	1,000
3534	Elevators and moving stairways	500
3522	Farm machinery and equipment	500
3551	Food products machinery	250
3569	General industrial machinery and equipment, n.e.c.	250
3536	Hoists, industrial cranes and monorail systems	500
3565	Industrial patterns	250
3567	Industrial process furnaces and ovens	250
3537	Industrial trucks, tractor trailers, and stackers	750
3519	Internal combustion engines, n.e.c.	1,000
3545	Machine tool accessories and measuring devices	250
35452	Precision-measuring tools	500
3541	Machine tools, metal cutting types	500
3542	Machine tools, metal forming types	500
3586	Measuring and dispensing pumps	500
3566	Mechanical power transmission equipment, except ball and roller bearings	500
3548	Metal working machinery, except machine tools	500
3532	Mining machinery and equipment, except oilfield machinery and equipment	500
3599	Miscellaneous machinery, except electrical	250
3579	Office machines, n.e.c.	500
3533	Oilfield machinery and equipment	500
3554	Paper industries machinery	250
3555	Printing trades machinery and equipment	500
3561	Pumps, air and gas compressors, and pumping equipment	500
3585	Refrigerators; refrigeration machinery, except household; and complete air-conditioning units	750
3576	Scales and balances, except laboratory	250
3589	Service industry machines, n.e.c.	250
3544	Special dies and tools, die sets, jigs, and fixtures	250
3559	Special industry machinery, n.e.c.	250
3511	Steam engines; steam, gas, and hydraulic turbines; and steam, gas, and hydraulic turbine generator set units	1,000
3552	Textile machinery	250
3572	Typewriters	1,000
3553	Woodworking machinery	250
	Major Group 39—Miscellaneous Manufacturing Industries:	
3991	Brooms and brushes	250
3963	Buttons	250
3955	Carbon paper and inked ribons	250
3943	Children's vehicles, except bicycles	250
3961	Costume jewelry and costume novelties, except precious metal	250
3942	Dolls	250
3962	Feathers, plumes and artificial flowers	250
3941	Games and toys, except dolls and children's vehicles	250
3912	Jewelers' findings and materials	250
3911	Jewelry; precious metal	250
3913	Lapidary work and cutting and polishing diamonds	250
3952	Lead pencils, crayons, and artists' materials	250
3996	Linoleum, asphalted-felt base, and other hard surface floor coverings, n.e.c.	750
3999	Manufacturing industries, n.e.c.	250
3953	Marking devices	250
39993	Matches	500
3994	Morticians' goods	250
3931	Musical instruments and parts	500
3964	Needles, pins, hooks and eyes, and similar notions	250
3951	Pens, pen points, fountain pens, ball point pens, mechanical pencils and parts	500
3993	Signs and advertising displays	250
3914	Silverware and plated ware	500
3949	Sporting and athletic goods, n.e.c.	250
	Major Group 19—Ordnance and Accessories:	
1929	Ammunition, except for small arms, n.e.c.	1,000
1955	Guided missiles and space vehicles, completely assembled	250
1911	Guns, howitzers, mortars, and related equipment	250
1999	Ordnance and accessories, n.e.c.	250
1941	Sighting and fire-control equipment	250
1951	Small arms	1,000
1961	Small arms ammunition	1,000
1931	Tanks and tank components	1,000
	Major Group 26—Paper and Allied Products:	
2643	Bags, except textile bags	500
2661	Building paper and building board mills	750
2649	Converted paper and paperboard products, n.e.c.	500
2653	Corrugated and solid-fiber boxes	250
2645	Die cut paper and paperboard; and cardboard	250
2642	Envelopes	250
2655	Fiber cans, tubes, drums, and similar products	250
2651	Folding paperboard boxes	250
2641	Paper coating and glazing	500
2621	Paper mills, except building-paper mills	750
2631	Paperboard mills	750
2646	Pressed and molded pulp goods	750
2611	Pulp mills	750
2654	Sanitary food containers	750
2647	Sanitary paper products	500
2652	Setup paperboard boxes	250
2644	Wallpaper	250
	Major Group 29—Petroleum Refining and Related Industries:	
2952	Asphalt felts and coatings	750
2992	Lubricating oils and greases	500
2951	Paving mixtures and blocks	250
2911	Petroleum refining [2]	1,000
2999	Products of petroleum and coal, n.e.c.	250
	Major Group 33—Primary Metal Industries:	
3361	Aluminum castings	250
3312	Blast furnaces (including coke ovens) steel works, and rolling mills	1,000
3362	Brass, bronze, copper, copper base alloy castings	250
3316	Cold rolled sheet, strip and bars	1,000
3357	Drawing and insulating of nonferrous wire	1,000
3313	Electrometallurgical products	750
3321	Gray iron foundries	500
3391	Iron and steel forgings	500
3322	Malleable iron foundries	500
3369	Nonferrous castings, n.e.c.	250
3392	Nonferrous forgings	250
3399	Primary metal industries, n.e.c.	750
3334	Primary production of aluminum	1,000
3331	Primary smelting and refining of copper	1,000
3332	Primary smelting and refining of lead	1,000
3339	Primary smelting and refining of nonferrous metals, n.e.c.	750
3333	Primary smelting and refining of zinc	750
3352	Rolling, drawing, and extruding of aluminum	750
3351	Rolling, drawing, and extruding of copper	750
3356	Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum	750
3341	Secondary smelting, refining and alloying of nonferrous metals and alloys	250
3323	Steel foundries	500
3317	Steel pipe and tubes	1,000
3315	Steel wire drawing and steel nails and spikes	1,000
	Major Group 27—Printing and Publishing Industries	250
	Major Group 38—Professional, Scientific and Controlling Instruments: Photographic and Optical Goods: Watches and Clocks:	
3822	Automatic temperature controls	500
3843	Dental equipment and supplies	250
3811	Engineering, laboratory, and scientific and research instruments and associated equipment	500
3821	Mechanical measuring and controlling instruments, except automatic temperature controls	500
3851	Ophthalmic goods	250
3831	Optical instruments and lenses	250

See footnotes at end of table.

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING—Continued

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
3842	Orthopedic, prosthethic, and surgical appliances and supplies	250
3861	Photographic equipment and supplies	500
3841	Surgical and medical instruments and apparatus	250
3872	Watchcases	250
3871	Watches, clocks, and parts except watchcases	500
	Major Group 30—Rubber and Miscellaneous Plastics Products:	
3069	Fabricated rubber products, n.e.c.	500
3079	Miscellaneous plastics products	250
3031	Reclaimed rubber	750
3021	Rubber footwear	1,000
3011	Tires and inner tubes	1,000
	Major Group 32—Stone, Clay, and Glass Products:	
3291	Abrasive products	250
3292	Asbestos products	750
3251	Brick and structural clay tile	250
3241	Cement, hydraulic	750
3253	Ceramic wall and floor tile	500
3255	Clay refractories	250
3271	Concrete block and brick	250
3272	Concrete products, except block and brick	250
3281	Cut stone and stone products	250
3263	Fine earthenware (whiteware), table and kitchen articles	500
3211	Flat glass	1,000
3221	Glass containers	750
3231	Glass products, made of purchased glass	250
3275	Gypsum products	1,000
3274	Lime	500
3296	Mineral wool	750
3295	Minerals and earths, ground or otherwise treated	250
3297	Nonclay refractories	750
3299	Nonmetallic mineral products, n.e.c.	250
3264	Porcelain electrical supplies	500
3269	Pottery products, n.e.c.	250
3229	Pressed and blown glass and glassware, n.e.c.	750
3273	Ready-mixed concrete	250
3293	Steam and other packing and pipe and boiler covering	500
3259	Structural clay products, n.e.c.	250
3261	Vitreous china plumbing fixtures and china and earthenware fittings and bathroom accessories	750
3262	Vitreous china table and kitchen articles	500
	Major Group 22—Textile Mill Products:	
2295	Artificial leather, oilcloth, and other impregnated and coated fabrics, except rubberized	250
2211	Broad-woven fabric mills, cotton	1,000
2221	Broad-woven fabric mills, manmade fiber and silk	500
2231	Broad-woven fabric mills, wool: including dyeing and finishing	250
2279	Carpets, rugs, and mats, n.e.c.	500
2298	Cordage and twine	250
2269	Dyeing and finishing textiles, n.e.c.	250
2291	Felt goods, except woven felts and hats	250
2261	Finishers of broad-woven fabric of cotton	500
2262	Finishers of broad-woven fabrics of manmade fiber and silk	500
2251	Full-fashioned hosiery mills	250
2256	Knit fabric mills	250
2253	Knit outerwear mills	250
2254	Knit underwear mills	250
2259	Knitting mills, n.e.c.	250
2292	Lace goods	250
2241	Narrow fabrics and other smallwares mills: cotton, wool, silk, and manmade fiber	250
2293	Paddings and upholstery filling	250
2294	Processed waste and recovered fibers and flock	250
2252	Seamless hosiery mills	250
2299	Textile goods, n.e.c.	250
2284	Thread mills	500
2296	Tire cord and fabric	1,000
2272	Tufted carpets and rugs	500

See footnotes at end of table.

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING—Continued

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
2297	Wool scouring, worsted combing, and tow to top mills	250
2271	Woven carpets and rugs	750
2283	Yarn mills, wool, including carpet and rug yarn	250
2281	Yarn spinning mills, cotton, manmade fibers and silk	500
2282	Yarn throwing, twisting, and winding mills, cotton, manmade fibers and silk	250
	Major Group 21—Tobacco Manufactures:	
2111	Cigarettes	1,000
2121	Cigars	500
2131	Tobacco (chewing and smoking) and snuff	500
2141	Tobacco stemming and redrying	500
	Major Group 37—Transportation Equipment:	
3721	Aircraft [4]	1,500
3722	Aircraft engines and engine parts [2]	1,000
3729	Aircraft parts and auxiliary equipment, n.e.c. [2]	1,000
3723	Aircraft propellers and propeller parts	1,000
3732	Boat building and repairing	250
3741	Locomotives and parts	1,000
3717	Motor vehicles and parts [5]	1,000
3751	Motorcycles, bicycles, and parts	500
3742	Railroad and street cars	750
3731	Shipbuilding and repairing	1,000
3791	Trailer coaches	250
3799	Transportation equipment, n.e.c.	250
3713	Truck and bus bodies	250
3715	Truck trailers	500

[1] The "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters.

[2] Guided missile engines and engine parts are classified in SIC 3722. Missile control systems are classified in SIC 3662.

[3] Together with its affiliates does not employ more than 1,000 persons and does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned and/or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

[4] Includes maintenance as defined in the Federal Aviation Regulations (14 CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviation Regulations "'Maintenance' means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance. 'Preventive maintenance' means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations."

[5] The three Standard Industrial Classification industries (3711, 3712 and 3714) have been combined because of a major problem of defining the reporting unit in terms of these industries. This difficulty arises from the fact that many large establishments have integrated operations which include the production of parts or bodies and the assembly of complete vehicles at the same location.

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT (MANUFACTURING)

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
	Major Group 19—Ordnance and Accessories:	
1925	Guided missiles and space vehicles, completely assembled	1,000
1929	Ammunition, except for small arms, n.e.c.	1,500
1931	Tanks and tank components	1,000
1951	Small Arms	1,000
1961	Small arms ammunition	1,000
	Major Group 20—Food and Kindred Products:	
2026	Fluid Milk	750

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT (MANUFACTURING)—Continued

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
2032	Canned specialties	1,000
2043	Cereal preparations	1,000
2046	Wet corn milling	750
2052	Biscuits, crackers, and pretzels	750
2062	Cane sugar refining	750
2063	Beet sugar	750
2085	Distilled, rectified, and blended liquors	750
2093	Vegetable oil mills, except cottonseed and soybean	1,000
2096	Shortening, table oils, margarine and other edible fats and oils, n.e.c.	750
	Major Group 21—Tobacco Manufactures:	
2111	Cigarettes	1,000
	Major Group 22—Textile Mill Products:	
2211	Broad-woven fabric mills, cotton	1,000
2261	Finishers of broad-woven fabrics of cotton	1,000
2271	Woven carpets and rugs	750
2295	Artificial leather, oilcloth, and other impregnated and coated fabrics, except rubberized	1,000
2296	Tire cord and fabric	1,000
	Major Group 26—Paper and Allied Products:	
2661	Building paper and building board mills	750
2621	Papermills, except building papermills	750
2631	Paperboard mills	750
2646	Pressed and molded pulp goods	750
2611	Pulp mills	750
2654	Sanitary food containers	750
	Major Group 28—Chemicals and Allied Products:	
2812	Alkalies and Chlorine	1,000
2823	Cellulose manmade fibers	1,000
2815	Dyes, dye (cyclic) intermediates and organic pigments (lakes and toners)	750
2892	Explosives	750
2813	Industrial gases	1,000
2819	Industrial inorganic chemicals, n.e.c	1,000
2818	Industrial organic chemicals, n.e.c.	1,000
2816	Inorganic pigments	1,000
2833	Medicinal chemicals and botanical products	750
2834	Pharmaceutical preparations	750
2821	Plastics materials, synthetic resins, and nonvulcanizable elastomers	750
2841	Soap and other detergents, except specialty cleaners	750
2824	Synthetic organic fibers, except cellulosic	1,000
2822	Synthetic rubber (vulcanizable elastomers)	1,000
	Major Group 29—Petroleum Refining and Related Industries: [3]	
2952	Asphalt felts and coatings	750
	Major Group 30—Rubber and Miscellaneous Plastics Products:	
3011	Tires and innertubes	1,000
30111	Passenger car and motorcycle pneumatic tires (casings). [3]	
30112	Truck and bus (and off-the-road) pneumatic tires. [3]	
3031	Reclaimed rubber	750
3021	Rubber footwear	1,000
	Major Group 32—Stone, Clay, and Glass Products:	
3211	Flat glass	1,000
3221	Glass containers	750
3229	Pressed and blown glass and glassware, n.e.c	750
3241	Cement, hydraulic	750
3261	Vitreous china plumbing fixtures and china and earthenware fittings and bathroom accessories	750
3275	Gypsum products	1,000
3292	Asbestos products	750
3296	Mineral wool	750
3297	Nonclay refractories	750
	Major Group 33—Primary Metal Industries:	
3312	Blast furnaces (including coke ovens), steel works, and rolling mills	1,000
3313	Electrometallurgical products	750
3315	Steel wire drawing and steel nails and spikes	1,000

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT (MANUFACTURING)—Continued

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
3316	Cold rolled sheet, strip and bars	1,000
3317	Steel pipe and tubes	1,000
3331	Primary smelting and refining of copper	1,000
3332	Primary smelting and refining of lead	1,000
3333	Primary smelting and refining of zinc	750
3334	Primary production of aluminum	1,000
3339	Primary smelting and refining of nonferrous metals, n.e.c.	750
3351	Rolling, drawing, and extruding of copper	750
3352	Rolling, drawing, and extruding of aluminum	750
3356	Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum	750
3357	Drawing and insulating of nonferrous wire	1,000
3399	Primary metal industries, n.e.c.	750
	Major Group 34—Fabricated Metal Products, Except Ordnance, Machinery, and Transportation Equipment:	
3411	Metal cans	1,000
3431	Enameled iron and metal sanitary ware	750
	Major Group 35—Machinery, Except Electrical:	
3511	Steam engines: steam, gas, and hydraulic turbines; and steam, gas, and hydraulic turbine-generator set units	1,000
3519	Internal combustion engines, n.e.c.	1,000
3531	Construction machinery and equipment	750
3537	Industrial Trucks, Tractors, Trailers and Stackers	750
3562	Ball and roller bearings	750
3574	Calculating and accounting machines, except electronic computing equipment	1,000
3573	Electronic computing equipment	1,000
3572	Typewriters	1,000
3585	Refrigerators; refrigeration machinery, except household; and complete air-conditioning units	750
	Major Group 36—Electrical Machinery, Equipment and Supplies:	
3612	Power, distribution, and specialty transformers	750
3613	Switchgear and switchboard apparatus	750
3621	Motors and generators	1,000
3622	Industrial controls	750
3624	Carbon and graphite products	750
3631	Household cooking equipment	750
3632	Household refrigerators and home and farm freezers	1,000
3633	Household laundry equipment	1,000
3634	Electric housewares and fans	750
3635	Household vacuum cleaners	750
3636	Sewing machines	750
3641	Electric lamps	1,000
3651	Radio and television receiving sets, except communication types	750
3652	Phonograph records	750
3661	Telephone and telegraph apparatus	1,000
3662	Radio and television transmitting, signaling, and detection equipment and apparatus [4]	750
3672	Cathode ray picture tubes	750
3694	Electrical equipment for internal combustion engines	750
3692	Primary batteries, dry and wet	1,000
3671	Radio and television receiving type electron tubes, except cathode ray	1,000
3673	Transmitting, industrial, and special purpose electron tubes	750
	Major Group 37—Transportation Equipment:	
3721	Aircraft [5]	1,500
3722	Aircraft engines and engine parts [4] [5]	1,000
3723	Aircraft propellers and propeller parts	1,000
3729	Aircraft parts and auxiliary equipment, n.e.c. [4]	1,000
3741	Locomotives and parts	1,000
3717	Motor vehicles and parts [6]	1,000
37171	Passenger cars (knocked down or assembled)	(7)
3742	Railroad and street cars	750
3731	Shipbuilding and repairing	1,000
	Major Group 39—Miscellaneous Manufacturing Industries:	
3996	Linoleum, asphalted-felt-base, and other hard surface floor coverings, n.e.c.	750

See footnotes at end of table.

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT (MANUFACTURING)—Continued

[1] The "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters.

[2] The size standard for SIC 2911 is set forth in § 121.3-8(g).

[3] The size standards for SIC 30111, 30112, and 37171 are set forth in section 121.3-8(b)(4) and section 121.3-8(b)(5), respectively of this part.

[4] Guided missile engines and engine parts are classified in SIC 3722. Missile control systems are classified in SIC 3662.

[5] Includes maintenance as defined in the Federal Aviation Regulations (14 (CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviation Regulations: " 'Maintenance' means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance. 'Preventive maintenance' means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations."

[6] The three Standard Industrial Classification industries (3711, 3712, and 3714) have been combined because of a major problem of defining the reporting unit in terms of these industries. This difficulty arises from the fact that many large establishments have integrated operations which include the production of parts or bodies and the assembly of complete vehicles at the same location.

SCHEDULE C—ANNUAL RECEIPTS SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN WHOLESALING

(The following size standards are to be used when determining the size status of wholesaling concerns for the purpose of SBA Business loans, displaced business loans, economic opportunity loans, and as alternate standards for sections 501 and 502 loans and SBIC assistance.) (Where code is followed by letter, size standard applies only to class of product designated.)

Industry or subindustry code	Industry, subindustry or class of products	Annual sales size standard (maximum) (in millions)
5099a	Amusement, sporting goods	$10
5091a	Coal	10
5098b	Construction materials (excluding lumber and millwork)	10
5082	Construction and mining machinery and equipment	10
5043	Dairy products	10
5022	Drugs, drug proprietaries, druggists' sundries	10
5064	Electrical appliances, televisions and radio sets	10
5039	Footwear	10
5053	Grain	10
5049	Groceries and related products, not elsewhere classified	10
5097b	Home furnishings, floor coverings	10
5084	Industrial machinery and equipment	10
5085	Industrial supplies	10
5054	Livestock (except horses and mules)	10
5047	Meats and meat products	10
5091b	Metal service centers	10
5034	Notions and other dry goods	10
5033	Piece goods (woven fabrics)	10
5096a	Printing and writing paper	10
5094	Tobacco and its products	10
5012	Automobiles and other motor vehicles	15

SCHEDULE C—ANNUAL RECEIPTS SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN WHOLESALING—Continued

Industry or subindustry code	Industry, subindustry or class of products	Annual sales size standard (maximum) (in millions)
5029	Chemicals and allied products, not elsewhere classified	$15
5081	Commercial machines and equipment	15
5052	Cotton	15
5063	Electrical apparatus and equipment, wiring supplies and construction materials	15
5083	Farm machinery and equipment	15
5042	Frozen foods	15
5041	Groceries, general line	15
5096b	Industrial and personal service paper only	15
5091c	Metal sales offices	15
5028	Paints and varnishes	15
5092	Petroleum and petroleum products	15
5014	Tires and tubes	15
5095b	Wines and distilled alcoholic spirits	15

SCHEDULE D—ANNUAL RECEIPTS SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN RETAILING

(The following size standards are to be used when determining the size status of retailing concerns for the purpose of SBA loans, displaced business loans, economic opportunities loans, and as alternate standards for sections 505 and 502 loans SBIC assistance.) Where code is followed by letter size standard applies only to class of product designated.

Industry or subindustry code	Industry, subindustry or class of products	Annual sales size standard (maximum) (in millions)
	Major Group 56—Apparel and Accessory Stores:	
5651	Family clothing stores	$1.5
5611	Men's and boys' clothing and furnishings	1.5
5661	Shoe stores	1.5
5621	Women's ready-to-wear stores	1.5
	Major Group 55—Automotive Dealers and Gasoline Service Stations:	
5599a	Aircraft (a part of aircraft and automotive dealers, not elsewhere classified)	3.0
5511	Motor vehicle dealers (new and used cars)	5.0
5521	Motor vehicle dealers (used cars only)	5.0
	Major Group 54—Food Stores:	
5411	Grocery stores	5.0
5421a	Meat markets (a part of meat and fish (seafood) markets)	5.0
	Major Group 57—Furniture, Home Furnishings and Equipment Stores:	
5722	Household appliance stores	1.5
5732	Radio and Television stores	1.5
	Major Group 53—General Merchandise:	
5311	Department stores	5.0
5321	Mail order houses	5.0
5331	Variety stores	2.0
	Major Group 52—Material, Hardware and Farm Equipment Dealers:	
5252	Farm equipment dealers	3.0

SCHEDULE E—GOVERNMENT-OWNED TIMBER RESALE STANDARDS FOR SPECIFIC GEOGRAPHICAL AREAS

Area from which timber is cut:	*Percentage of timber purchased that may be sold to other than small business*
Alaska	50 percent

SCHEDULE F—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MINING AND MINING SERVICES

(The following size standards are to be used when determining the size status of mining and mining services concerns for the purpose of SBA business loans (or loan guarantees), displaced business loans, economic opportunity loans, and as alternate standards for sections 501 and 502 loans and Small Business Investment Company assistance.)

Census classification code	Industry or class of products	Employment size standard (number of employees)
1111	Anthracite	250
1112	Antracite Mining Services	250
1211	Bituminous Coal	500
1213	Bituminous Coal and Lignite Mining Services	250

SCHEDULE G—PETROLEUM ADMINISTRATION FOR DEFENSE (PAD) DISTRICTS AS UTILIZED BY THE DEFENSE FUEL SUPPLY CENTER IN THE PROCUREMENT OF REFINED PETROLEUM PRODUCTS

PAD District and States included in PAD District:
1. Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida.
2. North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, and Tennessee.
3. New Mexico, Texas, Arkansas, Louisiana, Mississippi, and Alabama.
4. Montana, Idaho, Wyoming, Utah, and Colorado.
5. Alaska, Hawaii, Washington, Oregon, Nevada, California, and Arizona.

[FR Doc.72-184 Filed 1-7-72;8:45 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1972 Crop of Upland Cotton; Base Acreage Allotments

State Reserves and County Base Acreage Allotments

Correction

In F.R. Doc. 71-17324 appearing at page 22966 of the issue of Thursday, December 2, 1971, in § 722.467(b)(2), in the table on page 22972 entitled "Tennessee", the first figure in the second column, opposite "Bedford", now reading "339", should read "399".

PART 722—COTTON

Subpart—1972 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

NATIONAL MARKETING QUOTA REFERENDUM RESULT

Section 722.564 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section announces the result of the national marketing quota referendum with respect to the 1972 crop of extra long staple cotton held during the period December 6 to 10, 1971, each inclusive.

Since the only purpose of § 722.564 is to announce the referendum result, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary. Accordingly, § 722.564 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.564 Result of the national marketing quota referendum for the 1972 crop of extra long staple cotton.

(a) *Referendum period.* The national marketing quota referendum for the 1972 crop of extra long staple cotton was held by mail ballot during the period December 6 to 10, 1971, each inclusive in accordance with § 722.561 (36 F.R. 20215) and Part 717 of this chapter.

(b) *Farmers voting.* A total of 1,956 farmers engaged in the production of the 1971 crop of extra long staple cotton voted in the referendum. Of those voting, 1,853 farmers, or 94.7 percent, favored the 1972 national marketing quota, and 103 farmers, or 5.3 percent, opposed the 1972 national marketing quota.

(c) *1972 national marketing quota continues in effect.* The national marketing quota for the 1972 crop of extra long staple cotton of 115,800 bales proclaimed in § 722.558 (36 F.R. 20215) shall continue in effect since two-thirds or more of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended; 7 U.S.C. 1343)

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on January 6, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-378 Filed 1-6-72;12:34 pm]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 515]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.815 Lemon Regulation 515.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 4, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period January 9 through January 15, 1972, is hereby fixed at 190,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: January 5, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72-364 Filed 1-7-72;8:50 am]

[Grapefruit Reg. 84]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.384 **Grapefruit Regulation 84.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time; are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 6, 1972.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period January 10, 1972, through January 16, 1972, is hereby fixed at 200,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: January 6, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72-441 Filed 1-7-72;11:36 am]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Expenses and Rate of Assessment

Notice was published in the December 24, 1971, issue of the FEDERAL REGISTER (36 F.R. 24943) that consideration was being given to a proposal regarding an increase in the expenses previously approved for the fiscal period March 1, 1971, through February 29, 1972, pursuant to the amended marketing agreement and Order No. 917 (7 CFR Part 917; 36 F.R. 7510, 14381), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted.

a. After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice and the recommendation thereof which was submitted by the Control Committee (established pursuant to the said marketing agreement and order): *It is hereby ordered,* That the provisions pertaining to expenses in paragraph (a) of § 917.210 *Expenses and rate of assessment* (36 F.R. 12089) be, and hereby are, amended to read as follows:

§ 917.210 **Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred during the fiscal period March 1, 1971, through February 29, 1972, will amount to $472,250.

* * * * *

b. It is hereby found that it is impracticable and contrary to the public interest to postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the increase in the budget set forth does not involve an increase in the rate of assessment heretofore established by the Secretary (36 F.R. 12089); (2) the said committee has incurred expenses in excess of that previously thought likely to be incurred; and (3) it is essential that the specification of expenses herein provided be issued immediately so as that said committee can meet its obligations and perform its duties and functions within the fiscal period in accordance with the said marketing agreement and order.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

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

Dated: January 4, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72-311 Filed 1-7-72;8:48 am]

PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

Subpart—Rules and Regulations

Notice was published in the FEDERAL REGISTER issue of November 16, 1971 (36 F.R. 21818), that the Department was giving consideration to proposed rules and regulations (§§ 930.101 through 930.107) hereinafter designated as Subpart—Rules and Regulations, pursuant to the applicable provisions of marketing Order No. 930 (7 CFR Part 930; 36 F.R. 1088) regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland, hereinafter referred to collectively as the "order". This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The aforesaid rules and regulations were proposed by the Cherry Administrative Board, the agency established under said order to administer the provisions thereof. No written data, views, or arguments were filed with respect to said proposal during the period specified therefor in the notice.

The rules and regulations hereinafter set forth are issued pursuant to §§ 930.54; 930.56; and 930.58 and would establish: (1) The procedure to be used in making application for and accomplishing diversion and the fee involved according to acreage; (2) the form for reserve pool cherries; (3) a processing factor, when used in relation to raw cherry receipts, which would determine reserve pool obligation; (4) period for the submission to the board by each individual handler data on the yearly total tonnage of cherries handled; and (5) an assessment procedure.

The procedures for making application for diversion and for filing certain information by the specified dates, as required by § 930.101, is needed to insure that the Board has adequate available information and time for the consideration of an application for diversion and supervision of such diversion's implementation as required by § 930.56(b).

The order (§ 930.56(a)(1)), requires the cost of supervising such diversion to

be borne by the applicant. In recommending the schedule of fees which appears in § 930.102 the Board took into consideration the anticipated expenses which would be directly involved with said supervision, some of which are: Employment of orchard inspectors; vehicle and travel expenses; administrative expenses; and computer use and programming. It is expected that the cost of some of the aforementioned items will remain the same irregardless of the acreage involved in the diversion application while some will increase with the number of acres and sites involved.

Section 930.103 requires diversion to be accomplished by leaving cherries designated as being diverted, unharvested. To facilitate the certification that diversion has been accomplished by this means, the cherries are to remain on the tree until final inspection. Recognizing the fact that to leave such cherries on the tree after final inspection would hinder the vigor of the producing tree and introduce a medium for the culture of harmful insects and diseases, this section also requires that the aforementioned diverted cherries remain on the premises, and not be removed unless approval of the Board is received. This procedure insures that any movement of such cherries will be under the Board's supervision and control as is required by the order and only for the above stated reason.

In prescribing the manner and form for reserve pool cherries as 5 plus 1 (5 pounds of raw pitted cherries combined with 1 pound of sugar) frozen cherries packed in new 30-pound metal cans, the Board recognizes that this style of pack represents the largest percentage of the total tart cherry pack and as such is readily acceptable by all segments of the cherry industry and is the most practicable and convenient for the majority of handlers. The provision of § 930.104 requiring the grade, grade percentage, quality and condition, as stated therein, is necessary to insure that handlers do not use the reserve pool to dispose of all low-grade or poor-quality cherries they may pack. It also assures when reserve pool cherries are made available by the Board to the handlers that, if a handler still has rights to purchase the cherries he packed, the handler will be able to supply his customers with cherries of like grade, grade percentage, quality, and condition as were offered when marketing free percentage cherries.

The processing factor, as described in § 930.105 recognizes shrinkage and loss resulting from processing. It supplies a readily adaptable formula by which a comparison may be made, with respect to raw cherries received and finished frozen cherries processed in the approved reserve pool form, to determine the reserve pool obligation of each handler.

The requirement of § 930.106 that each handler shall submit to the Board, within the specified time, a report of received and first handled cherries is necessary to the Board for the performance of its functions under the order. The furnishing of such information would not constitute an undue burden on handlers under the order.

The amount of interest payment required by § 930.107 for delinquent payment was recommended by the Board to stimulate prompt payment of assessments. An amount less than that specified in this section would from time to time put the interest charge for delinquent payments on the same financial basis as that charged for short term commercial notes, thus making the order a source of short term funding which is not within the scope or intent of the Agricultural Marketing Agreement Act of 1937, as amended, and of this order. The imposition of an interest charge of 1 percent per month for unpaid balances and assessments should discourage handlers from, in effect, borrowing from the assessment fund.

After consideration of all relevant matter presented, including that in the notice, it is hereby found that issuance, as hereinafter set forth, of said rules and regulations is in accordance with said order and will tend to effectuate the declared policy of the act.

The rules and regulations are as follows:

Subpart—Rules and Regulations

Sec.

AUTHORITY: The provisions of this subpart issued under the Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. 601–674.

§ 930.101 Diversion application.

(a) Prior to March 1st of each fiscal year each producer, in order that his application for diversion be eligible for consideration by the Cherry Administrative Board for the forthcoming fiscal year, shall submit to, or have on file with the board the following information.

(1) Name and address of the applicant.

(2) District or Districts in which applicant's orchard sites are located.

(3) Age of trees, number of rows of trees, number of trees in each row, number of rows in each block and a diagram of each block referencing the compass points.

(4) Total of applicant's acreage devoted to cherry production with a subtotal for each definable block included in this total.

Such information submitted as above shall not be considered as application for diversion.

(b) Each producer who elects to divert cherries into an outlet as the Board with the approval of the Secretary may designate as specified in § 930.56, shall, prior to such diversion, submit to the Cherry Administrative Board at its office in Hartford, Mich., or such other location as may be specified by the board, on forms provided by the board, an application to divert cherries as required by § 930.56(a)(1). Such application shall be filed with the board not later than July 1 of the current fiscal year: *Provided*, That, such application for growers who will harvest cherries prior to July 1 of any fiscal year, shall be filed on such earlier date as may be specified by the board or if not so specified, prior to harvest of such cherries.

§ 930.102 Diversion fees.

(a) Each producer who makes application to divert cherries pursuant to § 930.56 shall pay to the board the direct cost of supervision of the diversion as specified in the order. Such direct costs are hereby established as follows:

(1) Schedule of fees to be assessed applicant:

Fee:	*Total acres to be diverted in each district*
$25.00	Acreage up to and including 25 acres.
$50.00	26–75 acres.
$75.00	76–150 acres.
$100.00	151 or more acres.

(i) In addition to the above fee, there would be assessed $10.00 per site not contiguous to any other site specified in the application: *Provided*, That said sites shall be considered as contiguous if said sites and the connecting properties are owned or controlled by the applicant.

(ii) Each application shall be accompanied by the full fee applicable to such diversion request. Such payment shall be in the form of cash, or check made payable to the Cherry Administrative Board: *Provided*, That said fee, minus costs incurred by the board in connection with said application, shall be refunded or credited to the account of the applicant if said application does not receive approval. If the application is denied, the applicant shall be informed by telephone or telegram including the reasons for such denial. Telephone notification shall be confirmed immediately in writing.

§ 930.103 Diversion.

Diversion shall be accomplished by leaving such cherries unharvested: *Provided*, That such cherries shall remain on the tree until final inspection and shall not be removed from the premises other than by board approval.

§ 930.104 Reserve pool requirements.

(a) Reserve pool cherries shall be set aside in the form of 5 plus 1 (5 pounds of raw pitted cherries combined with 1 pound of sugar) frozen cherries packed in new 30-pound metal cans. Such cherries shall be graded and certified by the U.S. Department of Agriculture.

(b) Such cherries shall be (as specified in § 930.54(c)) stored separate and apart from all other frozen cherries and in accordance with good commercial practices with said certification and warehouse receipt stating lot and code number constituting proof of physical separation.

(c) Such cherries, for each handler who freezes cherries, shall reflect not less than the overall grade, quality and condition of the total frozen production of

said handler: *Provided,* That said reserve pool cherries shall not grade lower than 50 percent U.S. Grade "A" unless otherwise exempted by the board.

(d) Such cherries, for each handler who does not freeze cherries and therefore obtains reserve pool cherries from another handler who does freeze cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of the handler who freezes such cherries: *Provided,* That said reserve pool cherries shall not grade lower than 50 percent U.S. Grade "A" unless otherwise exempted by the board.

§ 930.105 Processing factor.

The factor (ratio of raw cherries to finished processed cherries, including sugar) to be used in accordance with § 930.54(a) to determine the total amount of processed cherries each handler shall set aside in the reserve pool shall be computed on the basis that each 33 pounds of raw cherries shall equal one 30-pound can of 5 plus 1 frozen cherries (25 pounds of processed cherries and 5 pounds of sugar) for a ratio of 1.1 to 1.

§ 930.106 Pack report.

Each handler, in accordance with § 930.62 shall submit to the Cherry Administrative Board at its office in Hartford, Mich., or such other location as may be specified by the Board, within 30 days after date of pack completion a written report containing the total amount of cherries received for processing: *Provided,* That such amounts of cherries that are to be considered as first handled shall be so designated.

§ 930.107 Assessment procedure.

Upon receipt of pack completion report as required by § 930.104, each handler shall be assessed an amount per ton as determined by the board and approved by the Secretary, on all cherries handled. Each handler shall pay interest of 1 percent per month on any unpaid balance beginning 30 days after date of billing.

Dated January 5, 1972, to become effective 30 days after publication in the FEDERAL REGISTER.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72-312 Filed 1-7-72;8:48 am]

Chapter XVI—Rural Telephone Bank, Department of Agriculture

PART 1610—LOAN POLICIES

The text of the Rural Telephone Bank's proposed regulations with respect to its loan policies was published in the proposed rule making section of the FEDERAL REGISTER of October 23, 1971, on page 20533.

The notice gave interested persons 30 days within which to submit written data, views, or arguments pertaining to the proposed regulations. No written comments have been received. The proposed regulations, with § 1610.6 modified as a result of some unwritten comments, are hereby adopted and are set forth below. These regulations shall become effective upon publication in the FEDERAL REGISTER and will be incorporated as Part 1610 of a new Chapter XVI in Title 7 of the Code of Federal Regulations.

Dated: January 3, 1972.

DAVID A. HAMIL,
Governor, Rural Telephone Bank.

Sec.
1610.1 General.
1610.2 Loan authorizations.
1610.3 Loan applications.
1610.4 Minimum Bank loan.
1610.5 Concurrent REA and Bank loans.
1610.6 Exclusive Bank financing for current loan needs.
1610.7 Acquisition of certain exchange facilities.
1610.8 Adoption of applicable REA policies.

AUTHORITY: The provisions of this Part 1610 issued under 85 Stat. 29 et seq.; 7 U.S.C. 931 et seq.

§ 1610.1 General.

Loans made by the Governor of the Rural Telephone Bank (the "Bank") will be made in conformance with Title IV of the Rural Electrification Act of 1936 (the "Act"), as amended (7 U.S.C. 941 et seq.), and this Part 1610. The making of loans will commence as soon as practicable after January 1, 1972.

§ 1610.2 Loan authorizations.

The aggregate amount of loans made will not exceed the amount authorized by the Board of Directors (the "Board") of the Bank.

NOTE: At its October 14, 1971, meeting the Board authorized $63 million for loans in the fiscal year ending June 30, 1972.

§ 1610.3 Loan applications.

No application for a loan will be considered by the Bank until it has been reviewed by the Rural Electrification Administration (REA), and the Governor has determined, based on such review, the eligibility of the applicant for a Bank loan and the amount thereof. Loan application forms are available from REA on request. Applications previously submitted to REA need not be resubmitted to be considered for partial or complete Bank financing. In accordance with section 408(b)(2) of the Act (7 U.S.C. 948(b)(2)), an application for a loan from a telephone system with an average subscriber density of three or fewer per mile will be processed for a Bank loan if the applicant elects to be considered for such a loan in preference to a loan from REA.

§ 1610.4 Minimum Bank loan.

A Bank loan will not be made unless the applicant qualifies for a Bank loan of at least $50,000.

§ 1610.5 Concurrent REA and Bank loans.

The Bank will consider making a loan concurrently with REA when the Governor finds that the applicant could, consistently with achieving the objectives of the Act and with prudent operations, produce net income or margins before interest at least equal to 150 percent of the interest requirements on all its outstanding and proposed loans, assuming a composite annual interest cost on the loans for current needs of between 2 percent and 4 percent. If made, the Bank's concurrent loan will be conditioned on REA's making the minimum loan that is necessary to enable the applicant to qualify for a Bank loan with an interest rate of 4 percent covering the balance of its current loan needs, as determined by the Governor, and subject to § 1610.4, the Bank loan will be for the balance of such current loan needs.

§ 1610.6 Exclusive Bank financing for current loan needs.

The Bank will consider making a loan for the applicant's total current loan needs as determined by the Governor when the Governor finds that the applicant could, consistently with achieving the objectives of the Act and with prudent operations, produce net income or margins before interest at least equal to 150 percent of the interest requirements on all its outstanding and proposed loans, assuming an annual interest rate on the loan for the current needs of at least 4 percent. If made, such loan will bear interest at the highest annual rate (expressed as a multiple of one-half percent) which the borrower can pay and meet the aforesaid interest coverage and related criteria, but not less than 4 percent nor more than the maximum practicable rate as set by the Board from time to time.

§ 1610.7 Acquisition of certain exchange facilities.

In the interest of making optimum use of the Bank's loan funds, a Bank loan for the acquisition of exchange facilities under section 408(a)(2) of the Act (7 U.S.C. 948(a)(2)) will not be recommended by the Governor for approval by the Secretary of Agriculture unless the Governor determines that the acquisition is reasonably necessary to improve the efficiency, effectiveness, or financial stability of the borrower's telephone system, that the location and character of the proposed acquisition are such that the acquisition is reasonably necessary to accomplish such improvement, and that the amount of the requested loan for such acquisition is reasonably justified by the nature and scope of the improvement which the acquisition would effect.

§ 1610.8 Adoption of applicable REA policies.

The policies embodied in the REA Bulletins identified below, as they may be amended or supplemented from time to time, will, insofar as applicable, be utilized by the Governor in carrying out the Bank's loan program to the extent that (a) such policies are consistent with title IV of the Act (7 U.S.C. 941 et seq.) and with specific policies approved by the Board from time to time, and (b) such policies have not been rescinded, modified, or superseded by the Board with respect to the Bank's lending program. The aforesaid bulletins are as follows:

Bulletin series:	*Subject matter*
300–309	General.
320–327	Loans.
340–388	Design and Construction.
400–415	General Operations.
440–448	Technical Operation and Maintenance.
460–466	Accounting and Examination.

NOTE: A current list and summary description of the REA Bulletins referred to above appeared in Volume 36, No. 188 of the FEDERAL REGISTER issued September 28, 1971, at page 19069 as an amendment to Part 1701, Title 7, of the Code of Federal Regulations.

[FR Doc.72-310 Filed 1-7-72;8:48 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter II—Packers and Stockyards Administration, Department of Agriculture

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Voluntary Filing of Surety Bonds

On July 30, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 14143) of a proposed Statement of General Policy Under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 et seq.) regarding the voluntary filing of surety bonds by persons not specifically required to file bonds under §§ 201.27 through 201.38 of the regulations promulgated under the Packers and Stockyards Act (9 CFR 201.27–201.38).

Interested persons were given an opportunity to submit written data, views, or arguments concerning the proposed statement. After consideration of all relevant matters, the proposed statement is hereby adopted without change and is set forth below.

This statement is for the purpose of setting forth the views of the Packers and Stockyards Administration to guide those persons not specifically required to file surety bonds under §§ 201.27 through 201.38 of the regulations promulgated under the Packers and Stockyards Act who desire to file bonds with the Administration voluntarily.

§ 203.13 Statement with respect to voluntary filing of surety bonds under the Packers and Stockyards Act.

(a) In recent years, an increasing number of persons not specifically required to file bonds under §§ 201.27 through 201.38 of the regulations promulgated under the Packers and Stockyards Act have nonetheless voluntarily filed copies of various types of surety bonds with the Packers and Stockyards Administration. Such bonds have been filed by these persons, primarily meat packers, as a showing of good faith and assurance of payment to those with whom they engage in livestock purchase transactions. Since such bonds were not specifically required or requested of these persons under the regulations, and because many such bonds did not fully meet the requirements for bonds to be filed under the Act, the Administration accepted such bonds for filing for informational purposes only. However, under many of these surety bonds, the Packers and Stockyards Administration has rendered assistance to claimants, surety companies, and trustees to bring about proper payment and settlement of claims when the conditions of the bonds were breached.

(b) The Packers and Stockyards Administration is concerned that misunderstandings may arise either with respect to the protection provided by these bonds or the statutory or other authority under which such bonds may be filed voluntarily. In order to better protect livestock producers and the integrity of bonds in fact required to be filed under the Act, this Agency will in the future only accept for filing on a voluntary basis surety bonds which meet the same conditions required of bonds filed under §§ 201.27 through 201.38 of the regulations in this chapter promulgated under the Act. The amount of the bond must be at least as large as if the person were required to file as a dealer under the Act. As in the past, in the event of default by the principals named therein, assistance will be furnished in bringing bona fide bond claims to a prompt and satisfactory conclusion.

(c) This policy statement will in no way alter or affect the present requirements of the Act and regulations as they apply to persons engaged in business as market agencies and dealers who are now subject to bonding under §§ 201.27 through 201.38 of the regulations in this chapter promulgated under the Packers and Stockyards Act.

This statement shall become effective upon publication in the FEDERAL REGISTER (1–8–72).

Done at Washington, D.C., this 4th day of January 1971.

ODIN LANGEN,
Administrator, Packers and Stockyards Administration.

[FR Doc.72-325 Filed 1-7-72;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-172]

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

Designation of Transition Area

On November 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 22686), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Brewton, Ala., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 2, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

BREWTON, ALA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Brewton Municipal Airport (lat. 31°03'00" N., long. 87°04'00" W.); within 5 miles each side of Crestview, Fla., VORTAC 303° radial, extending from the 6.5-mile-radius area to 16 miles northwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on December 30, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.72-292 Filed 1-7-72;8:46 am]

[Airspace Docket No. 71-SO-173]

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

Designation of Transition Area

On November 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 22687), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Meridian, Miss. (OLF Bravo Field), transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 2, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

MERIDIAN, MISS. (OLF BRAVO FIELD)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of OLF Bravo Field (lat. 32°47'33" N., long. 88°49'40" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on December 30, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.72-293 Filed 1-7-72;8:46 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-124, Amdt. 8]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Offers of Settlement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of January 1972.

By PR-122, effective October 6, 1971, and published at 36 F.R. 19678, the Board amended Rule 215 of its rules of practice.[1] Prior to the amendment, Rule 215 consisted of a single paragraph. It was the intention of the Board in PR-122 to label that paragraph as paragraph (a), and to add a new paragraph (b). However, the form of the amendment was such that this intention was not clearly expressed. This amendment corrects the error.

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on January 28, 1972. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends § 302.215 of the Procedural Regulations (14 CFR Part 302), effective January 28, 1972, to read as follows:

§ 302.215 Offers of settlement.

(a) Any party to an economic enforcement proceeding at any time prior to final decision thereof may submit offers of settlement or proposals of adjustment. Each such offer or proposal shall be submitted in writing and addressed to the Director of the Bureau of Enforcement, who will promptly advise the party or parties submitting same whether he will recommend acceptance thereof to the Board. If the Director of the Bureau of Enforcement advises the party or parties that he will not recommend acceptance, and the party or parties so request in writing, he will transmit such offer or proposal directly to the Board for its consideration and acceptance or rejection. The submission of such offer or proposal shall not alter or delay the course of the proceeding unless so ordered by the Board.

(b) Any offer or proposal submitted pursuant to paragraph (a) of this section, any responses thereto, any memoranda filed in support thereof or in opposition thereto, and any other settlement documentation, shall be withheld from public disclosure until 5 days after the issuance of a final order of the Board either accepting or rejecting the offer or proposal. At any time prior to the expiration of the time prescribed herein for the withholding of information from public disclosure, a party may file a request for further withholding from public disclosure. Such a request must be filed in the form prescribed in § 302.39(d), and must provide reasons legally sufficient to support withholding the information under section 1104 of the Act. In any case where such a request is timely and properly filed, the information which is the subject of the request shall be withheld from public disclosure pending the Board's disposition of the request.

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

By the Civil Aeronautics Board.

[SEAL] R. TENNEY JOHNSON,
General Counsel.

[FR Doc.72-323 Filed 1-7-72;8:49 am]

[1] The amendment related to the confidential treatment of settlement documentation in enforcement proceedings.

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.652]

PART 11—APPOINTMENT OF FOREIGN SERVICE OFFICERS

Lateral Entry Appointments to Classes 1 Through 7

Part 11, Chapter I, Title 22 of the Code of Federal Regulations is revised and amended to provide for the appointment of a limited number of officers to the Foreign Service who possess skills and experience which will enrich the Service and to liberalize the eligibility and examination requirements for career Department officers who are examined by December 31, 1973.

§ 11.11 Lateral entry appointments of Foreign Service officers to classes 1 through 7.

Appointments of Foreign Service officers, under the provisions of section 517 of the Foreign Service Act of 1946, as amended, are governed by the regulations in this section.

(a) *Purpose of lateral entry appointment.* (1) The lateral entry program is a means by which the intake of Foreign Service officers through the junior Foreign Service officer examination can be supplemented to meet total requirements for Foreign Service officers. Lateral entry appointments are made ordinarily only to classes 1 through 6, insuring retention of the career principle of entry primarily at classes 7 and 8 through competitve examination. Additional appointments will be made to class 7 from the Foreign Service Staff officer, Foreign Service Reserve officer, and Civil Service officer categories who are currently receiving a base salary equivalent to that of an FSO-7 who are examined and found qualified by December 31, 1973.

(2) The great majority of lateral entrants are drawn from officers of the Department and the Foreign Service of proven ability who possess high potential for advancement, or similar personnel of other foreign affairs agencies who may be appointed based on agreements between the Department and those agencies.

(3) Other lateral entrants will be drawn from applicants who possess skills and abilities in short supply in the Foreign Service who have capabilities, insights, techniques, experiences, and differences of outlook which would serve to enrich and stimulate the Foreign Service and enable them to perform effectively in assignments both abroad and in the Department.

(b) *Magnitude.* (1) The Department places no numerical limitation on the lateral appointment of Foreign Service Reserve, Foreign Service Staff, and Civil Service officers on its rolls who apply and are certified on the basis of need by personnel management authorities for examination, except as provided in paragraph (d)(4)(ii) of this section, and are found qualified by the Board of Examiners.

(2) Lateral entry from other sources will be limited to an annual total to be determined by the Department at the beginning of each fiscal year in the light of overall Foreign Service officer manpower and functional requirements. Appointments will, in any event, be restricted to classes 2 through 5.

(c) *Nondiscrimination.* The religion, race, sex, marital status, color, creed, national origins, physical handicaps, political affiliations, or initiation of or participation in grievance procedures of a candidate will not be considered in designations, examinations, or certifications.

(d) *Eligibility requirements*—(1) *Citizenship.* Each person appointed as a Foreign Service officer must have been a citizen of the United States for at least 10 years and, if married, shall be married to a citizen of the United States.

(2) *Service.* (i) On the date of appointment, each applicant must have completed at least 3 years of service (4 years if under age 31) in a position of responsibility in a Federal Government agency or agencies. For this purpose, a position of responsibility is defined as service as a Foreign Service Reserve officer at class 7, as Foreign Service Staff officer at class 6, in the Civil Service at GS-9, and in the Armed Forces of the United States at the grade of first lieutenant or lieutenant junior grade, or higher or, if the provisions of subparagraph (4)(ii) of this paragraph are applicable to the applicant, in any officer designated position in the Department or Foreign Service. The duties and responsibilities of the position occupied by the applicant must have been similar or closely related to that of a Foreign Service officer in terms of knowledge, skills, abilities, and overseas work experience. To be eligible, an applicant must have been in or currently be in a grade or class comparable to FSO-6, (FSO-7 if the provisions of subparagraph (4)(ii) of this paragraph are applicable to the applicant), or be receiving a base salary at least equal to the first salary step of that class.

(ii) Candidates who lack the required number of years of Federal service will be considered if they apply under the provisions of paragraph (b)(2) of this section. If found qualified, the candidate will be employed as a Foreign Service Reserve officer (FSO candidate). At the conclusion of the required 3 years of service, the candidate's performance record will be reviewed by the Board of Examiners to determine if it is sufficiently meritorious to justify appointment as a Foreign Service officer. If there is an affirmative finding, the candidate will be certified for such an appointment. If his performance record does not justify such a certification, his candidacy is terminated.

(3) *Age.* (i) On the date of application, an applicant for lateral entry must be at least 30 years old and under 54 (under 50 if applying for appointment initially as a Foreign Service Reserve officer (FSO candidate)). The minimum age for appointment under the lateral entry program is 31, either as an FSO or as an FSR (FSO candidate), and in addition, candidates must be no younger than the average of the youngest 5 percent of the officers already in the class for which they are applying. The maximum age for a Foreign Service officer appointment is age 54 and the maximum age for appointment as a Foreign Service Reserve officer (FSO candidate) is age 50.

(ii) The foregoing limitations regarding minimum and maximum ages are not applicable to applicants covered by the provisions of subparagraph (4)(ii) of this paragraph for whom the minimum age is 21 and the maximum age is 59.

(4) *Certification of need.* The Department must certify that there is a need for the applicant as an additional Foreign Service officer in all cases except:

(i) Candidates who, if appointed, will be charged to the quota of lateral entry appointments from non-Department sources established for each year; or

(ii) Candidates who (*a*) are career officers occupying positions designated for staffing by Foreign Service officers; (*b*) were appointed to the Department or the Foreign Service on or before January 1, 1971; (*c*) have completed at least 3 consecutive years of satisfactory service since appointment; and (*d*) are examined and found qualified for lateral entry by December 31, 1973.

(e) *Recruitment.* (1) It is the Department's policy to encourage eligible personnel on its rolls to apply for lateral entry as Foreign Service officers, including, in particular, the following categories;

(i) Foreign Service Reserve officers who, in competition with Foreign Service officers, are either recommended for promotion or ranked in the upper percentage groups of their class;

(ii) Foreign Service Staff officers who are recommended for consideration for lateral entry by a Staff Officer Selection Board, whose performance has been consistently of a high caliber and whose background, experience, and general qualifications indicate they can compete favorably with Foreign Service officers;

(iii) Civil Service officers in the Department who are serving in positions to which Foreign Service officers are normally assigned, who have superior records, and who can compete favorably with Foreign Service officers.

(2) The Department also considers highly qualified applicants from other agencies of the Government and from outside the Federal service who meet the statutory and other eligibility requirements, and for whom there has been a certification of need as an additional Foreign Service officer, except as provided in paragraph (d)(4)(i) of this section. Appointments from these sources for the limited vacancies available are made on a competitive basis to fill specific needs after assuring that the vacancies cannot be filled by Foreign Service officers.

(f) *Methods of application*—(1) *Forms.* Application is made for a Foreign Service officer appointment but not for a specific class. Applicants for lateral entry must complete Standard Form 171, Personal Qualifications Statement, and Form DSP-34, Supplement to Application for Federal Employment, and forward them together with an autobiography not exceeding 4 typewritten pages to the Board of Examiners for the Foreign Service, Department of State, Washington, D.C. 20520.

(2) *Board action.* The Board of Examiners establishes a file for each applicant, placing therein all available documentation of value in evaluating the applicant's potential for appointment as a Foreign Service officer. The file is reviewed initially to determine if the applicant meets the statutory and other eligibility requirements and to assess his skills relative to the needs of the Service. The examination of candidates is based on the needs of the Service for specific skills and experience.

(g) *Examination for lateral entry*—(1) *General provisions.* The filing of an application with the Board of Examiners for the Foreign Service does not in itself entitle an applicant to examination. The decision whether to proceed with an oral examination, as well as with a detailed background investigation, is made by the Board of Examiners after determining eligibility for appointment, medical qualifications, and a thorough review of the applicant's qualifications. Each applicant's background, experience, performance, and other related documentation are carefully studied and evaluated. Careful consideration is given to the functional needs of the Service in making this assessment. A certification of need to the Board of Examiners by the Department's personnel management authorities is required before proceeding further with the examination, unless the provisions of paragraph (d)(4) of this section apply. An oral examination is granted only in those cases where the applicant is found to possess superior qualifications, proven ability, and, at the middle levels, high potential for advancement.

(2) *Class of appointment.* In determining the class at which applicants are considered for appointment, the initial presumption is that the applicant is eligible for examination for the Foreign Service officer class which equates with his salary level at the time of examination. In evaluating qualifications and in conducting oral examinations, panels carefully assess applicants to determine whether their total qualifications compare favorably with officers at their current class level. However, the Board of Examiners, at its discretion, may certify an applicant for appointment as a Foreign Service officer at a class other than that equating to his salary in those instances where the Board determines that the applicant's qualifications clearly warrant such action. An applicant's total qualifications, as evaluated by the examining panels and the Board, will have an important bearing on the decision to certify an applicant for appointment at a class other than that which equates to the applicant's current salary.

(3) *Application validity and termination.* If an applicant is not called for examination within 2 years from the date of application, or, if based on the qualifications review it is decided not to proceed further with the application, or if the applicant is not certified as a successful applicant following the examination, the candidacy will be terminated. However, the applicant may reapply after 12 months by submitting a new application.

(4) *Purpose of examination.* The purpose of the examination is to determine an applicant's fitness and aptitude for the work of the Foreign Service and fitness for a Foreign Service career.

(h) *Nature of examination*—(1) *Medical.* A medical examination is required for the applicant and any dependents who will reside with the applicant on tours abroad. Applicants and their dependents shall meet the physical requirements for full Foreign Service duty. Normally, failure to meet the medical requirements will preclude appointment as a Foreign Service officer. In exceptional cases, the Director General of the Foreign Service may grant a waiver of the physical requirements in the interest of the Service.

(2) *Security.* Applicants shall have demonstrated their loyalty to the Government of the United States and their attachment to the principles of the Constitution. A background investigation shall be conducted or appropriate security clearance shall be assured.

(3) *Qualifications evaluation.* An evaluation is made of the education, training, experience, and work performance of applicants based on their application forms, records of performance, interviews, background investigative reports, and other available information.

(4) *Written examination.* A written examination will not normally be required of applicants for lateral entry appointments. However, if the volume of applications for a given class or classes, or a particular functional specialty within a class or classes is such as to

make it unfeasible to orally examine applicants within a reasonable time, applicants may be required to take the Federal Service Entrance Examination or other appropriate examination. Only those who score a grade on such an examination above a point determined by the Executive Director of the Board of Examiners will be eligible to take an oral examination.

(5) *Written essay.* Applicants other than Department officers scheduled to take an oral examination will usually be asked to write an essay on the day of the examination on a topic to be specified to enable the panel of deputy examiners to judge the ability of the applicant to express himself effectively and appropriately in writing.

(6) *Oral examination.* (i) Applicants recommended for further consideration after completion of the qualifications review and evaluation are given oral examinations by a panel of deputy examiners appointed by the Board of Examiners from a roster of Foreign Service officers, Civil Service officers of the Department, officers of other Federal agencies, and from members of the public. The panel shall include at least one officer from the same professional specialty as that for which the applicant is being examined.

(ii) The panel is responsible for determining whether the applicant is functionally qualified for work in the Foreign Service and whether they: (*a*) would be a suitable representative abroad for the United States; (*b*) have the potential to advance in the Foreign Service; and (*c*) have the background and experience to make a contribution to the Foreign Service.

(iii) With these considerations in mind the panel will normally question applicants regarding their functional preference or specialty; their knowledge of American history, government and other important features of the American heritage; familiarity with current events and international affairs; and other matters relevant to their qualifications for appointment. In considering applicants covered by the provisions of paragraph (d)(4)(ii) of this section, the panel will give special weight to the performance record in the applicants functional field and particular attention to their qualifications for service abroad and their willingness and availability to serve abroad as needed.

(iv) Applicants taking the oral examination will be graded on a "recommended" or "not recommended" basis. Grades will be assigned to "recommended" applicants who are applying for appointment under the quota established by the Department.

(v) The oral examination is normally given in Washington, but may, in exceptional circumstances, be given at Foreign Service posts selected by the Board of Examiners.

(7) *Language aptitude or proficiency.* All applicants who pass the oral examination are required to take a test, whenever feasible, to gauge either their fluency in foreign languages or aptitude in learning foreign languages. The tests will be given either by the Foreign Service Institute or in accordance with other standards approved by the Foreign Service Institute. While present knowledge of foreign languages is not required, an apparent aptitude for learning a foreign language is a factor that will be considered in determining whether an applicant should be recommended for appointment.

(8) *Findings of examining panels.* Determination of duty constituted panels of examiners and deputy examiners are final, unless modified by specific action of the Board of Examiners for the Foreign Service for applicants already employed by the Department for whom a certification of need has been issued or is not required. The applications of all other applicants will be considered by a Final Review Panel after the results of security, medical and reference checks and languages tests are at hand. The Final Review Panel shall take into account the grade assigned by the examining panel as well as information developed subsequently concerning the applicant and a final numerical grade will be given. The applicant's file will then be placed before the Board of Examiners for review. If approved by the Board, the applicant's name will be entered on the rank-order register for the class and functional specialty for which they are qualified.

(i) *Certification for appointment.* (1) Applicants already employed by the Department for whom a certificate of need has been issued or is not required will be certified by the Board of Examiners for appointment after satisfactorily completing all aspects of the examination. The class and salary for which they have been found qualified will be specified in the certification.

(2) Other successful applicants, including any who will be initially employed as Foreign Service Reserve officers (FSO candidates), will, after being approved by the Board of Examiners, have their names placed on the rank-order register for the class and functional specialty for which they have been found qualified in the order of the numerical grades assigned by the Final Review Panel. Appointments to available openings will be made from the top five candidates or top 10 percent of candidates, whichever is the larger number of candidates entered on the register for the class and specialty of the position to be filled.

(j) *Termination of eligibility.* Applicants who have qualified but have not been appointed because of lack of vacancies will be dropped from the rank-order register 24 months after their names are entered on the register. The Chairman of the Board of Examiners may extend their eligibility period when, in his judgment, such extension is justified.

Effective date. These regulations shall become effective upon publication in the FEDERAL REGISTER (1–8–72).

(Secs. 212, 302, 303, 516, 517, 60 Stat. 1001, as amended, 1002, 1008, as amended; 22 U.S.C. 827, 842, 843, 911, 912)

For the Secretary of State.

WILLIAM B. MACOMBER, Jr.,
Deputy Under Secretary for Management.

DECEMBER 30, 1971.

[FR Doc.72–382 Filed 1–7–72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alabama	Mobile	Unincorporated areas.	I 01 097 0000 04 through I 01 097 0000 40	Alabama Development Office, State Office Bldg., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104.	County Engineer's Office, County Courthouse, 101 Government St., Mobile, AL 36601.	Jan. 7, 1972.
California	San Diego	San Marcos				Do.
Massachusetts	Plymouth	Scituate				Do.
New Jersey	Bergen	Bergenfield				Do.
Do	do	River Vale Township.				Do.
Do	Somerset	Far Hills Borough.				Do.
Do	Essex	South Orange				Do.
Pennsylvania	Dauphin	Steelton Borough				Do.
Tennessee	Blount	Alcoa	I 47 009 0030 02 through I 47 009 0030 05	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the City Recorder, Municipal Bldg., Alcoa, Tenn. 37701.	Do.
Do	Lawrence	Lawrenceburg				Do.
Virginia	Fairfax	Unincorporated areas.	I 51 059 0000 03 through I 51 059 0000 30	Division of Water Resources, Department of Conservation and Economic Development, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	Office of the Director of Public Works, Fairfax County, 4100 Chain Bridge Rd., Fairfax, VA 22030.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: December 30, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-269 Filed 1-7-72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 **List of communities with special hazard areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alabama	Mobile	Unincorporated areas.	H 01 097 0000 04 through H 01 097 0000 40	Alabama Development Office, State Office Bldg., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104.	County Engineer's Office, County Courthouse, 101 Government St., Mobile, AL 36601.	Dec. 15, 1970.
California	San Diego	San Marcos				Jan. 7, 1972.
Massachusetts	Plymouth	Scituate				Do.
New Jersey	Bergen	Bergenfield				Do.
Do.	do.	River Vale Township.				Do.
Do.	Somerset	Far Hills Borough.				Do.
Do.	Essex	South Orange				Do.
Pennsylvania	Dauphin	Steelton Borough.				Do.
Tennessee	Blount	Alcoa	H 47 009 0030 02 through H 47 009 0030 05	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the City Recorder, Municipal Bldg., Alcoa, Tenn. 37701.	Jan. 15, 1971.
Do.	Lawrence	Lawrenceburg				Jan. 7, 1972.
Virginia	Fairfax	Unincorporated areas.	H 51 059 0000 03 through H 51 059 0000 30	Division of Water Resources, Department of Conservation and Economic Development, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	Office of the Director of Public Works, Fairfax County, 4100 Chain Bridge Rd., Fairfax, VA 22030.	June 17, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: December 30, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc. 72-270 Filed 1-7-72; 8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7158]

PART 12—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

Election Regarding Income From Certain Aircraft and Vessels

Correction

In F.R. Doc. 71-19170 appearing on page 16 in the issue of Tuesday, January 4, 1972, the fifth line of § 12.1(b), reading "United must be made not later than the", should read "United States must be made not later than the".

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

SUBCHAPTER E—EMPLOYMENT AND COMPENSATION IN THE CANAL ZONE

PART 253—REGULATIONS OF THE SECRETARY OF THE ARMY

Subpart A—General Provisions

EXCLUSIONS

Effective upon publication in the FEDERAL REGISTER (1-8-72), paragraph (c) of § 253.8 is amended by adding a new subparagraph (13), reading as follows:

§ 253.8 **Exclusions.**

* * * * *

(c) * * *

(13) Positions when filled by mentally retarded persons in accordance with written agreements between an agency and the Canal Zone Civilian Personnel Policy Coordinating Board. Provisions to be included in such agreements are to be consonant with those identified in Subchapter 6, Chapter 306 of the Federal Personnel Manual.

* * * * *

(2 CZC 142, 155, 76A Stat. 16, 19; 35 CFR 251.2)

ROBERT F. FROEHLKE,
Secretary of the Army.

DECEMBER 22, 1971.

[FR Doc.72-283 Filed 1-7-72;8:45 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 8a—VETERANS MORTGAGE LIFE INSURANCE

A new Part 8a is added to read as follows:

Sec.
8a.1 Definitions.
8a.2 Maximum amount of insurance.
8a.3 Effective date.
8a.4 Coverage.
8a.5 Beneficiaries.
8a.6 Payment of premiums.
8a.7 Termination.

AUTHORITY: The provisions of this Part 8a issued under 72 Stat. 1114, 85 Stat. 320; 38 U.S.C. 210, 806.

§ 8a.1 Definitions.

(a) The term "eligible veteran" means any veteran who is or has been granted assistance in securing a suitable housing unit under chapter 21 of title 38, United States Code, and who has not attained his 70th birthday.

(b) The term "grant" means the monetary assistance given to a veteran in acquiring a suitable housing unit under chapter 21 of title 38, United States Code.

(c) The term "housing unit" means a family dwelling or unit, together with the necessary land therefor, that has been or will be purchased, constructed, or remodeled with a grant to meet the needs of an eligible veteran and of his family, and is or will be owned and occupied by him as his home, or a family dwelling or unit, including the necessary land therefor, acquired by an eligible veteran to be used as his residence after selling or otherwise disposing of title to the housing unit for which his grant was made.

(d) The term "Veterans Mortgage Life Insurance" means the mortgage protection life insurance authorized for veterans under 38 U.S.C. 806.

(e) The term "initial amount of insurance" means the amount of insurance corresponding in amount to the unpaid principal of a mortgage loan outstanding on a housing unit owned or to be acquired by an eligible veteran on August 11, 1971, or on the date of approval of his grant made under chapter 21 of title 38, United States Code, whichever is the later date.

(f) The term "mortgage loan" means any loan, lien, or other indebtedness incurred by an eligible veteran to buy, build, remodel, or enlarge a housing unit, the payment of which loan, lien, or indebtedness is secured by a mortgage lien, or other equivalent security of record, on the housing unit in the usual legal form employed in the community in which the property is situated. The term also includes refinancing of such an indebtedness to avoid a default, to consolidate liens, to renew or extend the time for payment of the indebtedness, and in cases where the housing unit is being bought, built, remodeled, or enlarged by increasing the amount of such an indebtedness.

(g) The term "owned" means the eligible veteran has or will acquire an interest in the housing unit which is:

(1) A fee simple estate, or

(2) A leasehold estate, the unexpired term of which, including renewals at the option of the lessee, is not less than 50 years, or

(3) An interest in a residential unit in a cooperative or a condominium type development which in the judgment of the Chief Benefits Director or the Director, Loan Guaranty Service, provides a right of occupancy for a period of not less than 50 years: *Provided*, The title to such estate or interest is or shall be such as is acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community.

(h) Whenever in the regulations relating to Veterans Mortgage Life Insurance, a personal pronoun in the masculine gender is used or appears, it shall be taken to include the feminine also, unless the context clearly indicates the contrary.

§ 8a.2 Maximum amount of insurance.

(a) Each eligible veteran is authorized a life-time maximum amount of insurance under section 806 of title 38, United States Code, not to exceed $30,000, to be used as needed for insurance on his life during periods he is obligated under a mortgage loan. Whenever insurance on the life of an eligible veteran is reduced because of a reduction of the principal of his mortgage loan, or in accordance with the amortization schedule of his mortgage loan, his life-time maximum of $30,000 is permanently reduced by such an amount, except in the case of a reduction of the principal of the mortgage loan resulting from a sale of the property or a refinancing of the loan.

(b) The maximum amount of insurance in force on any one life at one time shall not exceed the lesser of the following amounts:

(1) $30,000.

(2) The reduced maximum amount of insurance available to an eligible veteran.

(3) Where the grant was approved and fully disbursed prior to August 11, 1971, the amount of the unpaid principal of the mortgage loan outstanding on that date on a housing unit then owned and occupied by the eligible veteran.

(4) Where the grant was approved prior to August 11, 1971, but had not been fully disbursed on that date, the amount of the unpaid principal of the mortgage loan outstanding on that date on a housing unit then owned and occupied by the eligible veteran, or on a housing unit then in the process of construction or remodeling for him, and such initial amount of insurance may be adjusted upward, subject to the maximum insurance available to the eligible veteran, or downward, depending upon the amount of the mortgage loans outstanding on the date of full disbursement of the grant, or on the date of the final settlement of the purchase, construction, or remodeling agreement, whichever date is the later date.

(5) Where the grant is approved on or after August 11, 1971, the amount of the unpaid principal of the mortgage loan outstanding on the date of approval of the grant on a housing unit then owned and occupied by the eligible veteran, or on a housing unit being or to be constructed or remodeled for him, and such initial amount of insurance may be adjusted upward, subject to the maximum insurance available to the eligible veteran, or downward, depending upon the amount of the mortgage loans outstanding on the date of full disbursement of the grant, or on the date of final settlement of the purchase, construction, or remodeling agreement, whichever date is the later date.

(6) Where an eligible veteran ceases to own the housing unit purchased in part with a grant, or a subsequently acquired housing unit which was subject to a mortgage loan that resulted in his life being insured under Veterans Mortgage Life Insurance, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by him, the amount of the unpaid principal outstanding on the mortgage loan on the newly acquired housing unit on the date insurance hereunder is placed in effect.

(7) Where an eligible veteran incurs or refinances a mortgage loan, the amount of the incurred or refinanced mortgage loan.

(8) Where the title to a housing unit is or will be vested in an eligible veteran and his spouse, the amount of insurance shall not exceed the principal amount of the outstanding mortgage loans. If title to an undivided interest in a housing unit is or will be vested in a person other than the spouse of an eligible veteran, the amount of Veterans Mortgage Life Insurance on his life shall be computed to be such part of the total of the unpaid principal of the loan outstanding on the housing unit as is proportionate to the undivided interest of the veteran in the entire property.

§ 8a.3 Effective date.

(a) Where the grant was approved prior to August 11, 1971, Veterans Mortgage Life Insurance shall be effective August 11, 1971, if on that date, the eligible veteran was obligated under a mortgage loan, and any such eligible veteran is automatically insured, unless he elects in writing not to be insured, or fails to respond within 60 days after the date a final request is made or mailed to him for information on which his premium can be based.

(b) Where the grant is approved on or after August 11, 1971, Veterans Mortgage Life Insurance shall be effective on the date of approval of the grant, if on that date the eligible veteran is obligated under a mortgage loan, and any such eligible veteran is automatically insured, unless he elects in writing not to be insured, or fails to respond within 60 days

after the date a final request is made or mailed to him for information on which his premium can be based.

(c) In any case in which a veteran would have been eligible for Veterans Mortgage Life Insurance on August 11, 1971, or on the date of approval of his grant, whichever date is the later date, but such insurance did not become effective because he was not obligated under a mortgage loan on that date, or because he elected in writing not to be insured, or failed to timely respond to a request for information on which his premium could be based, the insurance will be effective on a date agreed upon by the veteran and the Administrator, but only if the veteran files an application in writing with the Veterans' Administration for such insurance, submits evidence that he meets the health requirements of the Administrator, together with information on which his premiums can be based, and is or becomes obligated under a mortgage loan upon the date agreed upon as the effective date of his insurance.

(d) In any case in which an eligible veteran disposes of the housing unit purchased, constructed or remodeled in part with a grant, or a subsequently acquired housing unit, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by him, the insurance will be effective upon a date requested by the veteran and agreed to by the Administrator, but only if the eligible veteran files an application for such insurance, submits evidence that he meets the health requirements of the Administrator, furnishes information on which his premium can be based, and is or becomes obligated under a mortgage loan on the date the insurance is to become effective.

(e) In any case where an eligible veteran insured under Veterans Mortgage Life Insurance, refinances the mortgage loan which is the basis for such insurance on his life, any increase in the amount of insurance or any delay in the rate of reduction of insurance will be effective only if the eligible veteran files an application for insurance, submits evidence that he meets the health requirements of the Administrator, and furnishes information on which his premium can be based.

§ 8a.4 Coverage.

(a) Veterans Mortgage Life Insurance shall provide protection against the death of an eligible veteran insured thereunder, but only if death occurs while such insurance is in force.

(b) The $30,000 life-time maximum amount of Veterans Mortgage Life Insurance available to an eligible veteran shall be permanently reduced, and the amount of such insurance in force on his life at any one time shall be reduced simultaneously (1) with the reduction in the principal of the mortgage loan, whether or not the mortgage loan is amortized, and (2) in addition, if the mortgage loan is amortized, according to the schedule for the reduction of the principal of the mortgage loan whether or not the scheduled payments are timely made.

(c) If the amount of the mortgage loan exceeds $30,000, or the reduced maximum amount of insurance available to an eligible veteran, whichever amount is the lesser, the amount of insurance in force on the life of the veteran shall remain at a constant level until the principal amount of the mortgage loan which is basis for establishing the amount of insurance is reduced to $30,000, or to the amount of the reduced maximum amount of insurance available to the veteran, at which time the amount of insurance in force on his life shall be reduced in accordance with the schedule for the reduction of the principal of the mortgage loan, and whether or not the scheduled payments are timely made.

(d) Subject to the $30,000 life-time maximum amount of insurance, and to the reduced maximum amount of insurance available to him, an eligible veteran is entitled to be insured under Veterans Mortgage Life Insurance or to apply for such insurance as often as he becomes obligated under a mortgage loan or a refinanced mortgage loan on a housing unit or a successor housing unit owned and occupied by him. Where a veteran who is not automatically insured under Veterans Mortgage Life Insurance applies for such insurance, he shall be required to meet the health standards and other conditions established by the Administrator for such insureds.

§ 8a.5 Beneficiaries.

Any amount of Veterans Mortgage Life Insurance in force on the date of death of an eligible veteran shall be paid only to the holder of the mortgage loan. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or the loan guaranty revolving fund established by section 1823 or 1824 of title 38, respectively. If there is more than one mortgage loan on a housing unit at the time the insurance matures, the proceeds will be payable to the holder of the mortgage loans in the order of the priority of the liens.

§ 8a.6 Payment of premiums.

Premiums for Veterans Mortgage Life Insurance will be established by the Administrator and based on such mortality data as appropriate to cover only the mortality cost of insuring standard lives. If the veteran is receiving compensation or other cash benefits from the Veterans Administration, the necessary premiums will be deducted from such payments. If the veteran is not receiving payments from the Veterans Administration, premiums must be paid directly by the veterans to the insurer.

§ 8a.7 Termination.

Veterans Mortgage Life Insurance shall terminate upon whichever of the following events first occurs:

(a) Satisfaction of the veteran's indebtedness under the mortgage upon which the loan is based.

(b) The veteran's 70th birthday.

(c) Termination of the veteran's ownership of the property securing the mortgage.

(d) Request of the veteran.

(e) Discontinuance of payment of premiums by the veteran.

(f) Discontinuance of the entire insurance contract or agreement.

This new part is effective August 11, 1971.

Approved: January 4, 1972.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.72-316 Filed 1-7-72;8:48 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18643]

PART 91—INDUSTRIAL RADIO SERVICES

Operation of Mobile Relay Stations, Fixed Relay Stations, and Repeater Stations; Correction

In the matter of amendment of Parts 89 and 91 of the Commission's rules governing the operation of mobile relay systems, fixed relay stations and repeater stations, Docket No. 18643.

The Commission's Report and Order, FCC 71-1212 (36 F.R. 23567), released December 6, 1971, is corrected as follows:

1. In § 91.7, paragraph (b) (3) is corrected as follows:

§ 91.7 Relay and control stations.

* * * * *

(b) * * *

(3) Each new mobile relay system, with power greater than 1 watt, authorized after January 1, 1972, that is activated by signals below 50 MHz shall be so designed that cessation of reception of the activating continuous coded tone signal will deactivate the station. Licensees may utilize a combination of digital selection and continuous coded tone control where required to insure selection of only the desired mobile relay station. Additionally, applicants are required to furnish a description of tone codes utilized to the Commission and to the coordinating committees involved.

* * * * *

Released: January 5, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-333 Filed 1-7-72;8:50 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-5; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Door Locks and Door Retention Components

The purpose of this notice is to amend Standard No. 206, Door Locks and Door Retention Components, to require that all side doors leading into a passenger compartment containing one or more seating accommodations meet the requirements of the standard, regardless of seat location or whether the seats are within the definition of designated seating positions. This notice also amends the standard to make clear the distinction between front and rear doors.

I. A notice of proposed rule making proposing the extension of the requirements of the standard to all side doors leading into passenger compartments was published in the FEDERAL REGISTER on February 3, 1971 (36 F.R. 1913). The three comments which were received in response to the notice were carefully considered. All of them supported the proposed amendment. The amendment in this notice is identical to the proposed amendment except for the effective date. That date has been changed to September 1, 1972 to permit adequate time for compliance.

II. The standard specifies in S4.1.3 different door lock requirements for front and rear doors. The Standard does not, however, precisely differentiate between these two types of doors. The problem of determining whether a door is to be treated as a front or rear door arises particularly in connection with multipurpose passenger vehicles having a single right side door.

To clarify the application of the requirements of S4.1.3, this notice amends the Standard by adding the word "Side" to the titles of S4.1.3.1 and S4.1.3.2 and by adding definitions of "Side front door" and "Side rear door" to S3. The definitions adopt, as the reference point for differentiating between front and rear doors, the rearmost point on the driver's seatback, when the driver's seat is adjusted to its most vertical and rearward position. A door with 50 percent or more of its opening area in a side view forward of that point is a "side front door". A door with more than 50 percent of its opening area in a side view to the rear of that point is a "side rear door".

These amendments to Standard No. 206 are clarifying and interpretive in nature. Consequently, it is found that notice and opportunity to comment are unnecessary and that, for good cause shown, an effective date earlier than 30 days after issuance is in the public interest.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 206, § 571.206 of Title 49, Code of Federal Regulations, is amended as follows:

1. Paragraph S4 is amended to read as follows:

S4. *Requirements.* Components on any side door leading directly into a compartment that contains one or more seating accommodations shall conform to this standard. However, components on folding doors, roll-up doors and doors that are designed to be easily attached to or removed from motor vehicles manufactured for operation without doors need not conform to this standard.

2. Paragraph S3. is amended by adding the following definitions in the proper alphabetical positions:

"Side front door" means a door that in a side view, has 50 percent or more of its opening area forward of the rearmost point on the driver's seatback, when the driver's seat is adjusted to its most vertical and rearward position.

"Side rear door" means a door that, in a side view, has more than 50 percent of its opening area to the rear of the rearmost point on the driver's seatback, when the driver's seat is adjusted to its most vertical and rearward position.

3. The title of paragraph S4.1.3.1 is amended to read: "Side Front Door Locks".

4. The title of paragraph S4.1.3.2 is amended to read: "Side Rear Door Locks".

Effective dates. Amendment 1. concerning the application of the standard is effective September 1, 1972. Amendments 2. through 4. concerning the distinction between front and rear doors are effective January 8, 1972.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51)

Issued on January 4, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-290 Filed 1-7-72;8:46 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Reaffirming the General Wage and Salary Standard, Providing for Certain Criteria for Exceptions and Specifying Certain Violations

Correction

In F.R. Doc. 71-19172 appearing at page 25427 in the issue of Friday, December 31, 1971, the second sentence should read as follows: "These amendments reaffirm the general wage and salary standard, presently 5.5 percent, for new contracts and pay practices, presently incorporated in § 201.10; incorporate under § 201.11 certain criteria for wage and salary increases under new contracts and pay practices in excess of the standard; and specify certain violations of the regulations in a new § 201.17."

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Miscellaneous Amendments

The purpose of these amendments is to correct certain typographical errors, to delete obsolete material, and to clarify certain provisions of Part 300—Price Stabilization.

Because the purpose of this amendment is to provide immediate guidance and information as to the price stabilization rules in effect, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making it effective less than 30 days after publication.

As printed in Part II of the FEDERAL REGISTER on December 16, 1971 (36 F.R. 23976), the word "or" which should have appeared between the words "property" and "services" in § 300.11 was omitted; and the word "that" which appears in § 300.13(a)(1), should have been omitted. These corrections are made.

Section 300.13(a), which states the general rules for price increases by retailers and wholesalers, is revised to make it clear that the intent of the regulation, so far as it relates to the period for determining customary initial percentage markup, is to allow a choice between the last customary initial percentage markup prior to November 14, 1971, or at the firm's option its customary initial percentage markup during its last fiscal year ending prior to August 15, 1971.

Section 300.51(c), which provides for treatment of requests for approvals of price increases by prenotification firms on a 72-hour basis, expired as of December 31, 1971, and is therefore being deleted.

Section 300.52(a), which provides for quarterly reports from reporting firms, is being amended to make it clear that quarterly reports are required from all firms covered by the section, regardless of whether they normally issue quarterly reports.

Paragraph (c) of § 300.52, which was added as a part of the publication on December 30, 1971 (36 F.R. 25385) of regulations for providers of health services, excused those providers from reporting under § 300.52. It was not the intention of the Price Commission to accomplish this result, so the paragraph

is being deleted. Providers of health services that are reporting firms will be required to report under § 300.52.

Section 300.501(c) which sets forth a special rule for stating in a transaction the amount of any import surcharge imposed by the President, is being deleted on the basis of the cancellation of the import surcharges by the President.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11627, 36 F.R. 20139, Oct. 16, 1971; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations, is amended as follows, effective January 6, 1972.

Issued in Washington, D.C., on January 6, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

1. Section 300.11 is amended by inserting the word "or" between the words "property" and "services."

2. Paragraph (a) of § 300.13 is amended to read as follows:

§ 300.13 Retailers and wholesalers.

(a) *General.* A retailer or wholesaler may charge a price in excess of the base price whenever—

(1) Its customary initial percentage markup after November 13, 1971, with respect to the property sold is equal to or less than its last customary initial percentage markup before November 14, 1971, or, at its option, its customary initial percentage markup during its last fiscal year ending before August 15, 1971.

(2) The aggregate effect of all of its price changes is not to increase its profit margin over that which prevailed during the base period.

* * * * *

§ 300.51 [Amended]

3. Paragraph (c) of § 300.51 is revoked.

§ 300.52 [Amended]

4. Section 300.52(a) is amended by inserting the words "in any event" between the words "but" and "not."

5. Paragraph (c) of § 300.52 is revoked.

6. Section 300.121 is amended to read as follows:

§ 300.121 Price Commission address.

Each form or report prescribed by the Price Commission shall be sent to the address specified on that form or report. Each other document, report, or other item furnished under this part, shall be sent to the—Price Commission, 2000 M Street NW., Washington, DC 20508.

§ 300.501 [Amended]

7. Paragraph (c) of § 300.501 is revoked.

8. The heading of § 300.515, inadvertently printed as § 300.15, is corrected to read as follows:

§ 300.515 Failure to obtain relief.

* * * * *

[FR Doc.72-414 Filed 1-7-72;8:54 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Percentage Depletion; Gross Income From the Property in the Case of Minerals Other Than Oil and Gas; Notice of Hearing

Proposed regulations under sections 381, 482, 611, 613, and 614 of the Internal Revenue Code of 1954, relating to the percentage depletion deduction in the case of minerals other than oil and gas, appear in the FEDERAL REGISTER for October 1 and 9, 1971 (36 F.R. 19256, 19702).

A public hearing on the provisions of the proposed regulations will be held on Wednesday, February 23, 1972, at 10 a.m., e.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments at such hearing should by February 9, 1972, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by February 16, 1972. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

RICHARD M. HAHN,
Acting Chief Counsel.

[FR Doc.72-337 Filed 1-7-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 953]

IRISH POTATOES GROWN IN SOUTHEASTERN STATES

Proposed Redistricting and Reapportionment

Consideration is being given to the approval of proposed redistricting and reapportionment which were unanimously recommended by the Southeastern Potato Committee established pursuant to Marketing Agreement No. 104 and Marketing Order No. 953, both as amended (7 CFR Part 953).

This marketing order program regulates the handling of Irish potatoes grown in designated counties in Virginia and North Carolina, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Statement of consideration. The order provides in § 953.12 that the committee may recommend and the Secretary may approve the reapportionment of committee members and the reestablishment of districts within the production area.

The Southeastern Potato Committee consists of 12 members representing five districts. The present committee representation provides one producer member and one handler member each for Districts No. 1, No. 2, and No. 3. However, District No. 3 has become urbanized and there are only two known commercial potato producers remaining, who together grow approximately 100 acres of potatoes.

Under present circumstances this district has an equal vote on the committee with the other two Virginia districts having approximately 200 producers and 29,000 acres of potatoes. In order to correct this inequitable representation, the committee, after giving due consideration to the criteria in § 953.12, unanimously recommended that District No. 3 be merged with District No. 2. These two districts are contiguous and their production and marketing practices are similar.

The committee also recommended that the District No. 3 committee positions (one producer member and one handler member) be terminated and an additional producer member be added to both Districts No. 1 and No. 2. However, this representation would be contrary to the order and the Secretary's decision as the record indicates that "the authority should not be provided for shifts in committee representation between handlers and producers."

Therefore, one producer member and one handler member should be reassigned among Districts No. 1 and No. 2. Since census figures show District No. 1 has the larger acreage and production, the producer member should be selected from there while District No. 2 should get the handler member.

All persons who desire to submit written data, views, or arguments in connection with this proposal shall file the same in quadruplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 5 days following publication in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 953.123 Reestablishment of districts and reapportionment of committee membership.

(a) Pursuant to § 953.12: (1) The counties of James City and Nansemond and the cities of Chesapeake and Virginia Beach (currently District No. 3) are reestablished as a part of District No. 2; (2) the membership of the Southeastern Potato Committee shall be apportioned among the districts of the production area so as to provide the following representation: Two producer members and one handler member from each of Districts No. 1, 4 and 5; one producer member and two handler members from District No. 2. The respective alternates shall be selected on the same basis of representation as the members.

(b) Terms used in this section have the same meaning as when used in said marketing agreement and this part.

Dated: January 4, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72-313 Filed 1-7-72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SW-73]

TRANSITION AREA

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the

Dallas-Fort Worth, Tex., transition area and revoke the Bridgeport, Tex., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Dallas-Fort Worth, Tex., transition area is amended by deleting "to longitude 97° 28'00" W.; thence north to point of beginning." and substituting therefor "to latitude 32°55'00" N.; to latitude 33°13' 00" N., longitude 97°56'00" W.; to latitude 33°15'30" N., longitude 97°49'00" W.; to point of beginning."

In § 71.181 (36 F.R. 2140), the Bridgeport, Tex., transition area is revoked.

Proposed alteration of the Dallas-Fort Worth, Tex., 700-foot transition area will provide controlled airspace to accommodate the instrument approach procedure proposed to serve the Springtown, Tex., Municipal Airport. This procedure will be based on utilization of the Bridgeport VORTAC navigational aid. As the Bridgeport VORTAC currently provides approach capability for the Bridgeport Municipal Airport which is in the same general geographical area, it is proposed to expand the Dallas-Fort Worth 700-foot transition area to fully encompass the Bridgeport 700-foot transition area to afford more legible charting of this area. This will also permit revocation of the separate Bridgeport, Tex., transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on December 29, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-294 Filed 1-7-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-187]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Roanoke Rapids, N.C., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Roanoke Rapids transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Halifax County Airport (lat. 36°26'29" N., long. 77°43'00" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at Halifax County Airport. A prescribed instrument approach procedure to this airport, utilizing the Rocky Mount, N.C. VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on December 27, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.72-295 Filed 1-7-72;8:46 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

[Docket No. RM-50-2]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Effluents From Light Water-Cooled Nuclear Power Reactors; Supplemental Notice of Hearing

On November 30, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 22775) a notice scheduling a legislative-type public rule making hearing on January 20, 1972, before a hearing board consisting of Algie A. Wells, Esq., Chairman, Dr. Walter H. Jordan, and Dr. John C. Geyer, concerning proposed amendments to its regulations, 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which would supplement the regulation with a new Appendix I to that part to provide numerical guides for design objectives and technical specification requirements for limiting conditions for operation of light water-cooled nuclear power reactors to keep radioactivity in effluents as low as practicable, published on June 9, 1971 (36 F.R. 11113).

The notice published on November 30, 1971, provided in general terms how the hearing would be conducted and its provisions remain in effect. This supplemental notice outlines more detailed procedures that will be followed in the scheduled rule making hearing, as follows:

1. All persons admitted as participants will present their testimony under oath and will be afforded the opportunity for relevant questioning of the witnesses of other participants as may be required for full and true disclosure of the facts.

2. The Commission's determination in the rule making proceeding will be supported by the record; if reliance is placed on information which is not in the record, notice will be given of such information and an opportunity provided to comment thereon and to request an opportunity to respond thereto.

3. Participants will make appropriate documents available to the extent practicable and will reference and produce on request the documents on which they rely. Requests for interrogatories, depositions, or formal discovery will not be entertained unless, in exceptional circumstances, the presiding board finds that there is compelling justification therefor.

4. The AEC will make available appropriate witnesses to explain the background, purpose, and rationale of its proposed numerical guides for design objectives and technical specification requirements for limiting conditions for operation of light water-cooled nuclear power reactors to keep radioactivity in effluents as low as practicable, published on June 9, 1971. Other participants, to the extent practicable, are expected to make available knowledgeable persons. No subpoenas requiring the testimony of witnesses will be issued by the presiding board. Participants may request specified witnesses and, if such request is made, the presiding board, upon determining that the request is relevant, nonduplicative, and meritorious, will encourage such witnesses to testify. The presiding board may, upon a showing of exceptional circumstances, such as a case in which a particular named person has direct personal knowledge of a material fact not known to the witnesses in the proceeding, certify directly to the Commission for determination of whether the testimony of a named person should be included in the record of the proceeding.

5. All direct testimony, and, to the extent appropriate, all redirect testimony and rebuttal testimony shall be submitted in writing and copies served on the Commission (Attention: Chief, Public Proceedings Branch), the presiding board and all participants at least 5 days prior to the session of the hearing at which such testimony is to be presented. Such written testimony will be incorporated in the transcript of the hearing after identification and upon sponsorship by an expert witness without reading, but each witness will be permitted to make a brief oral summary under oath of his written testimony.

6. Participants are required to identify in writing the subject matter and portions of written testimony on which questioning is sought to be conducted prior to the session of the hearing in which such questioning will be conducted.

7. At the request of a participant, the presiding board may permit a qualified individual who has scientific or technical training or experience to participate on behalf of that participant in the examination and questioning of expert witnesses. Attorneys sponsoring such interrogatories must assume full responsibility for the interrogator's performance.

8. Two members of the presiding board will constitute a quorum, if one of those members is the chairman. Upon agreement of the participants, the Chairman alone may preside over sessions of the hearing. It is expected that the entire presiding board will be present at all sessions to the extent practicable.

9. Consistent with the full and true disclosure of the facts, duplicative, redundant or nonproductive testimony or questioning will not be permitted and the presiding board will impose suitable restrictions to that end.

10. The presiding board will set appropriate, reasonable time limits on the questioning of witnesses.

11. The presiding board is authorized to take appropriate action to control the course of the hearing, including the authority to administer oaths and affirmations; rule on offers of, and receive, evidence; regulate the course of the hearing and the conduct of the participants, provide for consolidation of presentations and questioning as appropriate, dispose of procedural requests or similar matters; examine witnesses; hold conferences before or during the hearing; and certify questions to the Commission for its determination, either in its discretion or on direction of the Commission.

Notice should also be taken that the conduct of a rule making hearing on the subject matter of this notice will not affect the orderly resolution, under the Commission's existing regulations, of the matter of radioactivity in effluents in hearings on applications for light water-cooled power reactors pending before atomic safety and licensing boards.

Dated at Germantown, Md., this 6th day of January 1972.

For the Atomic Energy Commission.

FREDERICK T. HOBBS,
Acting Secretary of the Commission.

[FR Doc.72-380 Filed 1-7-72;8:50 am]

[10 CFR Part 50]

[Docket No. RM-50-1]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Supplemental Notice of Hearing

On November 30, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 22774) a notice scheduling a legislative-type public rule making hearing on January 27, 1972, before a hearing board consisting of Nathaniel H. Goodrich, Esq., Chairman, Dr. Lawrence R. Quarles, and Dr. John H. Buck, concerning its interim statement of policy establishing acceptance criteria for emergency core cooling systems for light water-cooled nuclear power reactors, published June 29, 1971 (36 F.R. 12247). Amendments to the interim criteria were published in the FEDERAL REGISTER on December 18, 1971 (36 F.R. 24082) in a notice that stated that the amendments would also be considered at the rule making hearing.

The notice published on November 30, 1971, provided in general terms how the hearing would be conducted and its provisions remain in effect. This supplemental notice outlines more detailed procedures that will be followed in the scheduled rule making hearing, as follows:

1. All persons admitted as participants will present their testimony under oath and will be afforded the opportunity for relevant questioning of the witnesses of other participants as may be required for full and true disclosure of the facts.

2. The Commission's determination in the rule making proceeding will be supported by the record; if reliance is placed on information which is not in the record, notice will be given of such information and an opportunity provided to comment thereon and to request an opportunity to respond thereto.

3. Participants will make appropriate documents available to the extent practicable and will reference and produce on request the documents on which they rely. Requests for interrogatories, depositions or formal discovery will not be entertained unless, in exceptional circumstances, the presiding board finds that there is compelling justification therefor.

4. The AEC will make available appropriate witnesses to explain the background, purpose and rationale of its interim statement of policy establishing acceptance criteria for emergency core cooling systems for light water-cooled nuclear power reactors, published June 29, 1971, and the amendments thereto published December 18, 1971. Other participants, to the extent practicable, are expected to make available knowledgeable persons. No subpoenas requiring the testimony of witnesses will be issued by the presiding board. Participants may request specified witnesses and, if such request is made, the presiding board, upon determining that the request is relevant, nonduplicative and meritorious, will encourage such witnesses to testify. The presiding board may, upon a showing of exceptional circumstances, such as a case in which a particular named person has direct personal knowledge of a material fact not known to the witnesses in the proceeding, certify directly to the Commission for determination of whether the testimony of a named person should be included in the record of the proceeding.

5. All direct testimony, and, to the extent appropriate, all redirect testimony and rebuttal testimony shall be submitted in writing and copies served on the Commission (Attention: Chief, Public Proceedings Branch), the presiding board and all participants at least 5 days prior to the session of the hearing at which such testimony is to be presented. Such written testimony will be incorporated in the transcript of the hearing after identification and upon sponsorship by an expert witness without reading, but each witness will be permitted to make a brief oral summary under oath of his written testimony.

6. Participants are required to identify in writing the subject matter and portions of written testimony on which questioning is sought to be conducted prior to the session of the hearing in which such questioning will be conducted.

7. At the request of a participant, the presiding board may permit a qualified individual who has scientific or technical training or experience to participate on behalf of that participant in the examination and questioning of expert witnesses. Attorneys sponsoring such interrogatories must assume full reponsibility for the interrogator's performance.

8. Two members of the presiding board will constitute a quorum, if one of those members is the chairman. Upon agreement of the participants, the Chairman alone may preside over sessions of the hearing. It is expected that the entire presiding board will be present at all sessions to the extent practicable.

9. Consistent with the full and true disclosure of the facts, duplicative, redundant or nonproductive testimony or questioning will not be permitted and the presiding board will impose suitable restrictions to that end.

10. The presiding board will set appropriate, reasonable time limits on the questioning of witnesses.

11. The presiding board is authorized to take appropriate action to control the course of the hearing, including the authority to administer oaths and affirmations; rule on offers of, and receive, evidence; regulate the course of the hearing and the conduct of the participants, provide for consolidation of presentations and questioning as appropriate, dispose of procedural requests or similar matters, examine witnesses; hold conferences before or during the hearing; and certify questions to the Commission for its determination, either in its discretion or on direction of the Commission.

Notice should also be taken that the conduct of a rule making hearing on the subject matter of this notice will not affect the orderly resolution, under the Commission's existing regulations, of the matter of emergency core cooling, in hearings on applications for light water-cooled power reactors pending before atomic safety and licensing boards.

Dated at Germantown, Md., this 6th day of January 1972.

For the Atomic Energy Commission.

FREDERICK T. HOBBS,
Acting Secretary of the Commission.

[FR Doc.72-381 Filed 1-7-72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 270, 274]

[Release No. IC-6878]

QUARTERLY REPORTS OF ISSUERS OF PERIODIC PAYMENT PLAN CERTIFICATES

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of Rule 27d-3 (17 CFR 270.27d-3) and Form N-27D-2 (17 CFR 274.127d-2) under the Investment Company Act of 1940 (Act), as amended by the Investment Company Amendments Act of 1970 (the "1970 Act"), as more particularly described below. The proposed rule and form are designed to facilitate the Commission's review of the experience and operations of issuers of periodic payment plan certificates in connection with rights of withdrawal and surrender arising under the 1970 Act and the reserves required to be established and maintained in accordance with Rule 27d-1 under the Act. The proposed rule and form would be adopted pursuant to the authority granted the Commission in sections 27 (d), 27(f), 30(b), and 38(a) of the Act (15 U.S.C. 80a-27(d), 80a-27(f), 80a-29 (b), 80a-27(a)).

Section 30(b) of the Act provides that the Commission may require registered investment companies to file information and documents, on a semi-annual or quarterly basis, to keep reasonably current the information and documents contained in the registration statements of such companies. Section 38(a) of the Act authorizes the Commission to issue such rules as are necessary or appropriate to the exercise of the powers conferred the Commission in the Act, including prescribing the forms upon which information required in reports to the Commission shall be set forth.

Under section 27(d) [of the Act], periodic payment plan certificates, typically issued wih a 50 percent "front-end load," must provide that the certificate holder may surrender his certificate at any time prior to the expiration of 18 months after issuance of the certificate and receive in payment thereof, in cash, the value of his account plus an amount from the underwriter for, or depositor of, the issue equal to that part of the excess paid for sales loading which exceeds 15 percent of the gross payments made by the certificate holder.

Under section 27(f) [of the Act], a certificate holder, within 60 days after the issuance to him of his periodic payment plan certificate, must be given a written notice of his right to withdraw from the plan within 45 days of the date of mailing the notice. Any certificate holder who exercises his right of withdrawal is entitled to receive a refund of the amount equal to the value of his account plus an amount, from the underwriter or depositor, equal to the difference between the gross payments made and the net amount invested, i.e., a complete refund of all charges.

Sections 27(d) and 27(f) of the Act also provide that the Commission may make rules and regulations applicable to underwriters for or depositors of registered investment companies issuing periodic payment plan certificates specifying such reserve requirements as it deems necessary or appropriate in order for such underwriters and depositors to carry out the obligations to refund charges as required by those sections. On July 2, 1971 (Investment Company Act Release No. 6600), the Securities and Exchange Commission adopted Rules 27d-1, 27d-2, and 27f-1 under the Act which, among other things, relate to reserve and refund requirements in connection with sales of periodic payment plan certificates (36 F.R. 13134).

RESERVE REQUIREMENTS

Rule 27d-1 (17 CFR 270.27d-1) provides that every depositor of, or principal underwriter for, the issuer of a periodic payment plan certificate issued subject to section 27(d) or section 27(f) of the Act, or both, shall deposit and maintain funds in a segregated trust account as a reserve and as security for the purpose of assuring the refund of charges required by sections 27(d) and 27(f) [of the Act]. Under the Rule (§ 270.27d-1), depositors or principal underwriters are required to deposit at least 45 percent of the excess sales load on each monthly payment made on periodic payment plan certificates sold subject to section 27(d) [of the Act]. For all certificates for which they are liable for the refund of any sales load they are required to maintain in the segregated trust account an amount equal to not less than 35 percent of the refundable sales load. On certificates sold subject to only the 45-day refund right, an amount equal to 20 percent of the charges subject to refund must be deposited and maintained in the segregated trust account, except that on plans requiring monthly payments in excess of $100 the applicable rate is 30 percent.

The determination of the amounts required to be deposited and maintained in the segregated trust account was based upon the actual redemption experience of certificates sold during January and May of 1969 by 11 plan sponsors representing 70 percent of the industry's total agreed payments, combined with a conservative estimate of the effect of the refund and withdrawal rights added by sections 27(d) and 27(f) [of the Act]. When it adopted Rule 27d-1, the Commission stated that it

> • • • intends to review the reserve requirements in light of actual experience as soon as sufficient data becomes available. Such data would include numbers and frequency of payments and refunds, sales volume, aggregate indebtedness, net capital and excess net capital of principal underwriters and depositors. In order to facilitate such review the Commission may propose the filing of appropriate forms and also require the maintenance of certain records not now required to be kept.

PROPOSED FORM N-27D-2 (17 CFR 274.127d-2)

Proposed Form N-27D-2 is a quarterly report to be filed by registered unit investment trusts and management investment companies issuing periodic payment plan certificates. It captures data on the number of such certificates sold, the number of monthly payments made on them, the number of withdrawals and surrenders pursuant to sections 27(d) and 27(f) [of the Act] and the number of payments made on certificates withdrawn and surrendered. It should provide timely reports on trends in the level of surrenders and withdrawals and data with respect to the variability of surrenders and withdrawals in different periods.

The form would be required to be filed for each calendar quarter ending on or after December 31, 1971 by issuers of the following periodic payment plan certificates subject to the 45-day withdrawal right of section 27(f) [of the Act]:

1. Certificates issued during the calendar quarter;

2. Certificates outstanding at the beginning of the calendar quarter which were issued less than 105 days prior to the beginning of the calendar quarter; and

3. Certificates also subject to the 18-month surrender right of section 27(d) [of the Act] which were outstanding at the beginning of the calendar quarter and were issued less than 18 months prior to the beginning of the calendar quarter.

Issuers of periodic payment plan certificates which are exempt from the provisions of section 27(f) of the Act would not be required to file the form. Nor would issuers of periodic payment plan

certificates be required to file the form if the depositor or underwriter has obtained an insurance company undertaking, pursuant to Rule 27d–2 (§ 270.27d–2 of this chapter), to guarantee the performance of all of its obligations to refund charges pursuant to sections 27(d) and 27(f) [of the Act]. However, such issuers would be required to file the form if some of the certificates outstanding at the beginning of, or sold during, the calendar quarter were not covered by the guarantee.

GENERAL FORMAT

The form contains eight items. Item 1 provides a capsule description of the issuer and of the certificates. Items 2 through 8 provide the basic information with respect to the current status and activity of certificates issued during the reporting quarter and each of the six preceding quarters. The certificates issued during any quarter are traced for the next six quarters and would thus appear in a total of seven quarterly reports. However, the item number of certificates issued in any quarter changes from one quarterly report to another. Thus, information concerning certificates issued during the fourth calendar quarter of 1971 would be reported first in Item 2 of the December 31, 1971, report. It would appear next in Item 3 of the March 31, 1972, report and would appear in Items 4 through 8 in successive reports. Appendix A to the Instructions for Form N–27D–2 contains a schedule of the contents of Items 2 through 8 for the quarterly reports from December 31, 1972, through June 30, 1973.

BASIC PRINCIPLES OF FORM N–27D–2 (17 CFR 274.127d–2)

The form employs the following basic principles:

1. All certificates issued in a particular calendar quarter are to be reported separately and not combined with the certificates issued in any other quarter. Thus, in any given quarterly report, the status of certificates sold in the reporting quarter and in each preceding calendar quarter could be determined separately.

2. Certificate activity data is to be reported in two categories on an aggregate basis according to the denomination of the regular payments required on each certificate. Certificates that provide for monthly payments, or their equivalent, of $100 or less are to be reported in one category and higher denomination certificates in another category.

3. Certificates outstanding at the end of the reporting quarter or which were surrendered or withdrawn during the reporting quarter are to be reported according to the total number of monthly payments, or their equivalent, which were actually made on the certificates from the date of issue until the end of the reporting quarter, rather than according to the payments made during the reporting quarter.

4. All information reported in Items 2 through 8 of the form is to be expressed in terms of the number of certificates rather than the actual dollar amounts of sales and other charges paid and refunded.

5. Issuers of certificates which are subject to only 45-day withdrawal provision of section 27(f) [of the Act] are required to answer only four of the eight items.

6. Only certificates issued on or after July 1, 1971 are required to be included in the form.

REPORTING DATES

The first report on Form N–27D–2 would be due March 15, 1972, for the quarter ending December 31, 1971. This report would contain a special report, Item 3a, providing information on certificates which were issued during the third calendar quarter of 1971 and which were surrendered or withdrawn during the same quarter. Item 3a would not be included in any other quarterly report. Subsequent reports for calendar quarters ending on or after March 31, 1972, would be required to be filed within 30 days after the end of each calendar quarter.

After issuers and the Commission have obtained sufficient experience with the use of Form N–27D–2, the Commission intends to explore the possibility of permitting Form N–27D–2 to be filed by means of punched cards, magnetic tapes or other media suitable for direct processing by electronic data processing equipment.

Proposed Form N–27D–2 would be adopted pursuant to sections 27, 30, and 38 of the Investment Company Act of 1940. All interested persons are invited to submit views and comments with respect to the adoption of Rule 27d–3 and Form N–27D–2. They should be submitted in writing to the Securities and Exchange Commission, Washington, D.C. 20549, on or before January 17, 1972. All such communications should refer to File No. S7–421, and they will be available for public inspection.

PROPOSED ACTION

Parts 270 and 274 of Chapter II of Title 17 of the Code of Federal Regulations would be amended by adding thereunder new §§ 270.27d–3 and 274.127d–2 respectively, to read as follows:

§ 270.27d–3 Form for quarterly report of issuers of periodic payment plan certificates.

Form N–27D–2 (17 CFR 274.127d–2) is hereby prescribed pursuant to sections 27(d), 27(f), 30(b), and 38 of the Act as the form for quarterly reports which shall be filed for each calendar quarter by registered investment companies.

§ 274.127D–2 Form N–27D–2 for issuers of periodic payment plan certificates.

(a) This form shall be filed pursuant to § 270.27d–3 of this chapter for each calendar quarter ending on or after December 31, 1971, by registered investment companies that are issuers of periodic payment plan certificates subject to section 27(f) of the Act and shall cover (1) certificates issued during the calendar quarter; (2) certificates outstanding at the beginning of the calendar quarter which were issued on or after July 1, 1971, and less than 105 days prior to the beginning of the calendar quarter; and (3) certificates also subject to the 18 months surrender right specified in section 27(d) of the Act which were issued on or after July 1, 1971, and less than 18 months prior to the beginning of the calendar quarter.

(b) Notwithstanding paragraph (a) of this section, registered investment companies that are issuers of periodic payment plan certificates for which an undertaking has been obtained from an insurance company pursuant to § 270.27d–2 of this chapter to guarantee the performance of all obligations to refund charges under sections 27(d) and 27(f) of the Act for all certificates outstanding at the beginning of, and sold during, the calendar quarter are not required to file a report on this Form N–27D–2.

NOTE: The text of the proposed form is contained in Release No. IC–6878, copies of which have been filed with the Office of the Federal Register, and may be obtained upon request from the Securities and Exchange Commission, Washington, D.C. 20549.

(Secs. 27(d), 27(f), 30(b), 38(a); 54 Stat. 829, 836, 841, 15 U.S.C. 80a–27(d), 80a–27(f), 80a–37(a), Public Law 91–547, 84 Stat. 1424–1425)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

DECEMBER 10, 1971.

[FR Doc.72–347 Filed 1–7–72;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document relating to a joint call for report of condition of insured banks, see F.R. Doc. 72-297, Federal Deposit Insurance Corporation, *infra*.

DEPARTMENT OF THE INTERIOR

National Park Service

GRAND TETON NATIONAL PARK, WYO.

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with departmental procedures as identified in 43 CFR 19.5 that a public hearing will be held beginning at 2 p.m., on March 10, 1972, at the Pink Garter Theater, Jackson, Wyo., for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 110,700 acres within the Grand Teton National Park, Teton County, Wyo. The hearing will run until approximately 5 p.m. and will resume at 7 p.m. if necessary.

A packet containing a draft master plan and preliminary wilderness study report, and providing additional information about the proposal, may be obtained from the Superintendent, Grand Teton National Park, Post Office Box 67, Moose, WY 83012, or from the Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, NE 68102.

A description of the preliminary boundaries and a map of the areas proposed for establishment as wilderness are available for review in the above office and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer, in care of the Superintendent, Grand Teton National Park, Post Office Box 67, Moose, WY 83012, by March 7 of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.

(2) Members of Congress.

(3) Members of the State Legislature.

(4) Official representative of the county in which the proposed wilderness is located.

(5) Officials of other Federal agencies or public bodies.

(6) Organizations in alphabetical order.

(7) Individuals in alphabetical order.

(8) Others not giving advance notice, to the extent there is remaining time.

Dated: December 21, 1971.

THOMAS FLYNN,
Deputy Director,
National Park Service.

[FR Doc.72-58 Filed 1-7-72;8:45 am]

YELLOWSTONE NATIONAL PARK, WYO., IDAHO, AND MONT.

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with departmental procedures as identified in 43 CFR 19.5 that public hearings will be held beginning at 2 p.m. on March 11, 1972, at the Pink Garter Theater, Jackson, Wyo.; on March 13, 1972, at the Stardust Motel, Idaho Falls, Idaho; and on March 15, 1972, at the Livingston Elks Club, Livingston, Mont., for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 1,963,000 acres within the Yellowstone National Park. The park is located in Park and Teton Counties, Wyo.; in Fremont County, Idaho; and in Gallatin and Park Counties, Mont. The hearings will run until approximately 5 p.m. and will resume at 7 p.m. if necessary.

A packet containing a draft master plan and preliminary wilderness study report and providing additional information about the proposal may be obtained from the Superintendent, Yellowstone National Park, Yellowstone National Park, Wyo. 82190; or from the Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, NE 68102.

A description of the preliminary boundaries and a map of the areas proposed for establishment as wilderness are available for review in the above office and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer, in care of the Superintendent, Yellowstone National Park, Yellowstone National Park, Wyo. 82190, by March 7 of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governors of the States or their representatives.

(2) Members of Congress.
(3) Members of the State Legislatures.
(4) Official representatives of the counties in which the proposed wilderness is located.
(5) Officials of other Federal agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated: December 21, 1971.

THOMAS FLYNN,
Deputy Director,
National Park Service.

[FR Doc.72-59 Filed 1-7-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (36 F.R. 17451, 19270, 20538, 22691, and 23834) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as indicated in the following table listing species at additional establishments and additional species at a previously listed establishment that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Mid-States Packers, Inc.	476A	(*)					
Haviland Brothers Frozen Food Lockers	5565	(*)				(*)	
Caprock Beef Packers, Inc.	7089	(*)					
New establishments reported: 3.							
Kenneth E. Baker	7845				(*)	(*)	
Species added: 2.							

Done at Washington, D.C., on January 4, 1972.

DONALD L. HOUSTON,
Acting Deputy Administrator, Meat and Poultry Inspection Program.

[FR Doc.72-314 Filed 1-7-72;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-255]

CONSUMERS POWER CO.

Order for Hearing

In the matter of Consumers Power Co. (Palisades Plant), Docket No. 50-255.

The parties to this proceeding have today indicated that they are ready to proceed to hearing with the presentation of evidence.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that an evidentiary hearing shall convene at 9:30 a.m. on Tuesday, January 25, 1972, in the Van Deusen Auditorium of the City Library System, 312 South Rose Street, Kalamazoo, MI.

Issued January 4, 1972, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.72-348 Filed 1-7-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 20291; Order 72-1-7]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Deferring Action and Requesting Comments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of January 1972.

On November 29, 1971, there were filed with the Board certain amendments to section XII of the Provisions for the Regulation and Conduct of the IATA Traffic Conferences, resulting from action of the 82d Meeting of the Executive Committee, which was held in Honolulu on November 19, 1971. Under the proposed changes, the Traffic Conference organization and services and the employment of IATA compliance machinery would apply to agreements among any number of Conference members where unanimous Conference agreement is not achieved. The amendments are reproduced in the attachments hereto.

The Board shall defer action on the filed amendments pending the receipt of comments thereon. We shall, therefore, direct that U.S. member carriers file comments, and we invite other interested persons to do so as well, addressed to whether the amendments should be approved or disapproved under section 412 of the Federal Aviation Act.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 1175-A29 be and it hereby is deferred;
2. Each U.S. certificated air carrier who is a member of IATA [1] shall file comments with respect to the agreement: *Provided,* That associate members may file comments;
3. Any interested persons may file comments with respect to the agreement;
4. Comments shall be filed within a period of 14 days from the date of this order; [2] and
5. This order shall be served upon all certificated air carriers, the International Air Transport Association, the National Air Carrier Association, the Department of Transportation, the Department of Justice, and the Department of State.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

AMENDMENTS TO TRAFFIC CONFERENCE PROVISIONS

Amend section XII as follows:

Paragraph 1, add a new subparagraph (c).

1. (a) Any alleged breach by a member of a Traffic Conference of action taken by that Conference binding upon such member (hereinafter referred to as a "violation of a Resolution") may be reported to the Director General for appropriate action. This report shall be in the form of a written complaint which shall contain a detailed statement of the nature of the alleged breach and the evidence in reliance upon which the complaining party is making the complaint. The Director General shall not act on any complaint based on an alleged breach which occurred more than 2 years prior to the receipt by the Director General of a report including such complaint.

(b) Any action taken, either directly or indirectly by an operator of aircraft in scheduled commercial services, which is not an IATA Member (i) a majority of the voting shares of which are owned by an IATA Member, or with which an IATA Member has financial arrangements, such as a guarantee of profit, a guarantee of return to shareholders, or a management agreement, through which such IATA Member may control such operator of aircraft or (ii) which is under common control with an IATA Member, shall

[1] American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Mohawk Airlines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

[2] An original and 19 copies of such comments shall be filed with the Board's Docket Section.

be deemed for compliance purposes to be the action of the said IATA Member.

(c) Any alleged breach by a member of a Traffic Conference of an agreement between that member and any other member(s) of the conference(s), resulting from negotiations undertaken pursuant to section V, VI, or VIII of these provisions, relating to fares, rates, or charges for passengers or cargo or conditions of services relating thereto may also be reported to the Director General for appropriate action in the same manner as a violation of a Resolution of the Traffic Conference provided that:

(i) Said agreement has been filed with the Secretary of the Traffic Conferences who has notified all Conferences or joint Conference members within the area in which the agreement is to be applicable and the period of its effectiveness,

(ii) Said agreement is not inconsistent with any effective Conference Resolution determining the fares, rates, charges, or conditions of services which are the subject of the agreement within the area and during the period of effectiveness of said agreements,

(iii) The terms of the agreement are included in participating Members' regulations,

(iv) The agreement is not disapproved by the appropriate government authorities,

(v) The Director General agrees to extend the provisions of this section on Compliance to the agreement,

(vi) Any member of the Conference or joint Conferences of the area in which the agreement is applicable may adhere to the agreement upon giving notice to the Secretary of the Traffic Conferences, which notice shall be circulated to all members of the Conference or joint Conferences.

Paragraph 2(c).

Inform the complaining Member that in his opinion there has been no violation of a resolution or agreement, and that he will not refer the matter to a Commission unless such Member is prepared to pay all costs if his complaint is eventually dismissed by the Commission.

Paragraph 5.

The Director General may also, from time to time at his discretion, direct the IATA Compliance Office to investigate particular traffic incidents coming to his attention without a formal complaint if they appear to indicate violations of a resolution or agreement, or to investigate general traffic conditions in any particular area.

Paragraph 7.

Upon completion of any investigation based on a complaint, the IATA Compliance Office shall make a written report of the results of such investigation to the Director General. Upon completion of any other investigation the IATA Compliance Office shall likewise make a report to the Director General and shall present a written complaint to the Director General against any Member which, in the opinion of the IATA Compliance Office, has been guilty of a violation of a resolution or agreement as disclosed by such investigation. The Compliance Office may also make a complaint to the Director General against any Member which has failed, neglected or refused to permit the IATA Compliance Office to carry out the investigation authorized by this section XII. On receipt of any such complaint from the Compliance Office the Director General shall forward a copy to the Member complained against and require an answer as provided in paragraph 2 above. On the receipt of such answer the Director General shall either

(a) Dismiss the complaint and so advise the Member concerned, or

(b) Refer the complaint and answer to a Commission for hearing and decision.

Paragraph 11.

If the complaint filed by a Member is based on the construction of a resolution or agreement, and if, in the opinion of the Director General, after receiving an answer from the Member complained against or if such Member fails to file an answer within the prescribed period such Member complained against is acting contrary to or in violation of such resolution or agreement, and if the Director General determines that the competitive position between the complaining Member and the Member complained against is being seriously affected, the Director General may, after consultation with any members of his staff present when the resolution or agreement was adopted, issue an order addressed to the Member complained against requiring such Member to cease immediately the actions complained of pending the decision of the case by the Commission. However, such order of the Director General shall not affect the decision of the Commission. The Commission may at its discretion vacate the order of the Director General or continue it in effect pending final disposal of the case. The Commission may also assess a penalty against the Member complained against, within the limit of penalties provided for breaches of Traffic Conference obligations by the Annual General Meeting, if such Member complained against has not complied with the above mentioned temporary order of the Director General.

Paragraph 13(b).

Shall, when interpreting a Conference resolution, be bound by interpretations of such resolution included in decisions of a Commission unless a subsequent Conference amends the resolution in question, or the participants in the agreement referred to in 1(c) above amend the agreement.

Paragraph 14.

The Commission shall decide the issues presented to it and may impose on any Member found to be guilty of a violation of any resolution or agreement such penalties as have been authorized by the General Meeting of IATA. Fines shall be related to the breach and to that end shall be based upon a consideration of the disruptive effects of the breach of duty in question upon the traffic of, and upon the relations between the interested persons, or any of them, the wilful or wanton nature of the breach, any fact in mitigation of the breach and any other relevant circumstances. If a Member complained against has based its defense on the grounds of the interpretation of Conference resolutions or agreements (as distinguished from a mere dispute in regard to the facts), the decision of the Commission shall rule on such defense and state the grounds for its decision. The Commission may also assess a penalty against the Member complained against within the limits of penalties provided for breaches of Traffic Conference obligations by the General Meeting if such Member complained against has failed, neglected or refused to permit the IATA Compliance Office to carry out any investigation authorized by this section XII.

Paragraph 20.

The following summary procedure shall be used in disposing of certain complaints of minor importance made by the IATA Compliance Office, against any Member, notwithstanding contrary provisions in the foregoing paragraphs 12–19 inclusive:

The Commissioner after receipt from the Director General of any complaint, reply and other documentation may advise the Director General that he deems that no new interpretation of a resolution or agreement is required, that the fine, if any, against any one Member ought in no event to be in excess of a specified amount, which amount shall be as established from time to time by the Executive Committee, and that the complaint might therefore appropriately be dealt with by summary procedure. The Director General shall thereupon give any Member complained against notice in writing that it has the option within such period, as be established from time to time by the Executive Committee, of the date of such notice of accepting the summary procedure hereby provided or of having the complaint assigned for a regular hearing under the normal procedures fixed by these regulations. If the Member accepts summary procedure within the time stated the Commissioner will without further notice proceed to a final decision. The Member complained against in accepting summary procedure thereby waives any further reply, any hearing and any application to the Executive Committee for reconsideration of the decision when rendered, and further agrees that the fine, if any, shall be payable immediately on receipt from the Director General of notice of the Commissioner's decision. Such decision need include only a statement of the resolution or resolutions, agreement or agreements involved, a brief indication of the nature of the breach, the name of the Member or Members complained against and the fine if any. The latter shall in no event exceed the specified amount, as established by the Executive Committee—against any one Member. If the Member does not accept the foregoing summary procedure within the time stated the complaint and answer will be heard as soon as practical and the normal procedures provided by these regulations shall apply. In rendering a final decision in such event the Commission shall be in no way bound by any prior consideration as to the penalty or otherwise. The Director General shall from time to time notify all Members of decisions that may be rendered by the Commission under this summary procedure.

Paragraph 21.

Apart from rendering interpretations of resolutions or agreements in connection with complaints filed pursuant to paragraph 1 of this section, the Commissioner shall render interpretations of resolutions or agreements or parts thereof upon the written request of a Member. Unless otherwise provided by applicable Traffic Conference resolution(s) or agreement(s), the rendering of such interpretations shall be subject to, and in accordance with, the following procedures.

Paragraph 21(a).

The Member's request shall be in writing, shall describe in reasonable detail the justification for the requested interpretation and the Member's views as to the correct meaning of the resolution or agreement or part thereof involved, and shall state whether the Member desires an oral hearing on this matter. The request shall also state whether it originated with a request for an interpretation filed by an IATA Sales Agent pursuant to applicable IATA Traffic Conferences Sales Agency resolutions.

Paragraph 21(c).

Any other Member may file with the Commissioner a statement of its views as to the correct meaning of the resolution or agreement, or part thereof, and may simultaneously request an oral hearing.

Subparagraphs (i) and (ii) remain unchanged.

EXPLANATORY MEMORANDUM

Following is a summary of events leading up to adoption and filing of amendments to section XII of the Provisons for the Regulation and Conduct of the IATA Traffic Conferences adopted by the 82d Meeting of the

IATA Executive Committee on November 19, 1971.

2. In the discharge of its continuing responsibility for endeavoring to develop means for improving the efficiency and efficacy of the Traffic Conference Organization and Procedures, the IATA Traffic Advisory Committee has given further study to proposals for partial and limited agreements, particularly in context of the length, number and extent of success of the many Conference meetings required to date, and now in prospect, following the 1970 Honolulu Passenger Traffic Conference and 1971 Singapore Cargo Traffic Conference. At its 43d (September 1971, Miami) Meeting, the TAC concluded that it should recommend action by the Executive Committee to amend the Traffic Conference Provisions so as to permit use of the Traffic Conference organization and services and application of Compliance machinery, if approved by the Director General, to agreements among any number of Conference members covering any portion or all of any individual or joint Conference area, where unanimous Conference agreement is not achieved. In adopting such recommendation, the meeting noted that one TAC Member, who was not present at the meeting, had cabled his opposition to any change in the Conference Provisions which would depart from the unanimity rule and another TAC member stated that his support of the recommendation was based upon the assumption that the Director General would never authorize Enforcement machinery against any fares or rates agreement in which Third and Fourth Freedom Operators were not participants.

3. The recommendation of the TAC was considered at the 81st (pre-AGM) Executive Committee Meeting (November 11–12, Hawaii) and endorsed in principle subject to reporting the matter and affording opportunity for its discussion at the ensuing 27th Annual General Meeting (November 15–18, 1971, Honolulu). The report of the Executive Committee to the AGM stated:

"16. Your Committee has considered and decided to accept a majority recommendation of the Traffic Advisory Committee to amend in a suitable manner, the Provisions for the Regulation and Conduct of the Traffic Conferences so as to permit use of the Tarffic Conference organization and services and application of the IATA Compliance machinery, where unanimous Conference action is not achieved and subject to the Director General's approval, to rates, fares, and related agreements among any number of Members concerning any portion or all of any individual or joint Conference area. It is intended that final action to implement this decision will be taken at the post-AGM Executive Committee meeting here in Honolulu subject to affording the opportunity for its discussion at this Annual General Meeting.

"17. It should be clearly understood and, therefore, it is emphasized that this new approach does not deprive anyone of present voting rights in the Traffic Conferences nor is anyone asked or expected to be bound to any agreement without his consent. The emphasis still will be upon unanimity for Conference action but where that unanimity is not obtainable and carriers otherwise would have to resort to bilateral agreements as the only alternative to chaos and confusion, the IATA Traffic Conference and Compliance machinery can be made available to formalize and enforce such partial agreements with the Director General's concurrence."

4. At the time of presentation of the matter to the Annual General Meeting, representatives of only two IATA Members raised questions or indicated any concern with the purpose of the recommendation. Subsequently, the reports to the AGM included the report of Traffic Conference meetings held since the time of the previous Annual General Meeting, which report listed the number of both successful and unsuccessful Traffic Conference meetings and stated:

"1970 should have been a year in which we had only a worldwide Cargo Traffic Conference, and theoretically, no Passenger Traffic Conference meetings. Instead, with the amount of unsettled business left over from the Honolulu Passenger Traffic Conferences in 1970 and the short term duration of agreements subsequently achieved, one or another Conference Area or Joint Area has been in formal session for an aggregate period of what amounts to approximately (now) 7 months out of the 12 since the time of the Teheran AGM."

5. Thereafter, the 82d (post-AGM) Executive Committee Meeting, taking note of the fact that the Annual General Meeting had been informed of the intended action, had been afforded opportunity for discussion and had not registered disapproval, unanimously agreed that the form the action should take should be amendments to section XII of the Traffic Conference Provisions including not only the safeguard of requiring the Director General's approval for IATA's services but also a condition relating to appropriate government approvals of such agreements. The effective date of the amendments is to be established by the Director General after the required processing and approval has been completed.

6. The text of the amendments as adopted and explanation thereof was notified to all IATA Members by Memorandum dated November 24, 1971, from the Secretary, copy of which is attached hereto.

[FR Doc.72-322 Filed 1-7-72;8:50 am]

[Docket No. 22973; Order 72-1-4]

NEW ENGLAND SERVICE INVESTIGATION

Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of January 1972.

By Order 71-6-60, the Board modified the scope of the New England Service Investigation in a number of respects. Petitions for reconsideration and/or clarification of Order 71-6-60, motions for consolidation, answers, replies, petitions for leave to intervene, and various procedural motions have been filed by a number of parties.[1] These pleadings raise a variety of issues with respect to the proper scope of the Investigation each of which will be discussed in turn.

A preliminary comment with respect to the priority assigned to this case is in order. Various parties have filed suggestions as to the procedural dates which the Board should establish in this proceeding. In general, Allegheny, Mohawk, Northeast, and Delta appear to call for delay in the processing of the Investigation, at least in part, until the conclusion of their pending mergers while the civic parties have generally urged the Board to conduct the proceeding on an expedited basis. All parties are here put on notice that the Board has assigned high priority to this proceeding and that long delays to permit the resolution of matters pending in other dockets will not be tolerated. Rather, the Board expects that the Investigation will proceed as rapidly as possible, with due regard for its complexity and the large number of parties involved. Moreover, the carriers holding certificates within the geographic area of the proceeding will be expected to file service plans setting forth their proposed operations in the markets at issue on the date information responses are exchanged. The date for information responses should be a sufficient time after the prehearing conference so as to permit careful evaluation of the information requests approved by the examiner, and well in advance of the date for the exchange of direct exhibits, so as to permit the parties to formulate plans for the prosecution of their applications in light of the service plans submitted. Should the respective mergers be approved, Delta and Allegheny, as successors in interest to Northeast and Mohawk, will be fully bound by the Board's decision in this proceeding. To the extent that either carrier feels that full protection of its interest so requires, it should participate in this proceeding through separate counsel and, if necessary, prosecute its own case on alternate assumptions regarding the outcome of its merger.

Expansion of Northern New England Service Issues. Numerous parties have filed petitions and motions seeking expansion of the issues herein to include additional service possibilities within Northern New England and between Northern New England points and the designated hub cities. As presently structured this case promises to be one of the largest and most complex route proceedings considered by the Board in recent years. For this reason, we are extremely reluctant to expand its scope and, by so doing, to increase the chances for delay in the implementation of a new air service plan for Northern New England. Nonetheless, the Board believes that a full and comprehensive review of local air service in Northern New England is required. Accordingly, although each additional issue adds to the proceeding's complexity, we have been generally disposed to grant those petitions seeking expansion of the issues within the geographic area involved to include the consideration of additional service possibilities. Therefore, after careful consideration of the foregoing pleadings and the relevant facts, the Board has determined that: (1) All Northern New England points in issue should be considered for service to both New York and Boston;[2] (2) seven additional communities should be considered for new or additional air service; and (3) the proceeding will include consideration of the authorization of service between all of the nonhub points in issue.

[1] A list of the pleadings filed is included as an Appendix hereto, filed as part of the original.

[2] Those communities in close proximity to Albany will continue to receive consideration for service to that hub as well.

First, in response to the pleadings of various carriers and civic parties[3] and in order to afford the Board the widest possible range of choices in fashioning a route structure for the New England markets at issue in this proceeding, we will add New York-Newark[4] as a second hub-city for all of the Maine points and as a third hub-city for Burlington and we will add Boston as a third hub-city for Rutland.

Second, various parties have sought the inclusion of seven additional cities in Northern New England as points at which the authorization of new air service should be considered, viz, Bangor, Portland, Presque Isle, and Brunswick, Maine, Whitefield and Portsmouth, N.H., and Pittsfield, Mass. Brunswick, Whitefield, and Portsmouth are presently involved in the proceeding by virtue of ordering paragraph 1(g) of Order 70-12-164, as amended by Order 71-6-60. The issue with respect to each of these communities, however, involves the single question of whether it should be deleted from Northeast's certificate. The remaining points—Pittsfield, Bangor, Portland, and Presque Isle—are not presently included in the proceeding.[5]

With respect to the three last-named points, the State of Maine and the Bangor and Portland parties argue that the Board cannot fully explore the service needs of the smaller Maine communities without considering the extent to which service can be provided to those communities by means of connections at Bangor, Portland, and Presque Isle. Moreover, the State argues, a full exploration of the service needs of Maine must include consideration of possible new services between the three larger points, and between those points and Boston. On consideration of these arguments we have concluded that Bangor, Portland, and Presque Isle should be added to the proceeding and considered for new and/or additional services in the same manner as the other Maine points. However, by inclusion of these issues we do not intend to place in issue the elimination of Northeast's existing authority between Portland, Bangor, and Presque Isle, on the one hand, and Boston and points south thereof, on the other hand.

With respect to Brunswick, the State argues that the lack of a suitable airport which has been largely responsible for Northeast's suspension at Brunswick since 1950[6] may soon be cured as a result of efforts by local interests to obtain permission to use a naval air facility for civil air transport purposes. Moreover, it is argued, the city is one of the largest population and marketing centers in Maine and experiences a substantial influx of summer residents and tourists and, therefore, it is entitled to a chance to demonstrate that it needs and can support air service. Similarly, the State of New Hampshire argues that Whitefield and Portsmouth,[7] like the other communities involved in this proceeding, are entitled to receive consideration for alternatives other than deletion and the State adds, with respect to Whitefield, that a new airport is new available. Executive Airlines urges that Pittsfield be included so as to make possible service to that city as an intermediate point on flights serving one or more of the hub cities and such smaller cities as Keene or Worcester.

Upon consideration of the foregoing pleadings, we have decided to expand the scope of the proceeding so as to consider new service in the following city-pairs:

Brunswick-Boston/New York-Newark.
Portsmouth-Boston/New York-Newark.
Whitefield-Boston/New York-Newark.
Pittsfield-Albany / Boston / New York-Newark.

Although none of the parties has made a showing sufficient to justify the institution of a proceeding for the specific purpose of considering the authorization of new air service at these communities, we believe that consideration of their service needs is warranted in the context of the present area-type proceeding and we note as well that each of the points is now, or in the past has been, included in Northeast's certificate.

Third, in response to the requests of the State of Maine, the Commonwealth of Massachusetts, and the New England Council, we are deleting the pretrial restriction imposed by ordering paragraph 1(d)(2)(a), so as to make possible the award of route segments not including a hub point.[8]

Restriction to Northern New England Service Issues. Numerous parties have also filed pleadings seeking a geographic expansion of the scope of the proceeding beyond the issues of local service within Northern New England. In order to keep the proceeding within manageable bounds, and particularly in light of the significant expansions in the proceeding's scope set forth above, we have determined that those pleadings seeking further expansion of the proceeding so as to include the consideration of issues beyond New England must be denied. Moreover, we believe that in order to avoid undue delay in the conclusion of the Investigation we must delete from the proceeding those issues presently included within its scope which do not bear directly on the service needs of Northern New England.

Specifically, the Board is convinced that expansion of the geographic scope of the proceeding to include consideration of additional connecting points (as, e.g., Hartford-Springfield) or consideration of direct service beyond the hub cities already designated (as, e.g., between Northern New England communities and Philadelphia or Washington as urged by the State of New Hampshire)[9] would distort the focus of the proceeding and add substantially to its complexity without contributing in a significant way to the development of worthwhile solutions to the service needs of Northern New England. Authorization of service to additional hub cities such as Hartford would, of course, provide additional service for the New England communities in issue and would make additional connections available to points beyond New England. Historically, however, there has been relatively little traffic flow between Hartford and the Northern New England communities. Rather, the traffic generated by these points has generally flowed to, from, and through the hub cities for which each is to be considered. Moreover, relatively few connections are available at Hartford in comparison with Boston and New York. Thus, in the Board's view, inclusion of Hartford as a hub point would dilute the traffic available to support service to the other hub cities, with the likely result that the communities in Northern New England would receive less frequent patterns of service to their principal communities of interest. On the other hand, limitation of this proceeding to consideration of the three hubs presently designated should permit the development of an overall service pattern fully responsive to the primary needs of the markets in issue.[10] Similarly, the inclusion of beyond-hub service issues would result in a massive expansion of the proceeding without making possible the authorization of a signficant increase in service. Accordingly, those pleadings

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[3] Petitions for reconsideration filed by Air North and Executive; answers filed by the State of Maine and the Burlington parties. Mohawk has filed an answer opposing inclusion of the Burlington-New York nonstop market.

[4] In response to Northeast's petition for reconsideration the hub-city New York will be redesignated "New York-Newark."

[5] Pittsfield was deleted from Northeast's certificate in 1963 by Order E-19880 in the New England Regional Airport Investigation. In indicating that Pittsfield had never been certificated, Order 71-6-60 was in error.

[6] Orders E-4698 and E-5433.

[7] Northeast has apparently never inaugurated service at Whitefield. The carrier was suspended at Portsmouth "until such time as an adequate airport is available" by Order E-6756 (1952).

[8] Thus, e.g., a route segment might be awarded authorizing service between several of the smaller Maine communities and Portland, with south-of-Portland service to be provided for the smaller Maine communities by means of connections at Portland.

[9] Of course, to the extent that carriers having beyond-New England authority are authorized to serve routes in issue in this proceeding, single-plane service beyond Boston, Albany, and New York can be offered.

[10] Accordingly, we will deny Mohawk's petition for reconsideration and motion to consolidate its Docket 23640 application for Burlington-Hartford-Springfield authority (supported by the Burlington-Lake Champlain parties and opposed by Northeast). We will also deny the petitions for reconsideration of Bangor and the States of Maine and New Hampshire—as supported by the New England Council—insofar as they seek the inclusion of Hartford-Springfield in this proceeding. Our exclusion of Hartford-Springfield from this proceeding is not intended to bar consideration of service between that point and the various communities here in issue in a future, more limited proceeding which could be instituted after experience is gained with the air service patterns to be established in this case.

seeking the expansion of the proceeding's scope through the addition of additional hub cities or by adding beyond-hub markets will be denied.[11] Finally, since this proceeding was instituted to focus on the needs of the nonhub cities and is not designed to consider the award of competitive hub-to-hub authority, we will deny the request of Air North that the pretrial restriction imposed by paragraph 1(d)(1) of Order 71-6-60 be deleted insofar as it applies to the city-pair Albany-New York.[12]

To further sharpen the proceeding's focus on New England service problems, we will eliminate several extraneous issues presently included within its scope. First, we will delete from the Investigation a broad-scale consideration of the realignment of portions of Mohawk's routes 72 and 94.

In response to Order 71-6-60, Mohawk has filed an application for an amended certificate pursuant to a proposed realignment plan together with a motion to consolidate that application for hearing in this proceeding. Allegheny Airlines, American Airlines, and Pilgrim Aviation and Airlines have filed pleadings opposing consideration, in whole or in part, of Mohawk's proposed route realignment in this proceeding.

Examination of the realignment plan submitted by Mohawk in Docket 23811 convinces us that realignment of Mohawk's routes is a matter not properly in issue in this proceeding, except to the extent that Mohawk seeks deletion at Keene, Rutland, and Worcester.[13] On the one hand, inclusion of the realignment issues would substantially complicate and delay the proceeding.[14] On the other hand, effectuation of the carrier's proposed realignment would make possible no new services envisioned by the scope of this proceeding as it is presently structured and, indeed, would provide Mohawk with new authority at only one of the nonhub points here in issue, viz., Burlington, where the realignment would provide Mohawk with new nonstop authority in the Burlington-Providence/Hartford-Springfield/Bridgeport-New Haven/Islip markets and between Burlington and various west-of-Albany points on segments 3, 4, 5, and 7 of Mohawk's existing route 94.[15]

For the reasons which lead us to exclude consideration of Mohawk's realignment proposal in this proceeding, we wil deny the motion of Bridgeport, Conn., for consolidation of its application in Docket 23639 seeking the amendment of Mohawk's certificate for route 94 so as to permit nonstop service between Bridgeport, on the one hand, and Cleveland and Detroit, on the other hand. The New England Service Investigation will not consider issues of new service at any points in Southern New England (Connecticut and Rhode Island) and Bridgeport's application should be considered in another proceeding.

We will also exclude from the proceeding any consideration of the authorization of new air service between points in New England, on the one hand, and points in Canada, on the other hand. The authorization of new United States-Canada service was placed in issue by Order 71-6-60 which consolidated Mohawk's application in Docket 18133 and Northeast's application in Docket 21332. Moreover, several parties seek expanded consideration of New England-Canada service.[15a] After careful consideration the Board has determined that inclusion of these issues, like the inclusion of Mohawk's realignment proposal, would substantially complicate the proceeding without adding significantly to the development of solutions to the primary service needs of the New England communities which are the focus of this proceeding. In our view, the questions of new and improved transborder service[16] raised by the several applications and petitions can best be resolved in a separate and more limited proceeding for consideration at a later date.[17]

Other issues. By Order 71-6-60 the Board denied Executive's request that this proceeding include the issue of whether any air taxi operator awarded a certificate herein should also be authorized to continue operations as an air taxi under Part 298 of the Board's regulations (14 CFR Part 298). The Board noted that trial of that issue herein would complicate and delay resolution of New England's air service needs and, on the basis of the matters presented to us thus far, we are not persuaded that inclusion of the issue is warranted. However, we invite interested persons to comment further on this issue in petitions for reconsideration of this order.

In response to that invitation, Air North and Executive filed petitions for reconsideration in which they urged the Board to permit them to argue in this proceeding that they should be able to retain routes operated as Part 298 carriers while serving other routes as certificated carriers.[18] Denial of that opportunity would present them with exceedingly difficult choices and might undermine their ability to operate successfully under either rubric after the investigation is concluded. Moreover, both carriers argued, an abrupt termination of air taxi operations during the first

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[11] Insofar as Executive's petition for reconsideration seeks the addition of Monticello, N.Y., as a point in issue in this proceeding it will be denied. Only points in Massachusetts and Northern New England will be considered herein for new or improved air service.

[12] Pursuant to the restriction in question any authority awarded herein shall be subject to a two-stop restriction between the hub cities.

[13] In its answer to petitions, Delta has requested clarification of Order 71-6-60 insofar as that order placed in issue the realignment of "points north of New York-Newark" on segments 1, 2, 3, 4, and 5 of Northeast's route 27. Delta interprets the Board's language as placing in issue "all possible realignments * * * and deletions" with respect to these points. Mohawk has filed a reply in which it advanced a more restricted interpretation of Order 71-6-60. (Mohawk has also filed a motion for leave to file its reply, which motion will be granted). It is the Board's intention that realignment of Northeast's routes be in issue only to the extent that such realignment involves authority to perform service otherwise in issue in this proceeding. We do not intend to consider herein the award of new authority to Northeast in markets not in issue.

[14] The magnitude of the problems beyond the scope of this proceeding which would be encompassed in a consideration of Mohawk's realignment proposal is suggested by the petition for reconsideration filed by American Airlines which lists 17 major markets not otherwise in issue in which Mohawk could obtain new nonstop authority as a result of realignment pursuant to paragraph 1(b) of Order 70-12-164, as amended by Order 71-6-60.

Similarly, consideration of Mohawk's realignment plan would require consolidation of competing applications filed by other carriers. Thus, e.g., Pilgrim Aviation and Airlines, Inc. has filed a motion to consolidate its application in Docket 23845. By that application, filed in part as a defensive response to Mohawk's realignment plan, Pilgrim seeks, inter alia, new authority between Hartford/Springfield and New Haven and between Hartford/Springfield and New Haven, on the one hand, and New York-Newark, on the other hand.

[15] As noted, we are also denying Mohawk's motion for consolidation of its Docket 23640 application for Burlington-Hartford/Springfield authority. Moreover, for reasons discussed below, we are vacating that portion of Order 71-6-60 which consolidated the carrier's Docket 18133 application for Burlington-Montreal authority. Accordingly, exclusion of Mohawk's route realignment, except for the deletion issues, will leave Mohawk in this proceeding with only its Docket 21333 application for authority over two new segments which include the Burlington-Boston and Lebanon-White River Junction / Keene / Manchester-Concord / Worcester-New York-Newark nonstop markets served by Mohawk as a replacement for Northeast pursuant to the exemption granted by Order 69-12-73. By letter of September 9, Mohawk has indicated that it may not prosecute that application. If Mohawk or any certificated applicant follows this course of action, however, the Board will still have the power to require the carrier to serve a new route within its general area of operations, without regard to the carrier's willingness to do so. Panagra Terminal Investigation, 4 C.A.B. 670 (1944).

[15a] The New England Council, the Bangor parties, and Pilgrim.

[16] In addition to new authority, Northeast seeks to have two existing route segments removed from its certificate.

[17] Ordering paragraph 4 of Order 71-6-60 will be vacated insofar as it consolidated Mohawk's application in Docket 18133 and Northeast's application in Docket 21332 for hearing in this proceeding and those applications will be dismissed.

[18] Inclusion is supported by the Burlington-Lake Champlain parties and the New England Council and opposed by the States of Maine and New Hampshire.

years of transition to certificated service would work severe financial hardship on the carrier and would disrupt the settled transportation patterns of the communities they serve. Executive, in particular, notes that because various air taxi applicants serve routes not involved in this proceeding, the Board's refusal to hear the dual authority issue could require it to reach a decision in this proceeding which would have adverse consequences in other areas of the country.

Upon consideration of the foregoing pleadings and all of the relevant facts, we are persuaded that the Investigation should include the issue of whether a Part 298 carrier awarded a certificate herein should be allowed to continue operations in other markets under Part 298 of the Board's regulations, subject to a pretrial restriction prohibiting air taxi operations by a carrier in city-pair markets for which it holds a certificate. However, the Board adheres to its view that simultaneous operations should be permitted only in unusual circumstances and, ordinarily, for a limited period of time. Accordingly, each applicant for dual authority carries a substantial responsibility for showing, inter alia, that continuation of its air taxi operations after certification is required by the public interest and that it can successfully maintain the necessary separation between its operations.

In considering the service needs of the Augusta-Waterville, Me. and Lebanon, N.H.-White River Junction, Vt. communities, the Board will consider whether the points should continue to be hyphenated, with certificated service to be provided through a single airport, or whether either city in the pairs should receive separate service through its own airport.[19]

In its answer to motions and petitions the State of Maine has urged that the issues somehow be expanded so as to include the question of whether Allegheny Airlines should be certificated at any of the points in issue, with certification followed by the suspension of Allegheny's authority in favor of a commuter carrier which would "replace" Allegheny in the same manner in which "Allegheny Commuters" have been employed at other points on Allegheny's system. Allegheny has filed a reply in opposition to the proposal together with a motion for leave to file. Since the matter in question was first raised in an answer, Allegheny has shown good cause for receipt of its otherwise unauthorized pleading and its motion will be granted.

In the first place, the Board will not place in issue, over Allegheny's objection, the extension of that carrier's routes to a geographic area it does not now serve. Nor is the Board persuaded that the suspension of certificated carriers in favor of commuter carriers provides a long-run solution to the service needs of small communities. Indeed, the present proceeding was instituted, in part, because Northern New England presently receives a substantial portion of its air service under suspension/substitution arrangements. On the other hand, as noted in Order 71–6–60, we do not preclude consideration of proposals contemplating the continuation or expansion of existing substitution arrangements, as well as additional substitution arrangements.

By Order 71–10–115 the Board granted the motion of the State of Maine for access to the traffic data for all Maine markets reported on Schedule T–1 of CAB Form 298–C by all commuter carriers serving the State of Maine. Upon further consideration of that action the Board has determined that similar access to the Schedule T–1 traffic data should be granted with respect to every point in issue in this proceeding. Moreover, we believe that in order to permit a full exploration of the historic traffic in the New England markets similar access should be granted with respect to the service segment data filed by the certificated carriers serving markets here in issue. Accordingly, acting pursuant to sections 241.19–6 and 298.66 of its regulations, the Board will grant permission to all parties to inspect the service segment data filed by all certificated carriers with respect to segments in issue in this proceeding and the traffic data for all points in issue herein reported on Schedule T–1 of CAB Form 298–C by all commuter carriers.

To the extent that they conform to the scope of the Investigation the applications of Air New England in Docket 23635, Air North in Docket 23571, Mohawk in Docket 23711, Northeast in Docket 21331, and Pilgrim in Docket 23845 will be consolidated for hearing in this proceeding.

On October 17, 1971, Eastern Air Lines, Inc., filed a motion in which it requested: (a) That the Board expand the scope of the Investigation to include the issue of whether Eastern should be authorized to provide service over the routes of Northeast, both within New England and over the New England-Great Lakes Route, such expansion of the issues to take place only in the event that: (1) The pending Delta-Northeast merger is not consummated; and (2) Northeast elects to terminate service; and (b) that the Board consolidate in this proceeding Eastern's Docket 23900 application for authority to provide such service. Answers in opposition to Eastern's motion have been filed by Delta, Executive Northeast,[20] and the States of Maine and New Hampshire. Qualified support has been expressed by the city of Bangor, the Burlington-Lake Champlain parties, the Dartmouth parties, the Lebanon Regional Airport Authority and the city of Lewiston. The principal arguments against Eastern's motion are: That the Board lacks the power to grant a conditional motion; that grant of the motion would unduly delay the proceeding; and that the motion is merely a self-serving document in Eastern's efforts to obtain Board disapproval of the Delta-Northeast merger.

Eastern has set forth no reason why the Board should expand the scope of this proceeding on the basis of contingencies as to what might happen in the future. Should the combination of events on which Eastern's contingent motion is predicated actually come to pass, the Board will take such steps as it deems necessary. On the other hand, we see no reason for denying Eastern's motion for consolidation of its Docket 23900 application, insofar as that application conforms to the scope of the Investigation. While it is possible that Eastern will not actually prosecute its application, the Board is unwilling at this point to foreclose a possible alternative solution to New England's service needs. Applications are frequently filed by carriers which ultimately determine not to prosecute them, but the mere possibility of nonprosecution has not been held to bar consolidation in other cases and we see no reason for departing from our standard practice in the present proceeding. Moreover, we are not persuaded that consolidation of Eastern's application, to the extent that it conforms to the scope of the proceeding, would in any way delay the processing of the Investigation.[21]

Petitions for leave to intervene have been filed by Allegheny Airlines, Inc.; city of Bridgeport, Conn.; Connecticut Department of Transportation; Greater Hartford Chamber of Commerce; Lebanon Regional Airport Authority; city of Lewiston, Maine; State of Maine; Manchester Airport Authority; Commonwealth of Massachusetts; Massachusetts Port Authority; State of New Hampshire; Pilgrim Aviation & Airlines, Inc.; United Air Lines, Inc.; State of Vermont; and city of Worcester, Mass. The foregoing petitions will be granted. The Board finds that each of the petitioners has a sufficient interest in this proceeding, which interest may not be ade-

[19] Accordingly, the application of the State of New Hampshire et al., in Docket 23304, will be consolidated herein.

[20] Eastern has filed a reply to Northeast's answer together with a motion for leave to file. Eastern's motion will be denied for failure to state good cause.

[21] Order 71–6–60 required that motions to consolidate applications (except realignment applications) be filed within 20 days after service of that order (i.e., June 29, 1971). Accordingly, the motions to consolidate filed by Air North, Eastern, and Pilgrim are late. However, Rule 12(b) normally permits motions for the consolidation of applications to be filed until the prehearing conference. In order to permit the fullest participation in this proceeding by potential applicants we will accept the late-filed motions of Air North, Eastern, and Pilgrim and will permit further motions for consolidation, limited to applications seeking authority at issue in this proceeding, until the prehearing conference, pursuant to Rule 12(b).

quately represented by other parties, to justify grant of the petitions.[22]

The Board has carefully considered each of the arguments advanced by the parties in the pleadings listed in the Appendix hereto and is not persuaded that the scope of the proceeeding should be modified except in the respects specifically mentioned herein. Accordingly, all petitions and motions will be denied except to the extent specifically granted by this order.

Finally, in order to expedite the Investigation, the Board will entertain petitions for reconsideration of this order only to the extent that the Board has herein modified the scope of the proceeding sua sponte. Petitions for reconsideration challenging actions here taken by the Board in response to earlier petitions for reconsideration, further petitions which reargue matters already presented to the Board or which challenge actions taken by the Board in previous orders will not be entertained.

Accordingly, it is ordered, That:

1. Ordering paragraph 1 of Order 70–12–164, as amended by ordering paragraph 1 of Order 71–6–60, be and it hereby is amended to read as follows:

1. An investigation, to be designated as the New England Service Investigation, be and it hereby is instituted in Docket 22973, pursuant to sections 204(a), 401(g), 401(h), 401(j), 404(a), 408, and 412 of the Federal Aviation Act of 1958, as amended, to determine,

(a) Whether the public convenience and necessity require the alteration, amendment or modification of Northeast Airlines, Inc.'s certificate of public convenince and necessity for route 27 to effect a realignment of points north of New York-Newark on segments 1, 2, 3, 4, and 5 of route 27: *Provided,* That no new authority may be awarded to Northeast except in markets otherwise in issue in this proceeding, and *Provided further,* That the amendment of Northeast's certificate so as to delete from segment 1 thereof the points Bangor, Portland, and Presque Isle, Maine, shall not be in issue;

(b) Whether the public convenience and necessity require the suspension of service by, or the deletion, suspension, or transfer to other carriers of the existing authority of: (1) Northeast Airlines, Inc., at the following points: Bar Harbor, Augusta-Waterville, Rockland, Lewiston, and Brunswick, Maine; Lebanon, N.H.-White River Junction, Vt.; Manchester, Keene, Laconia, Berlin, and Portsmouth, N.H.; Worcester, Hyannis, Nantucket, Martha's Vineyard, and New Bedford, Mass.; and Burlington, Montpelier, and Newport, Vt.: *Provided,* That none of the foregoing points shall be in issue for suspension, deletion, or transfer with respect to segment 6 of Northeast's route 27; (2) Mohawk Airlines, Inc., at the following points: Rutland, Vt.; Keene, N.H.; and Worcester, Mass.;

(c) Whether the public convenience and necessity require the authorization of additional air service, and whether the Board should authorize such air service by the issuance of certificates of public convenience and necessity, or by the alteration, amendment or modification of the certificates of public convenience and necessity of Northeast Airlines for route 27 or Mohawk Airlines for route 72 or 94: (1) in the following markets:

	Hub Cities
Maine:	
1. Bangor	Boston/New York-Newark.
2. Portland	Do.
3. Presque Isle	Do.
4. Bar Harbor	Do.
5. August/Waterville.	Do.
6. Rockland	Do.
7. Lewiston	Do.
8. Brunswick	Do.
New Hampshire:	
9. Lebanon-White River Junction, Vt.	Do.
10. Manchester	Do.
11. Keene	Albany/Boston/New York-Newark.
12. Laconia	Boston/New York-Newark.
13. Berlin	Do.
14. Portsmouth	Do.
Massachusetts:	
15. Worcester	Albany/Boston/New York-Newark.
16. Hyannis	Boston/New York-Newark.
17. Nantucket	Do.
18. Martha's Vineyard.	Do.
19. New Bedford	Do.
20. Pittsfield	Albany/Boston/New York-Newark.
Vermont:	
21. Burlington	Do.
22. Rutland	Do.
23. Montpelier	Boston/New York-Newark.
24. Newport	Do.

(2) between or among the foregoing points: *Provided,* That (a) any new authority awarded in these markets shall be subject to a two-stop restriction between the hub cities set forth above; and (b) any route segment awarded in the proceeding may include more than one nonhub and more than one hub point, so long as at least two nonhub points are included between any two hub points; and *Provided further,* That notwithstanding their inclusion in the foregoing list as hyphenated points, Lebanon, N.H., White River Junction, Vt., and Augusta and Waterville, Maine, will each be considered for the authorization of additional air service both as individual points and as hyphenated points;

(d) Whether the exemption of air taxi operators under Part 298 of the Board's economic regulations should be amended to prohibit air taxis from operating in any markets set forth in 1(c) above in which new air service is authorized;

(e) Whether any carrier receiving a certificate of public convenience and necessity in this proceeding should be permitted to continue operations as an air taxi operator pursuant to 14 CFR Part 298 while operating pursuant to its certificate; *Provided,* That no carrier shall be permitted to operate pursuant to Part 298 in any city-pair market for which it holds a certificate;

(f) Whether new air service which is authorized in this investigation should be subsidy-eligible or ineligible;

(g) Whether the public convenience and necessity require the deletion of Northeast Airlines, Inc.'s authority at New London, Conn.;

2. Ordering paragraph 4 of Order 71–6–60, be and it hereby is amended to read as follows:

4. The applications of Northeast Airlines, Inc., in Docket 21331, together with Amendments Nos. 1 and 2 thereto, Mohawk Airlines, Inc., in Docket 21333, and Executive Airlines, Inc., in Docket 23067, be and they hereby are consolidated for hearing in the New England Service Investigation, to the extent they conform with the scope of the proceeding as set forth in ordering paragraph 1, *supra;*

3. The motions of Allegheny Airlines, Inc. and Mohawk Airlines, Inc., for leave to file otherwise unauthorized documents, be and they hereby are granted;

4. The applications of Air New England in Docket 23635, Air North, Inc. in Docket 23571, Eastern Air Lines, Inc., in Docket 23900, Mohawk Airlines, Inc., in Docket 23811, the State of New Hampshire, the city of Lebanon, and the Lebanon Regional Airport Authority in Docket 23305, and Pilgrim Aviation and Airlines, Inc. in Docket 23845, be and they hereby are consolidated for hearing in the New England Service Investigation to the extent they conform with the scope of the proceeding as set forth in ordering paragraph 1, supra; to the extent not consolidated herein, the foregoing applications and the applications of Mohawk Airlines, Inc., in Docket 18133 and Northeast Airlines, Inc., in Docket 21332, be and they hereby are dismissed without prejudice;

5. The petitions for leave to intervene filed by or on behalf of the following, be and they hereby are granted: Allegheny Airlines, Inc.; city of Bridgeport, Conn.; Connecticut Department of Transportation; Greater Hartford Chamber of Commerce; Lebanon Regional Airport Authority; city of Lewiston, Maine; State of Maine; Manchester Airport Authority; Commonwealth of Massachusetts; Massachusetts Port Authority; State of New Hampshire; Pilgrim Aviation & Airlines, Inc.; United Air Lines, Inc.; State of Vermont; and city of Worcester, Mass.; in addition, Airline Pilots Association, International, city of Bangor, Maine, and the Greater Bangor Area Chamber of Commerce, and the Greater Portland Chamber of Commerce, be and they hereby are granted leave to intervene;

6. All parties to this proceeding be and they hereby are granted permission to inspect, copy, and use in connection with this proceeding: (a) Service segment data with respect to markets in issue in this proceeding reported to the Board by all certificated carriers serving such markets; and (b) data reported on schedule T–1 of CAB Form 298–C with respect to every point in issue in this proceeding by all commuter carriers serving such points;

7. To the extent not specifically granted herein, all petitions and motions filed in this proceeding, be and they hereby are denied;

8. Petitions for reconsideration of this order, limited to petitions challenging

[22] By this order we will correct the record to reflect the intervention of the Airline Pilots Association, International, city of Bangor, Maine and the Greater Bangor Area Chamber of Commerce, and the Greater Portland Chamber of Commerce. The petition of the Local Airline Service Action Committee for leave to intervene will be denied without prejudice for failure to demonstrate the nature of its interest in this proceeding and that its interest will not be adequately represented by other parties. Nationals' conditional petition for leave to intervene will also be denied without prejudice.

actions taken by the Board herein on its own motion, may be filed no later than 10 days after service of this order; answers to such pleadings may be filed no later than 10 days thereafter;

9. This order shall be served upon Airlift International, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; The Flying Tiger Line Inc.; National Airlines, Inc.; New York Airways, Inc.; North Central Airlines, Inc.; Northwest Airlines, Inc.; Ozark Air Lines, Inc.; Pan American World Airways, Inc.; Piedmont Aviation, Inc.; Seaboard World Airlines, Inc.; Southern Airways, Inc.; Trans World Airlines, Inc.; the city of Bangor, Maine, and the Greater Bangor Area Chamber of Commerce; Dartmouth College, the town of Hanover, N.H., the Chamber of Commerce of Hanover, N.H. and Mary Hitchcock Memorial Hospital; the chief executive of each community mentioned in ordering paragraphs 1(c) and 1(g), supra, the Governors and the State commissioners having jurisdiction over air transportation of the following States: Connecticut, Maine, Massachusetts, New Hampshire, New York, and Vermont; the Environmental Protection Agency; and the Council on Environmental Quality.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-324 Filed 1-7-72;8:49 am]

[Docket No. 24086; Order 72-1-6]

UNITED AIR LINES, INC.

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of January 1972.

By application filed December 29, 1971, United Air Lines, Inc. (United), requests an exemption pursuant to section 403 of the Federal Aviation Act of 1958 to permit it to provide transportation from Denver to San Francisco on January 4, 1972, at the applicable coach fare, for Mr. Rush Loving, Associate Editor of Fortune Magazine.

In support of its application United states that Mr. Loving has been touring United's facilities and interviewing personnel as a basis for a forthcoming story on United in Fortune Magazine, and that he desires to have a firsthand observation of United's cargo operations including a ride on one of its cargo flights. United does not publish a fare for transportation on all cargo aircraft except in the case of cargo attendants which is not applicable here. Accordingly, United requests authority to charge the applicable coach fare for this segment—Denver to San Francisco—or $75 tax included (cargo flight No. 2775).

The Board finds that the enforcement of section 403 of the Act would be an undue burden upon United because of the limited extent of, and the unusual circumstances affecting, such operation and would not be in the public interest.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 416(b) thereof,

It is ordered, That:

United Air Lines, Inc., is hereby exempted from section 403 of the Act and Part 221 of the economic regulations insofar as necessary to permit it to provide the transportation described in its application in Docket 24086.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-321 Filed 1-7-72;8:49 am]

CIVIL SERVICE COMMISSION

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Director, Headquarters Operations Office, Office of Operations.

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

[FR Doc.72-301 Filed 1-7-72;8:47 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Director, Office of Research and Evaluation, Office of Planning, Research and Evaluation, Office of Research and Evaluation.

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

[FR Doc.72-302 Filed 1-7-72;8:47 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality, December 20–December 31, 1971.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250 (202) 388-7803.

FOREST SERVICE

Draft, December 15

Construction of a 403-mile .345 kv. powerline from Waterflow, N. Mex. to Tucson, Ariz. by the Tucson Gas and Electric Co. (ELR Order No. 1458, 90 pages) (NTIS Order No. PB-204 960-D)

OFFICE OF THE SECRETARY

Final, December 13

Establishment of Scapegoat Wilderness, now a part of Helena, Lewis and Clark, and Lolo National Forests, Mont. Involves about 233,000 acres in northern Rocky Mountains. (ELR Order No. 1451, 17 pages) (NTIS Order No. PB-204 956-F)

SOIL CONSERVATION SERVICE

Final, December 16

Tekamah-Mud Creek Watershed, Nebr. A multipurpose reservoir, 4 combination floodwater retarding-grade stabilization structures and 10 grade stabilization structures. Will inundate 8 miles of intermittently flowing streams. Purpose is to reduce erosion and land destruction. Comments made by DOI, DOA, EPA, HEW, Governor of Nebraska and State Soil and Water Conservation Comm. (ELR Order No. 1475, 33 pages) (NTIS Order No. PB-199 326-F)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 29545 (202) 973-5391.

For Regulatory Matters: Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 20545 (202) 973-7531.

Draft, December 23

Elk River Reactor dismantling, Minnesota. Contaminated materials to be disposed of at AEC approved burial grounds. (ELR Order No. 1507, 42 pages) (NTIS Order No. PB-205 234-D)

DEPARTMENT OF DEFENSE

DEPARTMENT OF ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Directorate of Installations, Office of the Deputy Chief of Staff for Logistics, Washington, D.C. 20310 (202) OX 4-4269.

Final, December 22

Deactivation of anticrop biological agent at Fort Detrick, Md. (No draft statement received.) A separate statement will be filed on the disposal of the inactivated waste. Comments made by HEW, DOI, USDA, EPA, State of Maryland, Metropolitan Washington Council of Governments. (ELR Order No. 1505, 75 pages) (NTIS Order No. PB–205 226–F)

DEPARTMENT OF DEFENSE

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314 (202) 693–6346 or 693–6329.

Draft, December 13

Mississippi River, East Bank, Warren to Wilkinson Counties, Miss. (Vicksburg-Yazoo area). Construction of 11.3 miles of loop-levee, 16.1 miles of channel improvements within the interior drainage system, installation of a water level control weir and a 200 c.f.s. pumping station with floodgates, and development of 1,000 acres of bottomland outside the leveed area. Will involve loss of 4,300 acres of bottomland wildlife habitat. (ELR Order No. 1460, 27 pages) (NTIS Order No. PB–204 968–D).

Draft, December 17

Farmers Levee and Drainage District, Mason County, Ill. Levee improvement on the Sangamon River by raising the low sections and extension of levee 2.4 miles downstream, with alteration of interior drainage facilities, underseepage controls and closure structures. (ELR Order No. 1463, 13 pages) (NTIS Order No. PB–204 964–D).

Draft, December 22

Snagging and clearing project on Gallinas River, Las Vegas, N. Mex. Removal of sediment and vegetation from 5,200' of channel to provide emergency flood relief. In addition to snagging and clearing, project involves excavating a pilot channel. (ELR Order No. 1484, 16 pages) (NTIS Order No. PB–205 199–D).

Draft, December 27

Dively Drainage and Levee District, Ill. Construction of 3.53-mile earth levee, 3 gravity drains and 3 collector ditches. Approximately 3,800' of Kaskia River left bank will be riprapped. (ELR Order No. 1508, 24 pages) (NTIS Order No. PB–205 236–D).

Draft, December 13

Clifty Creek Lake, Clifty Lake, Wabash River Basin, Ind. Construction of a dam and lake for flood control, recreation, etc. Will inundate 2,300 acres and 6 miles of free-flowing stream. (ELR Order No. 1515, 6 pages) (NTIS Order No. PB–205 229–D).

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Deputy Administrator, General Services Administration-AD, Washington, D.C. 20405 (202) 343–6077.

Alternate Contact: Aaron Woloshin, Director, Office of Environmental Affairs, General Services Administration-AD (202) 343–4161.

Final, December 17

Disposal of Philadelphia Army Supply Base, Philadelphia, Pa., by negotiated sale to the city of Philadelphia for continued use as a pier facility. Comments made by EPA, mayor of Philadelphia and city of Philadelphia. (ELR Order No. 1462, 8 pages) (NTIS Order No. PB–203 886–F).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410 (202) 755–6186.

Final, December 15

Nationwide promulgation of HUD Handbook I, Comprehensive Planning Assistance Leading to a Grant. Comments made by AEC, EPA, HEW, and DOI. (ELR Order No. 1464, 18 pages) (NTIS Order No. PB–200 380–F).

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240 (202) 343–6416.

BUREAU OF RECLAMATION

Draft, December 22

Joshua Tree National Monument Wilderness, Calif. Designation of 10 units totaling 325,200 acres as Wilderness. (Includes statements on both the legislative proposal and the master plan for managing the monument.) (ELR Order No. 1514, 101 pages) (NTIS Order No. PB–205 237–D).

NATIONAL SCIENCE FOUNDATION

Contact: Dr. Thomas B. Owen, Assistant Director for National and International Programs, 1800 G Street NW., Washington, DC. 20550 (202) 632–7300.

Final, December 29

Winter orographic cloud modification experiment, Colorado. Random seeding of clouds with silver iodide in the area of Climax to study cloud and precipitation processes involved in increasing the snowpack. Study in progress since 1960. Comments made by USDA, EPA, DOI, and Rocky Mountain Center on Environment. (ELR Order No. 1509, 20 pages) (NTIS Order No. PB–205 227–F).

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401 (615) 755–2002).

Final December 6

Policies relating to sources of coal used by TVA for electric power generation. Comments made by USDA, DOI, EPA, Appalachian Regional Commission, Alabama. Development Office, Indiana Department of Commerce; 6 Kentucky agencies, Pennyrile Area Development District, Lake Cumberland Area Development District, 2 Oklahoma agencies, 2 Tennessee agencies, Virginia Department of Conservation and Economic Development, LENOWISCO Planning District Commission, Cumberland Planning District Commission (ELR Order No. 1500, 145 pages) (NTIS Order No. PB–205 225–F).

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser,[1] Director, Office of Program Coordination, 400 Seventh Street SW., Washington, DC 20590, (202) 462–4357

FEDERAL AVIATION ADMINISTRATION

Draft, December 15

Pocatello Municipal Airport, Power County, Idaho. Extension of runway and lights, ramp lighting, overlay of taxiway and apron, and construction of taxiway. (ELR Order No. 1455, 24 pages) (NTIS Order No. PB–204 958–D)

Jasper-Pickens County Airport, Jasper, Ga. Construction of general utility airport to accommodate propeller aircraft of less than 12,500 pounds. (ELR Order No. 1456, 23 pages) (NTIS Order No. PB–204 959–D)

Hannibal Municipal Airport, Marion County, Mo. Construction of taxiway and runway; extension of runway; installation of runway lights, and indicator lights and visual slope indicators; improvement of auto parking and tie-down areas; fencing; and a deep well. (ELR Order No. 1457, 31 pages) (NTIS Order No. PB–204 962–D)

Grand Coulee Dam Airport, Grant County, Wash. Construction of a general aviation airport. (ELR Order No. 1473, 8 pages) (NTIS Order No. PB–205 196–D)

Draft, December 16

Auburn Municipal Airport, Auburn, Placer County, Calif. Reconstruction of runway, taxiway, drainage and lighting system. (ELR Order No. 1474, 17 pages) (NTIS Order No. PB–205 197–D)

Draft, December 20

Nut Tree Airport, Vacaville, Calif. Involves the second development project for the airport which consists primarily of extending the runway to 3,800 feet and adding a parking apron. (A final statement on the master plan for the development of the airport was sent on October 1, 1971.) (ELR Order No. 1483, 33 pages) (NTIS Order No PB–205 198–D)

Draft, December 29

Dallas-Fort Worth Regional Airport, Dallas-Fort Worth, Tex. Involves acquisition of 17,520 acres of land and construction by stages of a new air carrier airport. (ELR Order No. 1489, 15 pages) (NTIS Order No. PB–205 202–D)

Draft, December 20

Chemung County Airport, Big Flats (Elmira), N.Y. Extension of the secondary runway by 1200' to the east. (ELR Order No. 1490, 16 pages) (NTIS Order No. PB–205 194–D)

Draft, December 14

Sitka Airport, Sitka, Alaska. Construction of an extension to the runway safety area, extension of high intensity lighting system possible acquisition of land, etc. (ELR Order No. 1491, 15 pages) (NTIS Order No. PB–205 193–D)

Final, December 14

Ohio State University Airport, Franklin County, Ohio. Construction of runway, taxiway, and parking apron and lighting of runway and taxiway. Comments made by USDA, Army COE, EPA, DOI, DOT, Ohio Department of Natural Resources, Ohio Department of Development and Mid-Ohio Regional Planning Commission. (ELR Order No. 1447, 20 pages) (NTIS Order No. PB–201 706–F)

Danbury Municipal Airport, Danbury, Conn. Relocation of airfield lighting vault, installation of drainage culverts, security fencing and runway end identifier lighting system. Comments made by AEC, EPA, FPC, Tri-State Transportation Commission, Tri-State Regional Planning Commission, State Clearinghouse and Housatanic Valley Council of Elected Officials. (ELR Order No. 1448, 32 pages) (NTIS Order No. PB–202 979–F)

[1] Mr. Convisser's office will refer you to the regional office from which the statement originated.

Gillette-Campbell County Airport, Gillette, Wyo. Extension of runway; extension of MIRL system with VASI system; overlay of runway, taxiway and apron; and fencing. Comments made by USDA, Army COE and EPA. (ELR Order No. 1449, 20 pages) (NTIS Order No. PB–201 579–F)

Muscle Shoals Airport, Muscle Shoals, Colbert County, Ala. Upgrading of runway to DC–9 aircraft standards by extending, strengthening and lighting runway; constructing and lighting taxiway; constructing fire crash building; and grading glide slope. Comments made by USDA, EPA, DOI, Alabama Development Office, and Muscle Shoals Council of Local Governments. (ELR Order No. 1450, 29 pages) (NTIS Order No. PB–202 720–F)

Thompson-Robbins Field, Helena-West Helena, Phillips County, Ark. Overlaying and extension of runways, reconstruction of taxiway, installation of segmented circle and lighted wind cone, incidental marking and clearing approaches. Comments made by USDA, Army COE, EPA, HUD, DOI, DOT, State Clearinghouse and East Arkansas Planning and Development District. (ELR Order No. 1459, 32 pages) (NTIS Order No. PB–201 521–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, December 22

Supplement to draft (8/20), 4(f) information relating to use of part of Guilford College campus. Friendly Road project, Greensboro, N.C. Projects 6.801924 and 9.8070830. (ELR Order No. 582, supplement—13 pages) (NTIS Order No. PB–202 090–D)

Draft, December 15

I–5: Sacramento County, Calif. Addition of connecting ramps at Elk Grove Boulevard crossing between Lambert Road and Beach Lake. Will use 36 acres of pasture land. Project 03–Sac–5–4.6/13.0. (ELR Order No. 1453, 16 pages) (NTIS Order No. PB–204 961–D)

Draft, December 13

Harlan - Cumberland - Whitesburg Road: Harlan County, Ky. Construction from proposed U.S.–421/U.S.–119 intersection at Baxter to 3,500 feet east of Putney (6.05 miles). Involves loss of 325 acres, displacement of 30 residences and relocation of 7,300 feet of channel on Poor Fork and two stream crossings. Project APD 140 (10)–AP 48–8–5L. (ELR Order No. 1454, 27 pages) (NTIS Order No. PB–204 957–D)

Draft, December 15

U.S.–17 Business: Elizabeth City, Pasquotank County, N.C. Widening Ehringhaus Street from U.S.–17 bypass intersection to McMorrine Street (2.07 miles). Will dislocate 15 families and four businesses. Project 9.8011107. (ELR Order No. 1461, 15 pages) (NTIS Order No. PB–204 963–D)

Draft, December 17

I–5: Multonomah and Washington Counties, Oreg. Widening to six lanes from North Tigard interchange to South Tigard interchange, revision of North Tigard interchange and Haines Road interchange and construction of a truck lane from North Tigard interchange to Southwest Capitol Highway. Will displace 16 residential units. Project I–5–6( )293. (ELR Order No. 1465, 12 pages) (NTIS Order No. PB–204 965–D)

Draft, December 16

C–SAH 13: St. Louis County, Minn. Reconstruction between STH–2 and STH–194 (4.2 miles). Project S.P. 69–613–09. (ELR Order No. 1466, 13 pages) (NTIS Order No. PB–204 966–D)

Draft, December 17

SH–199: Carter County, Okla. Development of a new segment from junction of U.S. 77/U.S.–77B 1 mile south of Ardmore east to Marshall County line (10.5 miles). 4(f) determination required for use of Lake Murray State Park land. Project S–1021. (ELR Order No. 1467, 23 pages) (NTIS Order No. PB–204 967–D)

Draft, December 16

FA–77 (Illinois 59): Du Page County, Ill. Widening to four lanes of East-West Tollway to Illinois 64 (7.81 miles) 4(f) determination relates to crossing the Illinois Prairie Path. Project F–176(20) (ELR Order No. 1472, 82 pages) (NTIS Order No. PB–205 195–D)

Draft, December 21

Ogdensburg Area Transportation Plan: Ogdensburg and Oswegatchie, St. Lawrence County, N.Y. Plan consists of an east-west arterial, a connection from the arterial to Main Street, etc. Project PIN 7272.01. (ELR Order No. 1485, 25 pages) (NTIS Order No. PB–205 200–D)

SR–21: Calhoun County, Ala. Widening route from two to four lanes between Jacksonville and Piedmont (9.5 miles). Alternative one and two involve the displacement of families and businesses. Project F–52( ). (ELR Order No. 1486, 13 pages) (NTIS Order No. PB–205 201–D)

Draft, December 23

U.S.–61: Fort Madison, Lee County, Iowa. Reconstruction and widening to a four-lane divided highway through Fort Madison (6.2 miles). Will displace over 140 families. Project U–61–1. (ELR Order No. 1492, 17 pages) (NTIS Order No. PB–205 203–D)

Draft, December 21

U.S.–95: Clark County, Nev. Location and construction of controlled access, four-lane highway from Russell Road to Railroad Pass (12 miles). Estimate need of 398.4 acres of land for right-of-way. (ELR Order No. 1495, 49 pages) (NTIS Order No. PB–205 192–D)

Dayville Highway: Dayville, Alaska. Relocation and upgrading of road from the Richardson Highway to Dayville (6.5 miles). Planned in anticipation of Dayville being the terminus for the Alaska pipeline. Project S–0863(1). (ELR Order No. 1501, 46 pages) (NTIS Order No. PB–205 204–D)

Draft, December 23

S.H.–79: Donge and Saunders Counties, Nebr. Replacement of bridge over the Platte River and upgrading of approaches between North Bend and Morse Bluff. Involves partial removal of an island in the River. Project S–338(17). (ELR Order No. 1504, 10 pages) (NTIS Order No. PB–205 233–D)

Draft, December 21

S.R.–241: Massillon, Stark County, Ohio. Relocation from U.S.–30 interchange to Oberlin Road. Viaduct over S.R.–21 and the Tuscarawas River (3.6 miles). Will dislocate 87 families and four businesses. (ELR Order No. 1506, 13 pages) (NTIS Order No. PB–205 235–D)

Draft, December 27

Route 72: Cape Girardeau County, Mo. Relocation from 4 miles west of Jackson southeast to I–55 (9 miles). Requires 300 acres of farm and grazing land. Job 10–P–72–44. (ELR Order No. 1510, 8 pages) (NTIS Order No. PB–205 230–D)

Draft, December 28

Route 206 Freeway-Newton Bypass: Sussex County, N.J. Construction from northern borough line to Route 15 freeway. Will displace families and businesses. (ELR Order No. 1512, 41 pages) (NTIS Order No. PB–205 231–D)

S.R.–39: Tuscarawas County, Ohio. Relocation between Sugarcreek and Dover. Will use 65 acres of tillable land and displace five residences. Project TUS–39–2.91. (ELR Order No. 1513, 9 pages) (NTIS Order No. PB–205 232–D)

Final, December 14

I–90 (S.R.–90): Kittitas County, Wash. Improvement from top of Easton Hill to just east of Easton (5.25 miles). 4(f) approval for use of Lake East Park lands. Comments made by USDA, HUD, DOI, DOT, and seven State agencies. (ELR Order No. 1452, 53 pages) (NTIS Order No. PB–204 945–F)

S.R.–87 (Stewart Street): Milton, Santa Rosa County, Fla. Construction of four-lane highway from S.R.–10 to S.R.–191 (1.7 miles). Job 58050–1505. Comments made by HUD, DOI, DOT, and Escambia-Santa Rosa Regional Planning Council. (ELR Order No. 1468, 18 pages) (NTIS Order No. PB–204 969–F)

Route 227: San Luis Obispo, Calif. Improvement between Edna and High Street in San Luis Obispo (5.3 miles). Project 05–SLO–227–7.5/12.9. Comments made by Army COE, EPA, DOI, DOT, six State agencies and the University of California. (ELR Order No. 1469, 34 pages) (NTIS Order No. PB–199 237–F)

S.R.–41: Adams County, Ohio. Relocation of 1.8 miles from near Ohio Brush Creek to 0.3 mile north of its intersection with CR–134 (1.8 miles). Project ADA–41–22.40, S–1378(3). Comments made by HUD, DOI, DOT, and State Clearinghouse. (ELR Order No. 1470, 22 pages) (NTIS Order No. PB–200 388–F)

S.R.–424–A (Fairbanks Avenue): Orange County, Fla. Improvement from S.R.–400 (I–4) to S.R.–15–600 (U.S. 17–92) (1 mile). Project U.S.–707(1), 75006–1501. Comments made by EPA, DOI, and Florida Game and Fresh Water Fish Commission. (ELR Order No. 1471, 62 pages) (NTIS Order No. PB–200 525–F)

L.R. 1052, section 2, River Street Exchange, Cross Valley Expressway: Luzerne County, Pa. Four-lane divided highway through Forty Fort Township (0.5 mile). Project 3–1052–4–2–043. Comments made by DOC, DOI, DOT, HUD, EPA, six State agencies, Economic Development Council of Northeastern Pennsylvania and Luzerne County Planning Commission. (ELR Order No. 1476, 49 pages) (NTIS Order No. PB–199 242–F)

Final, December 15

Thorn Hill Industrial Park Access Road: Allegheny and Butler Counties, Pa. Construction of access road approximately 1,000′ west of the Pennsylvania Turnpike (1.3 miles). Comments made by HUD, Appalachian Regional Commission, EPA, DOT, 10 State agencies, Butler County Planning Commission, Allegheny County Planning Commission, and towns of Cranberry and Marshall. (ELR Order No. 1477, 46 pages) (NTIS Order No. PB–201 990–F)

Cliff Avenue: Sioux Falls, Minnehaha County, S. Dak. Upgrading and widening between 8th and 17th Streets and construction of bridge over the Big Sioux River. Attached 4(f) determination relates to Nelson Park land. Project F 057–1. Comments made by DOI, DOC, Army COE, USDA, and city of Sioux Falls. (ELR Order No. 1478, 29 pages) (NTIS Order No. PB–201 692–F)

Final, December 14

S.R.–131: Kittitas County, Wash. Realignment and widening from S.R.–10 to intersection with Hungry Junction Road (1.5 miles). Comments made by DOT, USDA, HUD, DOI, EPA, and five State agencies. (ELR Order No. 1479, 30 pages) (NTIS Order No. PB–199 005–F)

S.R.–26: Adams and Whitman Counties, Wash. Reconstruction on new alignment between Washtucna and Hooper (10.5 miles). Comments made by DOT, Army COE, HUD, USDA and four State agencies. (ELR Order No. 1480, 27 pages) (NTIS Order No. PB–199 605–F)

Final, December 15

Route C(106): Shannon County, Mo. Construction of an all-weather crossing of the Current River and upgrading approaches between Eminence and Ellington. Attached 4(f) determination regards Missouri Department of Conservation land. Job No. 9–S–106–14, RS–726 (2). Comments made by DOT, DOI, EPA, USDA, State Clearinghouse, and Missouri Department of Conservation. (ELR Order No. 1481, 36 pages) (NTIS Order No. PB–205 223–F)

TH–60: Watonwan County, Minn. Construction of 19.6 miles of four-lane divided highway from Butterfield to TH–15, bypassing St. James (19.6 miles). Attached 4(f) relates to Madelia Game Center. Project S.P. 8308–10 (TH 60=16) F016–1 and S.P. 8309–12 (TH 60=16) F016–1. Comments made by DOT, Army COE, DOI, USDA, HUD, FPC, EPA, three State agencies and St. James City Council. (ELR Order No. 1482, 97 pages) (NTIS Order No. PB–199 146–F)

Final, December 21

Loop Highway 143: Perrytown, Ochiltree County, Tex. Construction of 1.7 miles of two-lane highway in northeast part of the highway. Comments made by HEW, USDA, DOT, EPA, and Panhandle Regional Planning Commission. (ELR Order No. 1487, 18 pages) (NTIS Order No. PB–200 194–F)

Final, December 10

U.S.–30 (Delphos Bypass): Van Wert, Putnam, and Allen Counties, Ohio. Involves connecting relocated U.S.–30, east of Van Wert, to relocated U.S.–30N, east of Delphos (12.1 miles). Also to be constructed is a connection on new location between U.S.–30S and U.S.–30N. Project VAN/PUT/ALL–30–16.28/0.00/0.00. Comments made by DOI and DOT. (ELR Order No. 1488, 18 pages) (NTIS Order No. PB–200 751–F)

Final, December 20

Georgia Project F–010–1(9) and Spur: Troup County, Ga. Replacement of bridge over the Chattahoochee River and upgrading of approaches to provide a better facility between West Point, Ga., and Lanett, Ala. Comments made by Army COE, HUD, EPA, DOT, and two State agencies. (ELR Order No. 1494, 33 pages) (NTIS Order No. PB–200 193–F)

S.R.–3: Dyer County, Tenn. Involves relocation of S.R.–3 and S.R.–20 and extension of I–155 to provide a bypass for city of Dyersburg and municipality of Newbern. Project F–003–4( ). Comments made by DOT, USDA, DOI, Army COE, nine State agencies and Dyer County Court. (ELR Order No. 1496, 35 pages) (NTIS Order No. PB–205 221–F)

71st Street (Kinosha): Broken Arrow, Okla. Construction of a four-lane divided facility from intersection of 161st East Avenue and South 71st Street to Broken Arrow Expressway (1.5 miles). Project SU–7238(100)c. Comments made by DOT, DOI, HEW, three State agencies, Tulsa Metropolitan Area Planning Commission. (ELR Order No. 1497, 65 pages) (NTIS Order No. PB–205 220–F)

Final, December 22

Raceland-Gibson Highway, La. 308—U.S.–90 (Gibson): Lafourche Parish, La. Relocation of U.S.–90 beginning north of Louisiana 308 and Bayou Lafourche east of Raceland, extending easterly through Lafourche and Terrebonne Parishes (29.2 miles). Federal Aid project F–155(9), State project 700–06–83. Comments made by DOC, FPC, DOI, AEC, HEW, USDA, three State agencies and Louisiana State University. (ELR Order No. 1498, 41 pages) (NTIS Order No. PB–205 222–F)

Final, December 20

Kenner overpass and approaches (U.S.–61): Jefferson Parish, La. Upgrading 2.2-mile segment of road to a four-lane divided facility to improve route into New Orleans and Moisant International Airport. Will displace 76 people and one business. Federal Aid project U–173(19), State project 7–02–51. Comments made by Army COE, USDA, DOI, HEW, EPA, FPC, GSA, OEO, three State agencies. (ELR Order No. 1499, 49 pages) (NTIS Order No. PB–201 524–F)

S.R.–57: Martinsville, Henry County, Va. Relocation and widening of road southeast of Martinsville. Project S–324( ), State project 0057–044–111, PE–101. Comments made by DOI, HEW, and two State agencies. (ELR Order No. 1502, 17 pages) (NTIS Order No. PB–198 964–F)

FHWA 4(f) Statements: The following are not 102 statements. They are explanations of the Secretary of Transportation's approval of projects to be implemented under section 4(f) of the Department of Transportation Act, 49 U.S.C. 1653(f).

November 11

TH–3: Dakota and Ramsey Counties, Minn. Use of land from McGroarty and Kaposia Parks for highway purposes. (Order through ELR by title, date and Department—8 pages)

U.S. Coast Guard

Contact: D. B. Charter, Jr., Commander, U.S. Coast Guard, Chief, Environmental Coordination Branch, 400 Seventh Street SW., Washington, DC 20591, (202) 426–9573

Draft, December 28

Issuance of Oil Pollution Regulations governing design, construction and operation of vessels operating in navigable waters and contiguous zone of the United States and governing design, construction and operation of onshore and offshore facilities engaged in transferring oil in bulk (over 10,000 gallons). State certification will be required prior to issuance of Coast Guard permit for a facility. (ELR Order No. 1511, 4 pages) (NTIS Order No. PB–205 228–D)

U.S. Water Resources Council

Contact: W. Don Maughan, U.S. Water Resources Council, 2120 L Street NW., Washington, DC 20037 (202) 254–6408.

Draft, December 21

Establishment of Principles and Standards for Planning Water and Land Resources to enhance national economic development, the quality of the environment and regional development, with application of Principles and Standards applied at all levels of planning. (ELR Order No. 1493, 17 pages) (NTIS Order No. PB–205 224–D)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.72–315 Filed 1–7–72;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE POLLUTION CONTROL

California State Standards; Notice of Public Hearing

Whereas the Clean Air Act, as amended, section 209(a), 42 U.S.C. 1857f–6a(a) 81 Stat. 501 (Public Law 91–604) provides, "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment," **and**

Whereas section 209(b) of said Act directs the Administrator of the Environmental Protection Agency, after notice and opportunity for public hearing, to waive application of the prohibitions of said section 209 to any State which had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act, and

Whereas, the State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines.

Now, therefore, I hereby give notice that the State of California has requested waiver of the application of the prohibitions of section 209(a). Pursuant to section 209(b) of the Clean Air Act, as amended, I hereby give notice of a public hearing on this request to be held in Los Angeles, Calif., at the Customs Courtroom, 300 North Los Angeles Street, on Tuesday, February 8, 1972, commencing at 10 a.m., P.s.t.

The hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information relating to the action proposed to be taken by the Administrator.

Dr. Norman D. Shutler of the Environmental Protection Agency is hereby designated as Presiding Officer to conduct the hearing. Any person desiring to make a statement at the hearing or to submit material for the record of the hearing should file a notice of such intention and, if practicable, five copies of his proposed statement (and other relevant material) with the Presiding Officer,

Mobile Source Enforcement Division, Environmental Protection Agency, Room 16B06, 5600 Fishers Lane, Rockville, MD 20852, not later than February 4, 1972.

The pertinent standards, requirements, conditions, and test procedures for 1973 through 1976 model year gasoline-powered motor vehicles under 6,001 lbs. G.V.W. are contained in the following identified publications:

FEDERAL

45 CFR Part 85 (Supp. 1971, as amended by 36 F.R. 5342, et seq., March 20, 1971, 36 F.R. 12652 et seq., July 2, 1971, and 36 F.R. 16905, et seq., August 26, 1971).

CALIFORNIA

Sections 1946, 2109 and 2208, Title 13 California Administrative Code, and in "California exhaust emission standards and test procedures for 1973 through 1976 models gasoline-powered motor vehicles under 6,001 pounds gross vehicle weight", dated September 15, 1971.

A copy of the above-described material is available for inspection at the office of the Presiding Officer at the foregoing address. Copies of the Federal regulations will be provided upon request to that office. Copies of the California standards and test procedures are available upon request to the California Air Resources Board, 434 South San Pedro Street, Los Angeles, CA 90013, or 1025 P Street, Sacramento, CA 95814.

Procedures. Since the public hearing is designed to give interested persons an opportunity to participate in this proceeding by the presentation of data, views, arguments, or other pertinent information concerning the Administrator's proposed action, there are no adversary parties as such. Statements by the participants will not be made under oath and the participants will not be subject to cross-examination

Presentations by the participants should be addressed to the following considerations:

1. Whether the specific standards and related test procedures applicable to the control of emissions from 1973 through 1976 model year new motor vehicles or new motor vehicle engines adopted by the State of California and identified above are more stringent than the Federal standards and related test procedures applicable to the pertinent model year new motor vehicles or new motor vehicle engines;

2. Whether such standards and related test procedures adopted by the State of California are required to meet compelling and extraordinary conditions in the State of California; and

3. Whether such standards and related test procedures (and accompanying enforcement procedures) adopted by the State of California are consistent with section 202(a) of the Clean Air Act, as amended.

In order to assure full opportunity for the presentation of data, views, and arguments by participants, the Presiding Officer will, upon request of the participants, allow a reasonable time after the close of the hearing for the submission of written data, views, arguments, or other pertinent information to be included as part of the record of the public hearing.

A verbatim record of the proceeding will be made and a copy of the transcript will be made available on request at the expense of the person so requesting.

The determination of the Administrator regarding the action to be taken under section 209(b) of the Clean Air Act with respect to the waiver of the application of the prohibition of section 209(a) to the State of California is not required to be made solely on the record of the public hearing. Other scientific, engineering, and related pertinent information, not included in the transcript of the public hearing, may also be considered.

Dated: January 5, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-346 Filed 1-7-72;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19260]

FAIRNESS DOCTRINE AND PUBLIC INTEREST STANDARDS

Handling of Public Issues; Order Extending Time

1. The Commission has previously extended the time for filing comments under part IV of this proceeding,[1] which relates to access generally to the broadcast media for the discussion of public issues, until January 10, 1972, on the ground that the question of access is closely tied to pending litigation. See Business Executives' Move for Vietnam Peace v. Federal Communications Commission, Case No. 24,492, C.A.D.C., decided August 3, 1971. The basis of the previous extensions still obtains, since the Commission intends shortly to file a petition for a writ of certiorari in the Supreme Court of the United States.

2. *Accordingly, it is ordered,* This 30th day of December 1971, that the time for filing comments and reply comments in part IV of the above-entitled inquiry is extended to dates subsequently to be specified by further order. This action is taken pursuant to section 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. 155(d), and § 0.281(d) of the Commission's rules and regulations, 47 CFR 0.281(d).

Adopted: December 30, 1971.

Released: January 3, 1972.

FEDERAL COMMUNICATIONS COMMISSION,

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

[FR Doc.72-334 Filed 1-7-72;8:50 am]

[1] Original notice of inquiry published at 36 F.R. 11825; extensions of time published at 36 F.R. 18117, 36 F.R. 19622, and 36 F.R. 22622.

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED BANKS

Joint Call for Report of Condition

Pursuant to the provisions of section 7(a)(3) of the Federal Deposit Insurance Act each insured bank is required to make a Report of Condition as of the close of business December 31, 1971, to the appropriate agency designated herein, within 10 days after notice that such report shall be made: *Provided,* That if such reporting date is a nonbusiness day for any bank, the preceding business day shall be its reporting date.

Each national bank and each bank in the District of Columbia shall make its original Report of Condition on Office of the Comptroller Form, Call No. 480,[1] and shall send the same to the Comptroller of the Currency, and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank which is a member of the Federal Reserve System, except a bank in the District of Columbia, shall make its original Report of Condition on Federal Reserve Form 105—Call No. 202,[1] and shall send the same to the Federal Reserve bank of the district wherein the bank is located, and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, shall make its original Report of Condition on FDIC Form 64—Call No. 98,[1] and shall send the same to the Federal Deposit Insurance Corporation.

The original Report of Condition required to be furnished hereunder to the Comptroller of the Currency and a copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for preparation of Consolidated Reports of Condition by National Banking Associations," dated November 1971.[1] The original Report of Condition required to be furnished hereunder to the Federal Reserve Bank of the District wherein the bank is located and the copy thereof required to be furnished to the Federal Deposit Insurance

[1] Filed as part of original document.

Corporation shall be prepared in accordance with "Instructions for the preparation of Reports of Condition by the State Member Banks of the Federal Reserve System," dated December 1970, and any amendments thereto.[1] The original Report of Condition required to be furnished hereunder to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the preparation of Report of Condition on Form 64, by insured State banks not members of the Federal Reserve System," dated December 1970, and any amendments thereto.[1]

Each insured mutual savings bank not a member of the Federal Reserve System shall make its original Report of Condition on FDIC Form 64 (Savings),[1] prepared in accordance with "Instructions for the preparation of Report of Condition on Form 64 (Savings) and Report of Income on Form 73 (Savings) by Mutual Savings Banks," dated December 1971,[1] and shall send the same to the Federal Deposit Insurance Corporation.

FRANK WILLE,
Chairman, Federal Deposit Insurance Corporation.

WILLIAM B. CAMP,
Comptroller of the Currency.

J. L. ROBERTSON,
Vice Chairman, Board of Governors of the Federal Reserve System.

[FR Doc.72-297 Filed 1-7-72;8:46 am]

INSURED MUTUAL SAVINGS BANKS NOT MEMBERS OF THE FEDERAL RESERVE SYSTEM

Call for Annual Report of Income

Pursuant to the provisions of section 7(a) of the Federal Deposit Insurance Act each insured mutual savings bank not a member of the Federal Reserve System is required to make a Report of Income for the calendar year 1971 on Form 73 (Savings), revised December 1971,[1] to the Federal Deposit Insurance Corporation within 30 days after December 31, 1971. Said Report of Income shall be prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 (Savings) and Report of Income on Form 73 (Savings)," dated December 1971.[1]

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[FR Doc.72-299 Filed 1-7-72;8:46 am]

[1] Filed as part of original document.

INSURED STATE BANKS NOT MEMBERS OF THE FEDERAL RESERVE SYSTEM EXCEPT BANKS IN THE DISTRICT OF COLUMBIA AND MUTUAL SAVINGS BANKS

Call for Annual Report of Income

Pursuant to the provisions of section 7(a) of the Federal Deposit Insurance Act each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, is required to make a Report of Income for the calendar year 1971 on Form 73 (revised December 1969)[1] to the Federal Deposit Insurance Corporation within 30 days after December 31, 1971. Said Report of Income shall be prepared in accordance with "Instructions for the Preparation of Report of Income on Form 73," dated December 1970.[1]

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[FR Doc.72-298 Filed 1-7-72;8:46 am]

FEDERAL MARITIME COMMISSION

[Docket No. 72-1]

CARIBE HYDRO-TRAILER, INC.

Substituted Service Between Jacksonville and Puerto Rico Via Port of Miami; Order of Investigation and Suspension

Caribe Hydro-Trailer, Inc., by its Agent, W. F. Roush, has filed with the Federal Maritime Commission various revised pages (see appendix A[1]) to its Tariff FMC-F No. 1 to become effective January 6, 1972. These revised pages propose to provide service out of the port of Jacksonville by substituted motor carrier service to the port of Miami for final discharge at ports in Puerto Rico and further provide for the absorption of the inland motor freight charges from Jacksonville to Miami.

Upon consideration of revised pages and protests filed thereto, the Commission is of the opinion that the above designated tariff matter may be prejudicial and preferential or otherwise unlawful and that a public investigation and hearing should be instituted to determine its lawfulness under sections 16, first, and 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933; and good cause appearing therefore;

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said tariff matter with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended or reissued, such matter will be included in this investigation;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, the revised pages as shown in appendix A hereto are suspended and the use thereof deferred to and including May 5, 1972, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Agent W. F. Roush, a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state the aforesaid matter is suspended and may not be used until May 6, 1972, unless otherwise authorized by the Commission; and the tariff matter heretofore in effect, and which was to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission;

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That the provisions of rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provisions of rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived;

It is further ordered, That Caribe Hydro-Trailer, Inc., be named as respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That (a) a copy of this order shall forthwith be served on the respondent herein, the petitioners, TMT Trailer Ferry, Inc., Sea-Land Service, Inc., and the Port of Jacksonville Authority and published in the FEDERAL REGISTER; and (b) the said respondent

[1] Filed as part of original document.

and petitioners be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-326 Filed 1-7-72;8:49 am]

[Independent Ocean Freight Forwarder License 990]

CIRCLE FORWARDERS, INC.

Order of Revocation

By letter dated November 29, 1971, Circle Forwarders, Inc., 1300 West Fort Street, Detroit, MI 48226 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 990 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before December 28, 1971.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Circle Forwarders, Inc. has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(g) (dated September 29, 1970).

It is ordered, That the Independent Ocean Freight Forwarder License of Circle Forwarders, Inc. be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of Circle Forwarders, Inc. be and is hereby revoked effective December 28, 1971.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Circle Forwarders, Inc.

AARON W. REESE, *Managing Director.*

[FR Doc.72-327 Filed 1-7-72;8:49 am]

CITY OF RICHMOND, CALIF., AND PASHA TRUCKAWAY, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Samuel V. McGrath, Deputy City Attorney, City of Richmond, Calif. 94804.

Agreement No. T-2427-1, between the Surplus Property Authority of the City of Richmond (Authority) and Pasha Truckaway, Inc. (Pasha), as assigned to Canal Industrial Park, Inc., modifies the basic agreement which provides for the lease to Pasha of a portion of the Maritime Richmond Reserve Shipyard to be used for the assembly and storage of cargo, particularly automobiles. The purpose of the modification is to: (1) Reduce the rental for a portion of the leased premises; (2) amend the provision covering default of payments; (3) amend the payment of utilities; and (4) provide for payment of utilities furnished prior to the period covered by item (3) above.

Dated: January 5, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-328 Filed 1-7-72;8:49 am]

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE AND NORTH ATLANTIC FRENCH FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Richard W. Kurrus, Esq., Kurrus & Jacobi, 2000 K Street NW., Washington, DC 20006.

Agreement No. 9978 establishes a cooperative working arrangement between the above named conferences in the trades between the United States and Europe entitled the Associated North Atlantic Freight Conferences. Under the agreement, the signatory conferences agree to (1) discuss and confer on nonratemaking matters of common concern relating to and affecting ocean transportation and (2) establish and maintain a joint self-policing body to police the activities of both. Provision is also made in the agreement for entry of other conferences and nonconference lines as members.

Dated: January 5, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-329 Filed 1-7-72;8:49 am]

PHILADELPHIA PORT CORP. AND LAVINO SHIPPING CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hear-

ing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Robert A. Peavy, Esq., Morgan, Lewis & Bockius, 1140 Connecticut Avenue NW., Washington, DC 20036.

Agreement No. T-2553, between the Philadelphia Port Corp. (Port) and Lavino Shipping Co. (Lavino), provides for the 5-year lease with renewal options of Berths 4 and 5 of Packer Avenue Terminal and approximately 20 acres of contiguous land area at Philadelphia, Pa. Lavino will use the premises as a marine terminal and, as rental, will pay the Port an annual rental based on the number of containers handled with a minimum annual payment of $100,008 plus certain rents and taxes.

Dated: January 5, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-330 Filed 1-7-72;8:49 am]

[Docket No. 71-98]

SEA-LAND SERVICE INC.

Order To Show Cause Regarding Possible Violations of Shipping Act; Correction

JANUARY 3, 1972.

In the Commission's Order To Show Cause served December 28, 1971, in this proceeding, the last sentence of the first paragraph should read: "These rates have been accepted by MSC and are required to be filed with the Commission as part of the MSC Container Agreement and Rate Guide (RG-2) in lieu of a tariff in accordance with General Order 13; Amendment 1, 46 CFR 536.14."

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-331 Filed 1-7-72;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. E-7674]

ALABAMA POWER CO.

Order Denying Motions To Reject Rate Filing, Suspending Increased Rates and Charges, Providing for Hearing, and Granting Petitions To Intervene

DECEMBER 30, 1971.

The Alabama Power Co. (Alabama Power), a public utility subject to the jurisdiction of this Commission, on November 1, 1971, tendered for filing in Docket No. E-7674, changes in the form [1] and rate levels of its currently effective rate schedules covering sales in interstate commerce for resale to municipals and cooperatives. The rate schedules [2] in addition to setting out the proposed billing demand and energy charges also provide for adjustments relating to local and other taxes, and increases in fuel costs. The general terms and conditions among other things, contain a form of service agreement, which upon acceptance by the Commission, and in conjunction with the proposed rate schedules, shall completely supersede presently effective rate schedules as such may be contractually permitted.

By its tender Alabama Power proposes to increase annual charges to cooperatives by $1,148,329 and to the Municipal's by $1,603,156, per annum based on operations for the 12-month period ended December 31, 1970. The company requests an effective date of January 3, 1972, as to new delivery points, and with respect to existing delivery points, January 3, 1972, or the earliest date thereafter as permitted by the contracts constituting its presently effective rate schedules.

In support of its filing, Alabama Power states that based on 1970 operations the company realized an overall rate of return of 3.34 percent on the properties devoted to serving its municipal customers and that the proposed rates would increase this return to 6.67 percent. The comparable overall returns on properties devoted to serving REA customers are stated to be 3.07 percent for calendar year 1970, under existing rates, and 6.60 percent under the proposed rates. The company's filing reflects a demand allocation for production, transmission, and distribution facilities based on annual coincident peak hour responsibility, increases in operating costs, and a direct assignment of certain transmission and other facilities to its wholesale services.

Notice of the filing was published November 15, 1971 (36 F.R. 22198). Said notice provided that any person desiring to be heard or to make protest concerning such tender should on or before November 26, 1971,[3] file petitions to intervene or protests with the Federal Power Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure.

On November 24, 1971, Baldwin County Electric Membership Corp. joined by eight other distribution cooperatives,[4] and Alabama Electric Cooperative, Inc. (AEC), a generation and transmission cooperative, filed a joint motion to reject the filing and in event such motion was denied, filed a protest with respect to the amount and form of the increase and petitioned to intervene. On December 20, 1971, Black Warrior Electric Membership Corp. filed a motion for leave to be included as a party to the foregoing filing of the cooperatives. On December 1, 1971, 12 municipalities,[5] joined by the Municipal Electric Utility Association of Alabama, jointly filed a motion to reject the tender and in the event such motion was denied, a protest and petition to intervene.

Among the reasons set out by aforementioned municipals and cooperatives supporting rejection are: (1) That presently effective contracts do not permit the company to make unilateral rate changes within the 90-day time limit when such rates may become effective as required by the Commission's regulations, and (2) that the increase of approximately 35 percent is violative of the standards and principles set forth in the Economic Stabilization Act. In support of the 5-month suspension, the protesters state that the company adjustments to 1970 revenues and expenses, the determination of necessary working capital, the claimed rate of return, and the method of allocating demand responsibility, as well as the proposed fuel and tax clauses, the ratchet provisions, the quality of service rendered, and the proposed terms and conditions, as filed, should be tested at hearing.

Alabama Power on December 20, 1971, filed an objection to the petition to intervene as such relates to the Alabama Electric Cooperative in that "as a consumer it is not affected" since, in certain

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[1] Changes in form relate to the conversion of contractual form of rate schedules to the conventional tariff form. The tariff and sheets therein are designated as "FPC Electric Tariff, Original Volume No. 1, of Alabama Power Co., Original Sheets Nos. 1 through and including Original Sheet No. 39.

[2] Rate Schedule REA-1 (Original Sheets Nos. 5, 6, and 7) is applicable to service to electric membership and electric cooperative corporations and Rate Schedule MUN-1 (Original Sheets Nos. 8, 9, and 10) is applicable to municipalities operating electric distribution systems for the resale of electric power.

[3] Subsequently extended to December 6, 1971.

[4] Central Alabama Electric Cooperative, Inc., Clarke-Washington Electric Membership Cooperative; Coosa Valley Electric Cooperative, Inc.; Dixie Electric Cooperative, Inc.; Pea River Electric Cooperative, Inc.; Pioneer Electric Cooperative, Inc.; Tallapoosa River Electric Cooperative, Inc.; and Wiregrass Electric Cooperative, Inc.

[5] City of Alexander City; city of Dothan; city of Fairhope; The Utilities Board of the city of Foley; city of La Fayette; city of Lanett; city of Luverne; city of Opelika; city of Piedmont; The Utilities Board of the city of Sylacauga; city of Troy; and city of Tuskegee.

stated respects, it acts as agent for the distribution cooperatives. The company also takes issue with statements to the effect that its filing is in circumvention of the Economic Stabilization Act and that it is untimely made.

Examinations of the filings, motions, protests, and petitions to intervene and the answers thereto, indicate that the tender should be accetped for filing, that Alabama Electric Cooperative may have an interest not adequately represented by other parties, and that certain issues raised by the pleadings should be resolved on the basis of an evidentiary record. However, our examination of the aforestated filings does not appear to warrant suspension of the increased rates for the periods as hereinbefore setout. Accordingly, we shall suspend the operation of the tendered rate schedules for a period of thirty (30) days and direct that a public hearing be held with respect to the lawfulness of such rates.

The Commission finds: (1) The rate schedules hereinbefore designated as filed on November 1, 1971, may be unjust, unlawful, unduly discriminatory, or preferential, or otherwise unlawful under the Federal Power Act.

(2) It is necessary and appropriate in the enforcement of the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the aforementioned tendered schedules and that said schedules be suspended and the use thereof be deferred and a public hearing be initiated in accordance with the procedures set forth below, all as hereinafter provided.

(3) Participation by the aforementioned named petitioners for leave to intervene in this proceeding may be in the public interest.

The Commission orders: (A) FPC Electric Tariff, Original Volume No. 1, of Alabama Power Co., composed of Original Sheets Nos. 1 through 39, is hereby accepted for filing subject to the terms and conditions of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure issued thereunder, a public hearing shall be convened at the Office of the Federal Power Commission, in Washington, D.C., concerning the lawfulness of Alabama Power's schedules hereinbefore identified.

(C) Pending such hearing and decision thereon, the tendered Rate Schedules REA–1 and MUN–1 are hereby suspended and the use there of deferred until February 2, 1972. On that day those schedules shall take effect in the manner prescribed by the Federal Power Act, and Alabama Power, subject to further orders of the Commission, shall charge and collect the increased rates set forth in such rate schedules for all the power sold and delivered thereunder.

(D) Interveners and the Commission Staff evidence to be considered in this matter, including testimony and exhibits, shall be served upon the Commission and all parties on or before February 29, 1972. The Company's rebuttal evidence shall be served on or before March 31, 1972. Cross examination of all witnesses on testimony so submitted shall commence on May 2, 1972. Any further and necessary matters including the setting of other dates shall be by direction of the Presiding Examiner.

(E) Alabama Power shall refund at such times and in such manner as may be required by final order of the Commission that portion of the increased rates and charges, if any, found by the Commission in this proceeding not justified, together with interest thereon at the rate of seven percent (7%) per annum from the date of payment until refunded; shall bear all cost of such refunding; shall keep accurate records in detail of all amounts received by reason of the increased rates and charges effective as of February 2, 1972, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, the billing determinants of electric energy sold and delivered to each customer under the subject rate schedules, and the revenues resulting therefrom as computed under the rates in effect immediately prior to February 2, 1972, and the rates and charges made effective by this order, together with the differences in revenues so computed.

(F) The Baldwin County Electric Membership Corp., Central Alabama Electric Cooperative, Clarke-Washington Electric Membership Cooperative, Coosa Valley Electric Cooperative, Dixie Electric Cooperative, Pea River Electric Cooperative, Pioneer Electric Cooperative, Tallapoosa River Electric Cooperative, Wiregrass Electric Cooperative, Black Warrier Electric Membership Cooperative, Alabama Electric Cooperative, cities of Alexander City, Dothan, Fairhope, La Fayette, Lanett, Luverne, Opelika, Piedmont, Troy, and Tuskegee and the Utilities Boards of the cities of Foley and Sylacauga are hereby permitted to intervene in this proceeding subject to the Commission's rules of practice and procedure: *Provided, however,* The participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the respective petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any orders entered in this proceeding.

(G) Unless otherwise ordered by the Commission, Alabama Power shall not change the terms or provisions of the subject rate schedules or its presently effective rate schedules until this proceeding has been terminated or until the period of suspension has expired.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-318 Filed 1-7-72;8:48 am]

CITIES SERVICE GAS CO. ET AL.

Order Denying Rehearing and Request for Stay

DECEMBER 30, 1971.

Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38) and Executive Orders No. 11615 and 11627, Docket No. R–427; Cities Service Gas Co., Docket No. RP71–106; Northern Natural Gas Co., Docket No. RP71–107; Panhandle Eastern Pipe Line Co., Docket No. RP71–108; Central Telephone & Utilities Corp., Docket No. E–7602.

On November 16, 1971, we issued our Amended Statement of Policy, Order No. 437A,[1] implementing Executive Order No. 11627 and Price Commission regulations at 6 CFR 300.016, which provided, inter alia, that rate increases which would have become effective but for Order No. 437,[2] will be reviewed for consistency with the Economic Stabilization Act of 1970, and that if such increases are determined to be consistent, they will be reported as supplements to be effective November 14, 1971. Pursuant to Order No. 437A, we issued three supplementary orders on November 19, 1971. Orders Nos. 437A–1 and 437A–2, permitted rate increase filings by seven natural gas pipeline companies to become effective November 14, 1971, while Order No. 437A–3 provided for the same treatment of rate increases by three public utilities. Such rate increases were allowed to become effective subject to refund and were certified as consistent with the purposes of the Economic Stabilization Act of 1970 and 6 CFR 300.016(b). The rate increases in the four cases in question had been suspended for the maximum 5-month statutory period and would have become effective except for Order No. 437, which provided for a freeze on such rate increases for 90 days ending November 13, 1971.

On November 30, 1971, the Municipal Intervenors Group (Municipals) filed an application for rehearing and request for stay of Orders Nos. 437A, 437A–1, 437A–2, and 437A–3, as those orders related to the rate increases of three natural gas

[1] Chairman Nassikas and Commissioner Moody, dissenting, would suspend the increase for the full statutory 5-month period permitted under the Federal Power Act.

[1] 18 CFR 2.90, 2.90a.

[2] 36 F.R. 16902.

pipelines and one public utility.[3] For the reasons stated herein we deny the application for rehearing and request for stay.[4]

Municipals contend that by permitting the rate increases of Cities, Northern, Panhandle, and Central to go into effect, we acted contrary to the Price Commission regulations, 6 CFR 300.016. The basic argument of Municipals is that we cannot permit rate increases to go into effect until we have approved them on their merits; in other words, after we have made a finding as to their justness and reasonableness. We reject, at the outset, this interpretation of our regulatory responsibilities.

We approved rate increases to go into effect in Orders Nos. 437A–1, 437A–2, and 437A–3, subject to refund, after having determined their consistency with the purposes of the Economic Stabilization Act and 6 CFR 300.016(b). The Price Commission likewise stated it had no objections to the proposed increase of Cities, as conditioned by Order No. 437A–2.[5] We do not find that our approval requires a finding as to the justness and reasonableness of rate increases in this case prior to permitting such rates to go into effect, subject to refund. Nor do we find any compelling authority in Municipals' application that such an interpretation is justified.[6]

Additionally, we must point out that the practical effect of granting Municipals' application would be for us to ignore section 205(e) of the Federal Power Act and section 4(e) of the Natural Gas Act which permit us to suspend rate increases up to 5 months. The challenged rate increases were suspended for the maximum period allowed by statute and would have gone into effect but for the 90-day freeze. Where such increases are consistent with the Economic Stabilization Act and Executive Order No. 11627, we cannot, contrary to Municipals' position, choose to suspend rate increases beyond our statutory authority.[7]

In support of its request for stay, Municipals allege that irreparable injury will result because the rate increases will go into effect and that the refund protection provided is inadequate. Inasmuch as the rate increases have been approved as consistent with the Economic Stabilization Act and 6 CFR 300.016(b) and the rates are being collected subject to refund pending a determination as to their justness and reasonableness, we reject Municipals' contention that it will suffer irreparable injury.[8] By suspending the rate filings we have kept the burden on the applicants to justify the rate increase. Had we chosen not to suspend, which we clearly could have done, there would be no refund protection available.[9]

One final comment is necessary. The thrust of Municipals' position is that the Commission is required to hold the line on rates, allegedly to protect the consumers. They have used the Economic Stabilization Act and Price Commission regulations as vehicles in support of their claims. However, Municipals' arguments are without merit. Our duty in determining the public interest is to determine the lowest reasonable rate consistent with the maintenance of adequate service. As the Supreme Court has stated (United Gas Pipe Line Co. v. Memphis Light, Gas and Water Division, 358 U.S. 103, 113 (1958)):

> Business reality demands that natural gas companies should not be precluded by law from increasing the prices of their product whenever that is the economically necessary means of keeping the intake and outgo of their revenues in balance; otherwise the vast sums necessary for the maintenance and expansion of their system through equity and debt financing would become most difficult, if not impossible.

We thus reject Municipals' arguments inasmuch as the Natural Gas Act and Federal Power Act, read in light of the Economic Stabilization Act and the Price Commission's regulations, do require consideration by us of the need to maintain adequate and reliable service to the consumer. We are acutely aware of the numerous pipeline curtailment proceedings presently before us. Where refunds are provided and we have suspended for the maximum period, we are not obliged to deprive the applicants of revenues to maintain such service.

The Commission finds: The Emergency Application for Rehearing and for Stay filed herein by Municipal Intervenors Group on November 30, 1971, presents no further facts or principles of law which were not fully considered by the Commission in Orders Nos. 437A, 437A–1, 437A–2, and 437A–3, or which having now been considered warrant any change or modification of those orders.

The Commission orders: The above application for rehearing and motion for stay is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–317 Filed 1–7–72;8:48 am]

[Docket No. CP67–260]

NORTHERN NATURAL GAS CO.

Notice of Petition To Amend

JANUARY 3, 1972.

Take notice that on December 21, 1971, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP67–260, a petition to amend the order of the Commission issued in subject docket (39 FPC 459) pursuant to section 7(c) of the Natural Gas Act by authorizing a decrease in the volume of natural gas delivered to the municipality of Brooklyn, Iowa (Brooklyn), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant is currently authorized in said docket to sell and deliver to Brooklyn a third-year contract demand volume of 818 Mcf of natural gas per day. Applicant states that Brooklyn's markets have not developed to the extent originally projected and that a reduction of contract demand to 600 Mcf of natural gas per day will adequately serve Brooklyn's market requirements for the foreseeable future. Northern proposes to apply the 218 Mcf of natural gas per day of available capacity resulting from this reduction to unallocated system saleable capacity.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 24, 1972, 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.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–319 Filed 1–7–72;8:48 am]

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[3] Cities Service Co. (Cities), Northern Natural Gas Co. (Northern), Panhandle Eastern Pipe Line Co. (Panhandle), and Central Telephone & Utilities Corp. (Central).

[4] Applications for rehearing of orders under the Federal Power Act must be brought under section 313(a) of that Act, 16 U.S.C. 825*l*. Municipals seek rehearing of Order No. 437A–3, regarding rate increases under section 205(e) of the Federal Power Act, under section 19 of the Natural Gas Act. While we do not regard Municipals' application, as it relates to Central, as having been properly brought, we will nevertheless deny the application on its merits. Cf. Department of Fish and Game v. F.P.C., 359 F.2d 165 (CA9), certiorari denied, 385 U.S. 932 (1966).

[5] Letter of Nov. 29, 1971, filed in Docket No. RP71–106 on Dec. 8, 1971.

[6] Municipals concede that the 2.5 percent targeted goal for price increases, and price increases which result in increased profits have no application to either the Federal Power Act or the Natural Gas Act (Application 3). However, Municipals contend that the rate increases in question are greater than 2.5 percent and should therefore be stricken (Application 4). These inconsistencies serve to detract from whatever weight Municipals' arguments are entitled.

[7] Associated Press v. F.C.C., CADC, No. 23,833, July 12, 1971, Slip op. at 17. Cf. Municipal Light Boards of Reading and Wakefield, Mass. v. F.P.C., CADC, No. 24,450, Oct. 14, 1971, Slip op. at 17–8.

[8] In considering a request for a stay, one court has indicated that:

> The possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm. Virginia Petroleum Jobbers Ass'n. v. F.P.C., 259 F.2d 921, 925 (CADC, 1958).

[9] Municipal Light Boards, supra, Slip op. at 16–7.

[Docket No. CP72-162]

UNITED GAS PIPE LINE CO.

Notice of Application

JANUARY 3, 1972.

Take notice that on December 20, 1971, United Gas Pipe Line Co. (applicant), 1500 Southwest Tower, Houston, Tex. 77002, filed in Docket No. CP72-162 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval of the abandonment of service to East Texas Municipal Gas Corp. (East Texas) and removal of certain related measuring facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant is delivering natural gas to East Texas at Garrison, Nacogdoches County, Tex., and Joaquin, Shelby County, Tex., under authorization granted in Docket No. CP64-185 (31 FPC 1038). Applicant states that since 1967 when East Texas purchased the assets of the predecessor company, East Texas has continually been behind in full payment of its monthly gas bill and as of November 19, 1971, it was delinquent in the amount of $17,753.21. Applicant states that it is willing to continue rendering service to East Texas if the delinquent account is paid by March 1, 1972; but in the event the account is not settled, applicant seeks permission and approval to abandon service to East Texas and to remove measuring facilities at Garrison, Nacogdoches County, Tex., and, Joaquin, Shelby County, Tex., used for such service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-320 Filed 1-7-72;8:48 am]

[Docket No. E-7616]

CITIZENS UTILITIES CO.

Notice of Application

JANUARY 6, 1972.

Take notice that on January 5, 1972, Citizens Utilities Company (applicant) filed a supplementary application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of short-term promissory notes in an increased aggregate principal amount, not to exceed $12 million outstanding at any one time.

The applicant is incorporated under the laws of the State of Delaware and is qualified to do business in the States of Arizona, Colorado, Connecticut, Hawaii, Idaho, and Vermont.

The notes are to be issued pursuant to a credit arrangement, as amended, with Marine Midland Bank—New York, or, in the alternative, to commercial paper dealers. All notes are to have a final maturity on or before April 10, 1972. The interest rate for notes issued pursuant to the bank credit agreement shall be at the New York prime commercial interest rate for 90-day notes as of the date of issuance. The maximum principal amount of all notes to be issued pursuant to the supplemental application shall not exceed $12 million outstanding at any one time.

The net proceeds from the sale of the notes will be used together with other funds of the applicant to reimburse the corporate treasury for acquisition and construction expenditures heretofore made, or to be made, through April 10, 1972.

Any person desiring to be heard or to make any protest with reference to this application should on or before January 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petition or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-376 Filed 1-7-72;8:50 am]

FEDERAL RESERVE SYSTEM

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document relating to a joint call for report of condition of insured banks, see F.R. Doc. 72-297, Federal Deposit Insurance Corporation, *supra*.

BANCOHIO CORP.

Order Approving Acquisition of Bank

JANUARY 4, 1972.

BancOhio Corp., Columbus, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The Community National Bank, Loveland, Ohio (Bank), a proposed new bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant, the second largest banking organization in Ohio, controls 29 banks with aggregate deposits of $1.6 billion, representing 7.3 percent of total commercial bank deposits in the State. (All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through November 30, 1971.)

Bank will be located in the town of Loveland which is part of the Cincinnati banking market. The banking needs of the community have been served since 1958 by a branch of a bank headquartered in Milford. Because Loveland is located in three counties, Bank will have the future possibility of branching into these counties. Applicant has no subsidiaries in these counties and the nearest office of a subsidiary, located 30 miles from Bank, draws no business from Loveland. Since Bank is a new bank, approval of the acquisition would not result in the elimination of existing competition nor in the foreclosure of future competition. Based on the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. In fact, competition may be stimulated by the provision of a new banking alternative in the area.

The financial and managerial resources and prospects of applicant, its subsidiary banks, and Bank are regarded as satisfactory and these considerations are consistent with approval of the application. Applicant has stated that citizens of Loveland were seeking additional banking facilities. It appears that residents and businessmen would benefit from an additional banking source and

hence considerations related to convenience and needs of the community favor approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order; and (c) The Community National Bank, Loveland, Ohio, shall be opened for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] January 4, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-284 Filed 1-7-72;8:45 am]

JACOB SCHMIDT CO. AND AMERICAN BANCORPORATION, INC.

Order Approving Acquisition of Bank

Jacob Schmidt Co. and American Bancorporation, Inc., both of St. Paul, Minn. (hereinafter jointly referred to as "Applicant"), are bank holding companies within the meaning of the Bank Holding Company Act and have applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) for American Bancorporation to acquire 100 percent of the voting shares (less directors' qualifying shares) of Lake City State Bank, Lake City, Minnesota (Bank). Jacob Schmidt Co., which owns 57.8 percent of American Bancorporation, Inc.'s outstanding voting stock, would acquire indirect control of Bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant controls two banks with aggregate deposits of $197 million, representing 2.1 percent of the total commercial bank deposits in the State, and is the fifth largest bank holding company in Minnesota. (All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through November 30, 1971.) Applicant's acquisition of Bank ($11 million in deposits) would increase Applicant's share of deposits in the State by 0.1 percentage point. Bank, the only bank located in Lake City (estimated population: 3,600), is the third largest of five banks in the Red Wing banking market which is approximated by the northeast section of Wabasha County and the southwest section of Goodhue County, and holds 16.8 percent of deposits in that market. Applicant's subsidiary located closest to Bank is about 55 miles distant; and it appears that consummation of the transaction would not eliminate existing competition. On the facts of record, notably the distances involved, the number of banks in the intervening areas between Bank and Applicant's subsidiaries, and Minnesota's prohibitive branching law, there appears to be little likelihood that significant competition between Bank and Applicant would develop in the future. The Board concludes, therefore, that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Bank appears to be satisfactorily serving the financial needs of the community it serves; however, affiliation with Applicant would improve the quality, and expand the number of services Bank currently offers to the community. Affiliation with Applicant would increase the lending capability of Bank through participation arrangements with Applicant's present subsidiary banks, and would enable Bank to benefit from certain internal efficiencies resulting from a holding company structure. Additionally, Bank will be in a position to provide trust, travel and international services. Applicant also proposes to build a new facility for Bank, including in such plans drive-in facilities, off-street parking, and a "community room". Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval.

Considerations relating to financial and managerial resources and future prospects as they relate to Applicant, its subsidiaries and Bank, are regarded as satisfactory. Applicant's proposed public offering will retire the debt incurred in the acquisition of Bank. Management expertise to be made available to Bank by Applicant lends weight toward approval of the application. Banking factors are believed consistent with approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[1] January 4, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-285 Filed 1-7-72;8:45 am]

R.I.H.T. CORP.

Proposed Retention of The Washington Row Co.

R.I.H.T. Corp., Providence, R.I., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain voting shares of The Washington Row Co., Providence, R.I. Notice of the application was published on December 1, 1971, in the Pawtucket Times, a newspaper circulated in Pawtucket, R.I., and on December 2, 1971, in The Providence Journal and Evening Bulletin, a newspaper circulated in Providence, R.I.

Applicant states that the proposed subsidiary would engage in the activity of investing as a limited partner in Slater Mall Associates, a Rhode Island limited partnership which is the developer of a parcel of real estate in the urban renewal project known as "Slater Mall Urban Renewal Area Project R.I. R-11" in the city of Pawtucket, R.I.

Interested persons may express their views on whether the proposed activity is so closely related to banking or managing banks as to be a proper incident thereto and 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 matter 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 Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 3, 1972.

Board of Governors of the Federal Reserve System, January 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-286 Filed 1-7-72;8:45 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, and Brimmer. Absent and not voting: Chairman Burns and Governor Maisel.

SECURITIES AND EXCHANGE COMMISSION

[812-3083]

CALIFORNIA-WESTERN STATES LIFE INSURANCE CO. AND CAL-WESTERN VARIABLE FUND C

Notice of Filing of Application for Exemption From Provisions

DECEMBER 29, 1971.

Notice is hereby given that California-Western States Life Insurance Co. (Insurance Company) and Cal-Western Variable Fund C (Variable Fund C) (hereinafter collectively referred to as "Applicants") 2020 L Street, Sacramento, CA 95804, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act), for an order exempting Applicants from the provisions of section 27(c)(2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Insurance Company established Variable Fund C on September 11, 1969, pursuant to the Insurance Code of California to receive purchase payments, after certain deductions, made under individual and group variable annuity contracts to be sold by Insurance Company. Such contracts are not designed to qualify for tax benefits under either section 401 or 403(b) of the Internal Revenue Code of 1954. Variable Fund C is an open-end, diversified management investment company registered under the Act.

Section 27(c)(2). Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales load, are deposited with a bank having the qualifications prescribed in section 26(a)(1) and held by it as trustee or custodian under an indenture or agreement containing, in substance, the provisions required by sections 26(a) (2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust, places certain restrictions on charges which may be made against the trust income and corpus, and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign.

Applicants request an exemption from the requirements of section 27(c)(2) on the grounds that Insurance Company is a regulated insurance company, and is subject to extensive and detailed supervision and inspection by the Insurance Commissioner of California. Applicants assert that such control provides ample assurance against misfeasance, and affords the essential protection which a trusteeship under section 26(a)(2) would provide. Applicants further state that Insurance Company will undertake binding commitments to contract owners to provide them with variable annuity benefits and that under no condition can it legally abrogate such undertakings. The application also states that Insurance Company has substantial capital and surplus to insure that it will be able to meet its obligations and that Insurance Company's status as a regulated insurance company provides the substantial protections of section 27(c)(2).

Applicants consent to the requested exemption being made subject to the conditions (1) that the deductions under the contracts for administrative expenses shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payment of sums and charges out of the assets of Variable Fund C shall not be deemed to be exempted from regulation by the Commission by reason of the requested order: *Provided*, That Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets of Variable Fund C other than charges for administrative services. Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is 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.

Notice is further given that any interested person may, not later than January 20, 1972, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted; or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-287 Filed 1-7-72;8:45 am]

[812-3175]

CONSULTANT'S MUTUAL INVESTMENTS, INC.

Notice of Filing of Application for Order Exempting Applicant From Provisions

DECEMBER 30, 1971.

Notice is hereby given that Consultant's Mutual Investments, Inc. (Applicant), 211 South Broad Street, Philadelphia, PA 19107, an open-end, diversified management investment company, registered under the Investment Company Act of 1940 (the Act), has filed an application pursuant to section 6(c) of the Act for an order of the Commission granting a temporary exemption from the provisions of sections 2(a)(4) and 15 of the Act.

All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Applicant is a party to an Investment Advisory Agreement and a Distribution Agreement (Agreement) with Burnham and Co. (Burnham), each dated October 30, 1969. The Agreements, which became effective on October 31, 1969, were approved by the vote of a majority of Applicant's outstanding shares of capital stock at a special meeting of stockholders held on October 29, 1969. Applicant's Board of Directors, including a majority of Applicant's directors who are not "interested persons" within the meaning of section 2(a)(19) of the Act, approved the renewal of the Agreements on October 14, 1970, and October 29, 1971, the last of which approvals renewed the Agreements for a term ending October 31, 1972. Burnham is a limited partnership of which I. W. Burnham II is senior managing partner. There are currently two additional senior partners, 38 additional general partners and 30 limited partners. Burnham is a member of the New York, American, Boston, Philadelphia-Baltimore-Washington, Midwest and Pacific Coast Stock Exchange, and had a net capital as of August 26, 1971, of approximately $27,540,000. The market value of Applicant's total net assets as of September 30, 1971, was $15,435,926.

Burnham has advised Applicant that on or about December 31, 1971, it intends to incorporate and carry on its business thereafter as a Delaware corporation. Applicant has been advised by Burnham that as a result of such incorporation: (a) The business of Burnham and its related liabilities will be transferred to Burnham & Co., Inc. (Burnham Corporation), which will have a pro forma net capital (computed on the basis of August 26, 1971, figures) of approximately $27,876,000; (b) the partners of Burnham will become stockholders of Burnham Corporation, with their proportionate shareholdings in Burnham Corporation to be substantially the same as their proportionate partnership interests in Burnham; and (c) the principal executive officers of Burnham Corporation will be the principal general partners of Burnham. As a consequence, those persons who at present control Burnham will continue to control Burnham Corporation and have substantially the same equity interest in its business.

Section 15 of the Act provides that it is unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract with such registered investment company, which contract provides for its automatic termination in the event of its assignment, or for any distributor for a registered open-end investment company to offer for sale, sell, or deliver after sale any security of which such company is the issuer, except pursuant to a written contract with such company, which contract provides for its automatic termination in the event of its assignment. Section 2(a)(4) of the Act provides that an assignment includes any direct or indirect transfer or hypothecation of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Paragraph 6 of the Investment Advisory Agreement and paragraph 11 of the Distribution Agreement provide that the Agreements will automatically terminate in the event of their assignment by Burnham. The Agreements further provide that the term "assignment" means an assignment as defined in section 2(a)(4) of the Act.

To the extent that sections 2(a)(4) and 15 of the Act may be construed to require that the contracts under which Burnham Corporation is to serve as Applicant's investment adviser and distributor must automatically terminate upon the incorporation of Burnham, Applicant seeks a temporary exemption from the provisions of those sections; such exemption to continue only until such time as the shareholders of the Fund may vote in the next meeting of shareholders, either annual or special, upon the continuation of the contracts. Applicant further requests that, in the event that the Commission issues an order granting such exemption after January 1, 1972, the order be made retroactive to that date. In support of its requests, Applicant undertakes to submit the renewal of the Investment Advisory Agreement and Distribution Agreement with Burnham Corporation for specific approval by vote of a majority of the outstanding voting securities of the Fund at the next annual or special meeting of the shareholders of the Fund.

Applicant submits that the granting of the application would be 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, for the following reasons:

1. The incorporation of Burnham will not have the substantive effect of an "assignment" as defined by section 2(a)(4) of the Act and should therefore not result in the termination of the Agreements by virtue of section 15 of the Act since Applicant's investment adviser and distributor will merely be changing its form from a limited partnership to a corporation with no substantial change in control, financial position or business operations of the investment adviser and distributor.

2. The exemption will permit Applicant to continue its present relationship with its investment adviser and distributor and prevent Applicant's stockholders from having to incur the expense of a proxy solicitation and special meeting of stockholders only 4 months before it will have to incur such expenses in connection with its annual meeting.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is 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.

Notice is further given that any interested person may, not later than January 20, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-288 Filed 1-7-72;8:46 am]

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

JANUARY 3, 1972.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Extional securities exchange be summarily suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 4, 1972, through January 13, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-289 Filed 1-7-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

JANUARY 5, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

FD 26747, Baltimore & Ohio Railroad Co. abandonment between National Road and Shawnee, in Licking and Perry Counties, Ohio, now being assigned January 25, 1972, at Newark, Ohio, in a hearing room to be later designated.

MC 133240 Sub 16, West End Trucking Co., Inc., assigned January 27, 1972, at Washington, D.C., is canceled and application dismissed.

MC-F 11174, George Transfer and Rigging Co., Inc.—Control and Merge—Mack Brothers, Inc., assigned January 12, 1972, is canceled and transferred to Modified Procedure.

MC 72442 Sub 32, Akers Motor Lines, now assigned January 31, 1972, will be held in the G.S.A. Training Room, 3d Floor, 1776 Peachtree Road NW., and in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC 107515 Sub 763, Refrigerated Transport Co., Inc., MC 112822 Sub 200, Bray Lines, Inc., MC 128273 Sub 96, Midwestern Express, Inc., heard December 13 through December 20, 1971, at Washington, D.C., and continued to February 29, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 10173 Sub 12, Marvin Hayes Lines, now assigned Jan. 10, 1972, at Nashville, Tenn., postponed to February 15, 1972, at Hopkinsville, Ky., in the Holiday Inn, Fort Campbell Boulevard, Highway 41A.

MC 117940 Sub 54, Nationwide Carriers, Inc., now being assigned February 2, 1972, in Room E-2222, 26 Federal Plaza, New York, NY.

MC 10173 Sub 12, Marvin Hayes Lines, now assigned January 10, 1972, at Nashville, Tenn., is postponed to February 15, 1972, in the Holiday Inn, Fort Campbell Boulevard, Highway 41A, Hopkinsville, Ky.

W 497 Sub 7, United States Lines, Inc., assigned January 26, 1972, at Washington, D.C., is postponed to April 3, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115840 Sub 72, Colonial Fast Freight Lines, now being assigned hearing March 6, 1972, in Room 8212, Federal Building, 515 Rusk Street, Houston, TX.

MC 133265 Sub 3, Consolidated Carriers, assigned January 10, 1972, will be held in Room E-2222, 26 Federal Plaza, New York, NY.

MC 134194 Sub 3, Norman C. Emerson, assigned January 31, 1972, at Boston, Mass., is postponed to February 7, 1972, at Boston, Mass., in a hearing room to be later designated.

MC 135602, Road Hog, Inc., assigned January 24, 1972, will be held in Room A-2231, 26 Federal Plaza, New York, NY.

MC 134356, Gale Delivery, now assigned February 2, 1972, at New York City, N.Y., cancelled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-336 Filed 1-7-72;8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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

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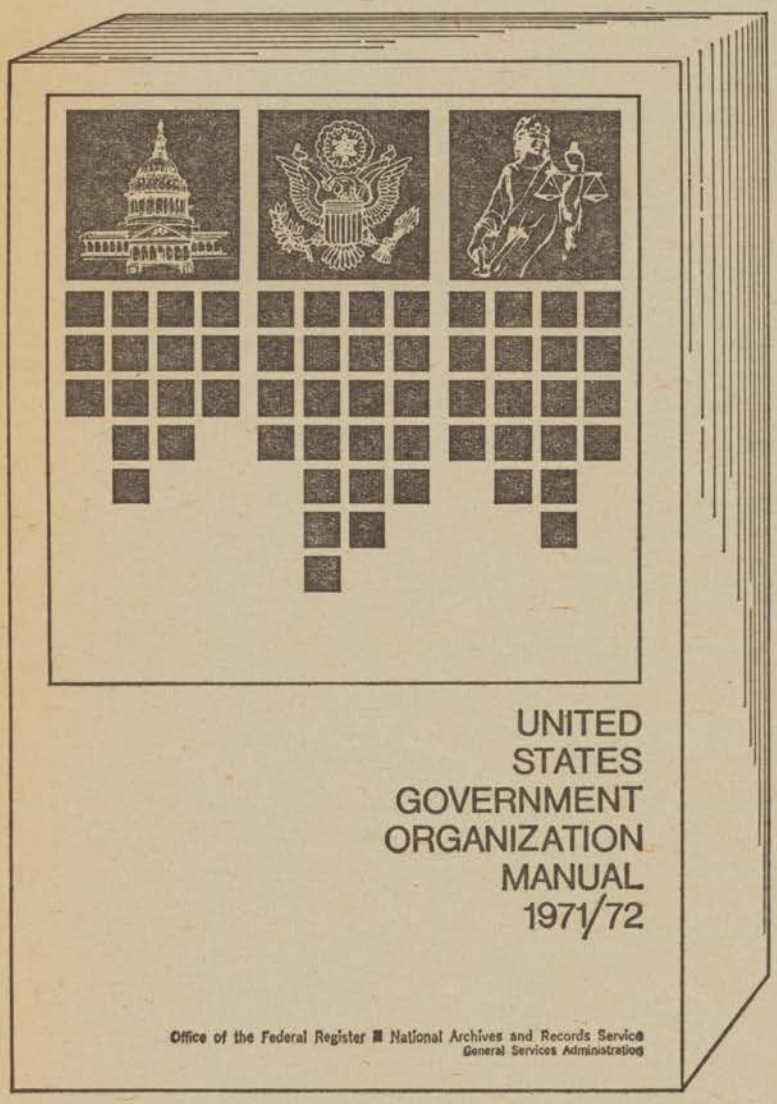
Know your Government...



The Manual describes the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches.

Most agency statements include new "Sources of Information" listings which tell you what offices to contact for information on such matters as:

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